

INITIAL STATEMENT OF REASONS

PROPOSED AMENDMENTS TO THE ENVIRONMENTAL ENFORCEMENT AND TRAINING GRANT PROGRAM REGULATIONS

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

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Executive Summary

The Secretary of the California Environmental Protection Agency (CalEPA or Agency) administers the Environmental Enforcement and Training Program (Program), created by the Legislature in 2002. The Program funds projects described in Penal Code Sections 14306 to 14308 and 14309 to enhance the enforcement of environmental law in the State for the benefit of all Californians. The Secretary administers the Program through its implementing regulations in California Code of Regulations, title 27, sections 10011 through 10018.

In 2021, the Legislature changed the statute that created the Program. As a result, CalEPA now proposes to update its implementing regulations to reflect changes to the statute, because CalEPA cannot implement regulations that no longer reflect State law. This proposed rulemaking is intended to update the regulations to reflect these statutory changes, as well as to make other changes needed to make the regulations easier to read, implement, and comply with, and to ensure that the regulation carries out the law's goals and requirements.

SB 157 rendered statutorily ineligible to receive funds under this program an entity that, under the prior version of the legislation, received a statutory earmark of 25% of funds for the purposes of circuit prosecution and 25% of funds for the purpose of environmental training. Because the regulations implement SB 157, they have a cost impact on this entity, but any adverse cost impact on the entity is statutorily mandated and thus unavoidable. Moreover, this economic impact is fully offset by the fact that funding for other entities to perform grants for the same purposes remains available. Moreover, CalEPA believes that the part of this rulemaking that proposes to allow earmarks for specified purposes allowed by law may increase contributions to the funds and increase funding opportunities overall. Finally, the practical impact on the statutorily-ineligible entity is not materially different from the status quo of the last several years, in which CalEPA has not had sufficient funds to award grants under this program to that or any other entity.

Based on public feedback, CalEPA does not anticipate that the proposed rulemaking will have a cost impact on any other regulated entity over the life of the regulation, other than the benefits of a clearer understanding of the regulatory requirements and the enhanced enforcement and training that are already largely achieved through the existing regulation.

The proposed regulation is also not anticipated to result in any impact on the environment that would trigger the requirement for an environmental analysis under the California Environmental Quality Act.

This Initial Statement of Reasons for this proposed rulemaking is intended to satisfy the requirements of the California Administrative Procedure Act. The proposed regulatory text is shown in underline and strikeout format in Appendix A. This ISOR also contains a number of other analyses and discussions required by law.

I. Introduction and Background

The Environmental Enforcement and Training Act of 2002 (Act) (Penal Code, § 14300 et seq.) created a grant program to fund eligible environmental training, investigation, and enforcement activities in the State, funded by public and private contributions from the proceeds of property seized and forfeited under Health and Safety Code section 11489, and by proceeds from State and federal court judgments. The Act charged CalEPA's Secretary with administering and distributing grant program funds, upon appropriation by the Legislature, as required by the Act. CalEPA implements the Act through its regulations in California Code of Regulations, title 27, sections 10011 et seq.

The California Legislature amended the Act in 2021, through Senate Bill (SB) 157. The major amendments made by SB 157 are as follows:

- 1) Adding additional limitations on who is eligible to receive grant funds under the Act,
- 2) Adding local, State, and federal laws and regulations regarding climate change, noise, vibration, and odors as types of environmental laws of which the Act is meant to enhance the enforcement,
- 3) Adding more environmental justice principles, including that the Program should benefit disadvantaged communities, low-income residents, and other populations disproportionately burdened by pollution,
- 4) Explicitly adding community-based organizations as eligible training participants,
- 5) Changing the name of the "Environmental Circuit Prosecutor Project" to the "Environmental Circuit Prosecutor Grant Program," and
- 6) Removing the monetary set-asides for the "Environmental Circuit Prosecutor Project" and the California District Attorneys Association.

CalEPA is proposing this rulemaking to update the regulations to address the SB 157 changes. As a result, in this rulemaking, CalEPA proposes to amend California Code of Regulations, title 27, sections 10011 through 10018, and to add California Code of Regulations, title 27, section 10019. The proposed amendments would update the regulations to reflect changes to the Act made by SB 157, as well as to update the regulation to reflect current technology, remove unnecessary language, add more specific application and reporting requirements, and move language to more relevant sections, among other things. The proposed addition of section 10019 would add a severability provision, making clear that the rest of the regulation would remain in effect if any other portion of the regulation was found to be invalid.

The rest of this ISOR explains the need for and objective of the proposed rulemaking, describes each of the proposed regulatory changes in detail, lays out the expected benefits of the proposed rulemaking, and provides the economic impact assessment

and an evaluation of the regulatory alternatives considered, including where performance standards were considered as an alternative to any arguably prescriptive standards in the rulemaking. This ISOR also describes the public process CalEPA undertook for developing the proposed action, and, finally, provides a list of references to all materials CalEPA relied upon in developing this proposed rulemaking and analyzing it in the rulemaking documents.

II. The Problem that the Proposal is Intended to Address

The California Legislature adopted the Environmental Enforcement and Training Act (Act) in 2002, and CalEPA adopted its implementing regulations in 2003. The California Legislature amended the Act in 2021. These changes to the Act need to be incorporated into CalEPA's regulations, to make the regulations consistent with existing law. As a result, CalEPA's proposed rulemaking is intended to incorporate the legislative changes into the regulations, to improve the regulations, to make them more clear and organized, and to remove outdated requirements.

III. The Specific Purpose and Rationale of Each Proposed Regulatory Change

This chapter provides a more detailed description of, and explains the purpose and rationale for, each of the proposed amendments. Minor, non-substantive proposed modifications to various subsection and wording, and correction of typographical errors are also proposed, the purpose and rationale for which will also be discussed below.

Purpose and Rationale of General Proposed Amendments

CalEPA proposes to change "will" to "shall" throughout the regulations (for instance, in proposed section 10016(c)(1)) to make it more clear to readers that the act mentioned in the particular provision is required and not optional.

CalEPA proposes to add periods to the end of section and subdivision titles (for instance, at the end of the title of subdivision 10016(d)) to be consistent with the rest of the regulatory provisions' titles.

CalEPA proposes to add or delete commas, semi-colons, periods, and other punctuation, as needed, throughout the regulation to make the provisions grammatically correct and/or consistent with punctuation use in other provisions.

CalEPA also proposes to add Penal Code sections to the authorities and references for sections 10011 through 10019, as shown in Appendix A to this ISOR, in order to fully reflect all of the implicit and explicit authority CalEPA has for each of the proposed changes to the sections in this proposed rulemaking.

Purpose of Proposed Amendments to Section 10011

CalEPA is proposing to modify the title of section 10011 to add “and applicability,” and to change the lettering and numbering of the section.

Rationale for Proposed Amendments to Section 10011

The proposed addition of “and applicability” to the title of section 10011 would clarify that the contents of section 10011 also describe to whom and what the section applies.

The proposed re-lettering of the section will make the section more consistent with the lettering and numbering in the rest of the regulatory provisions related to this grant program, and will make it easier to reference or cite to the different provisions.

Purpose of Proposed Amendments to Section 10011(a)

CalEPA is proposing to modify section 10011(a) by removing “applicants seeking,” “Act,” “grants,” and “under the Environmental Enforcement and Training Grant Program established by the Secretary of the California Environmental Protection Agency;” and by adding “Grant Program funds, applicants for such funds, and grant recipients” after “Environmental Enforcement and Training.”

Rationale for Proposed Amendments to Section 10011(a)

The proposed replacement of “Act” with “Grant Program” in section 10011(a) would make it clear that the regulations apply to the grant program specifically. While the grant program is authorized by the Act, and the regulations implement the act, the regulations apply to CalEPA’s grant program under the Act.

The proposed replacement of “grants” with “funds” would make this provision consistent with the rest of the regulation, which refers primarily to “funds.” The proposed replacement of “applicants seeking” with the addition of “applicants for such funds and grant recipients” later in the sentence is intended to provide clarity. The existing section 10011(a) states that the regulations in sections 10011 through 10018 apply to grant applicants only, but the regulations actually contain requirements that apply to the grant funds, grant applicants, and grant recipients. Adding “for such funds” clarifies that “applicants” refers to applicants for the Enforcement and Training Grant Program funds.

The proposed removal of “under the Environmental Enforcement and Training Grant Program established by the Secretary of the California Environmental Protection Agency” from section 10011(a) would remove redundant language: the fact that the grant program is administered by CalEPA’s Secretary is already made clear earlier in the sentence, in the rest of the regulations, and in the statute, and it is not necessary to repeat it.

Purpose of Proposed Amendments to Section 10011(b)

CalEPA is proposing, for proposed section 10011(b), to remove “provide the following”; add a new subdivision (1) that reads “[d]escribe how grants are to be allocated or awarded”; renumber the remaining subdivisions; add “the” before “procedures” and before “criteria;” and add “and” at the end of proposed new subdivision (3).

Rationale for Proposed Amendments to Section 10011(b)

The proposed removal of “provide the following” will remove unnecessary language. The proposal to renumber the subsections (a) through (c) as (2) through (4) will reflect that a new subsection (1) was added, will make the section more consistent with the lettering and numbering in the rest of the regulatory provisions related to this grant program, and will make it easier to reference or cite to the different provisions in this section.

The proposed addition of “the” before “procedures” and “criteria” in the proposed new subsections (b)(2) and (b)(3) would make the sentences more grammatically correct, and thus more clear that these regulations contain specific procedures and criteria. Finally, the proposed addition of “and” at the end of subdivision (3) will make clear that this is an inclusive list, that is, all items on the list are in the regulations.

Purpose of Proposed Amendments to Section 10012

CalEPA proposes to delete the incorporation by reference of the definitions in Penal Code section 14300(b). CalEPA also proposes to remove the definition of “Cal/EPA” and add definitions of “Account,” “Agency,” “Authorized Representative,” “Commission,” “Discretionary Environmental Enforcement and Training Act Grants’ or ‘Discretionary grants,” “Environmental Enforcement and Training Grant Program,” “Environmental Enforcement and Training Grant Program Funds,” “Grant Recipient,” and “Secretary.” Finally, CalEPA proposes to number the definitions as (1) through (9).

Rationale for Proposed Amendments to Section 10012

Deleting the incorporation of the definitions in Penal Code section 14300(b) and instead adding the primary definitions used in the regulatory language directly into section 10012 will provide all the main definitions in one place, for easier reference and thus easier compliance for regulated entities. The definitions not added from Penal Code section 14300(b) are still applicable to these regulations, as the governing law, but do not need to be restated in the regulation, either because they are not used often enough in the regulations, or because they have well-known meanings.

CalEPA proposes to remove the definition of “Cal/EPA” because that term is not used in any of the regulatory provisions, so a definition of it is not needed. Instead, the term “Agency” is used to refer to CalEPA in the regulations, just as in the authorizing statute (Penal Code, §§ 14300 et seq.).

CalEPA proposes to add new definitions not in statute for “Authorized Representative,” “Discretionary Environmental Enforcement and Training Act Grants or Discretionary grants,” “Environmental Enforcement and Training Grant Program,” “Environmental Enforcement and Training Grant Program Funds,” and “Grant Recipient” because those terms are used in these regulations and adding these definitions will help make it more clear what CalEPA means when the terms are used in the regulations. The proposed definitions themselves make clear what the terms mean when CalEPA uses them in these regulations, make the definitions consistent with how the terms are used in the regulations, and are consistent with the authorizing statute for these regulatory provisions.

CalEPA’s proposal to number the definitions instead of using letters would make the section more consistent with the lettering and numbering in the rest of the regulatory provisions related to this grant program, and will make it easier to reference or cite to the different definitions.

Purpose of Proposed Amendments to Section 10013

CalEPA proposes to change the title of this section from “General Provisions” to “Funding.”

Rationale for Proposed Amendments to Section 10013

CalEPA proposes to change the section’s title to better reflect the section’s contents, which will make it easier for regulated entities to find and understand relevant sections in the regulation as a whole.

Purpose of Proposed Amendments to Section 10013(a)

CalEPA proposes to delete the existing language in section 10013, subdivision (a), and replace it with existing language and proposed additions to existing subdivision (b). CalEPA also proposes to add to new subdivision (a) language that the Secretary may deposit specified contributions into the Environmental Enforcement and Training Account, but that contributors have no authority to influence or direct the use of their contributions to the Account, except as provided in section 10017(e) of this Article.

Rationale for Proposed Amendments to Section 10013(a)

CalEPA proposes to delete the existing language in subdivision (a) because it will remove language that simply reiterates purpose language from the statute or language from other sections in the regulations, and thus is not needed in the implementing regulations. Removal of unnecessary language helps to make the regulation more clear and understandable to the regulated community.

CalEPA proposes to move up the language currently in subdivision (b) into subdivision (a) to reflect the proposal to delete the existing subdivision (a) language.

Finally, CalEPA proposes to add new language to subdivision (a) about contributions of funds in order to provide complete information in the regulations about funding, and to reflect that the statute allows CalEPA to accept fund contributions from public and private individuals and organizations, including the proceeds from State and federal court judgments, when the funds are contributed or the judgment specifies that the proceeds are to be used to carry out Penal Code sections 14300 et seq., but that contributors shall not have the authority to influence or direct the use of their contributions to the Account, except as provided in section 10017(e) of this Article.

Purpose of Proposed Amendments to Section 10013(b)

CalEPA proposes to replace the existing subdivision (b) language that is proposed to be moved up to subdivision (a) with the following: “The Secretary shall distribute the funds available in the Environmental Enforcement and Training Account, and appropriated by the Legislature...”

For section 10013(b)(1), CalEPA proposes to add commas before and after “whichever is less;” delete “on Peace Officer Standards and Training” after “Commission;” add “se” to “the” to read “these funds;” and delete “allocated to it pursuant to this subdivision.”

CalEPA proposes to delete the language in existing section 10013(b)(2); delete section 10013(b)(3); and delete (4). CalEPA proposes to move the existing language in section 10013(b)(4) to 10013(b)(2); to delete “the Secretary for,” “as allowed by,” and “in order,” and the comma before “that meet”; and add “to eligible entities, as defined in section 10016 of this Article, for projects identified in” and “that meet the requirements of this Article. The Secretary shall allocate funds.”

Rationale for Proposed Amendments to Section 10013(b)

CalEPA proposes to replace the existing subdivision (b) language that is proposed to be moved up to subdivision (a) with new language to reflect the fact that subdivision (b) is now proposed to describe how the Secretary shall distribute the funds available in the Environmental Enforcement and Training Account and appropriated by the Legislature.

CalEPA proposes to add commas to set off “whichever is less” to make the sentence grammatically correct and thus more clear that the Commission shall receive the lesser of twenty-five percent or one hundred thousand dollars.

CalEPA proposes to delete from section 10013(b)(1) “on Peace Officer Standards and Training” after “Commission” because the statute and the definitions section of the regulations provide that “Commission” shall be used to refer to the Commission on Peace Officer Standards and Training, and the entire name need not be used. CalEPA also proposes to capitalize “Commission” in section 10013(b)(1) because it is a proper noun, and proper nouns are usually capitalized in the English language.

CalEPA proposes to delete the language currently in section 10013(b)(2) and section 10013(b)(3) because the Legislature updated the Act, through SB 157, to disallow

funding of the California District Attorneys' Association (CDAAs), and CalEPA reads this as also disallowing a specific set-aside for circuit prosecutor grants. CalEPA proposes to delete (3) and (4) to reflect the section renumbering required due to the proposed removal of language currently in (2) and (3), and thus that the language in (4) will be moved up to (2).

CalEPA proposes to change the language currently in section 10013(b)(4) to delete "the Secretary for" since it is already clear from the proposed new language in 10013(b) that it is the Secretary who is distributing the grants, and thus "the Secretary for" is not necessary language.

CalEPA proposes to add "to eligible entities, as defined in section 10016 of this Article, for projects" to clarify that only eligible entities may receive discretionary grants under these regulations, and that entity eligibility is laid out in section 10016. The proposed cross reference to section 10016 makes it easier for regulated entities to read and comply with the regulation.

CalEPA proposes to replace "as allowed by" with "identified in" to clarify that the subsequent Penal Code sections referenced identify eligible types of projects that can be funded under these regulations. This proposed change helps make the regulation more understandable to the regulated community, and updates the language consistent with the earlier proposed addition.

CalEPA proposes to remove the comma after "14390" because it is not grammatically correct to have a comma there.

CalEPA proposes to add "that meet the requirements of this Article" to clarify that discretionary grants will only be awarded to eligible entities and projects that also meet the requirements in these regulations. Further, CalEPA proposes to add "The Secretary shall allocate funds" to make the sentence more readable and clarify that the Secretary is required to allocate funds on the bases specified after the proposed addition.

CalEPA proposes to add a comma after "need" to make the sentence more grammatically correct and clear, since each clause is a different basis.

Finally, CalEPA proposes to delete "in order" from the phrase "in order to" because this makes the sentence less verbose and thus more clear and understandable to the regulated community.

Purpose of Proposed Amendments to Section 10014

CalEPA proposes to delete "Secretary has established the" from before "Environmental Enforcement and Training Grant Program," and to add "is established" after "Environmental Enforcement and Training Grant Program." In addition, CalEPA proposes to add "on the enforcement of environmental laws for eligible entities" after "statewide enforcement and training;" add "the" before "enforcement of environmental

laws;" add "; and to ensure that disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution receive the benefit of enforcement of local, state, and federal environmental laws;" and delete the rest of the existing language in section 10014.

Rationale for Proposed Amendments to Section 10014

CalEPA proposes to delete "Secretary has established the" from before "Environmental Enforcement and Training Grant Program," and add "is established" after "Environmental Enforcement and Training Grant Program" because the Legislature established the grant program through the Act, and the Secretary is responsible for administering that program.

CalEPA proposes to add "on the enforcement of environmental laws for eligible entities;" to explain that training grants are to be awarded for the purpose of training by eligible entities about the enforcement of environmental laws.

CalEPA proposes to add "the" before "enforcement of environmental laws" to make the sentence grammatically correct.

CalEPA proposes to add "; and to ensure that disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution receive the benefit of enforcement of local, state, and federal environmental laws" to reflect changes made to the Act by SB 157 that add that grants should also be made for the purpose of ensuring that all Californians, including the specified populations and communities, benefit from the enforcement of environmental laws throughout the State.

CalEPA proposes to delete the rest of the existing language in section 10014 because section 10014 is about the purpose of the grant program, and the language proposed to be deleted does not relate to the purpose, but to funding. Therefore, the language is proposed to be moved, as applicable, to the funding section, section 10013.

Purpose of Proposed Amendments to Section 10015(a)

CalEPA proposes to modify the language in the first sentence by deleting the n in "an" and adding the qualifier "discretionary grant for" before "enforcement," replacing "and" with "or" after "enforcement" and before "training;" deleting "grant" after "training"; and adding "or for a peace officer training grant for funds reallocated pursuant to section 10013(b)(1)," after "training." Also in the first sentence, CalEPA proposes to replace "qualified" with "eligible;" delete "as specified by the Secretary. The application will require" and add requirements that the application 1) be signed by an authorized representative of the organization under the penalty of perjury, and 2) include at least all the information listed in the subdivisions. CalEPA also proposes to replace the comma after each subdivision with a semi-colon.

Purpose of Proposed Amendments to Section 10015(a)(1): CalEPA proposes to replace “physical mailing” with “business” before address; delete “and post office box;” add “business” before telephone number and delete “and fax” and the “s” in “numbers” and add “, if applicable” at the end.

Purpose of Proposed Amendments to Section 10015(a)(2): CalEPA proposes to delete language requiring the application to be signed by an authorized person, which is proposed to be moved up; and replace “authorized person’s telephone and fax numbers” with “authorized representative’s name, title, business telephone number.”

Purpose of Proposed Amendments to Section 10015(a)(3): CalEPA proposes to move up the language requiring each applicant to report the telephone number, and e-mail address of the person with day-to-day responsibility for the proposed project; to add a requirement that the organization include the person’s title; add “business” before telephone number and e-mail address; remove the requirement to include a fax number; and to add “the” before “authorized representative.”

Purpose of Proposed Amendments to Section 10015(a)(4): CalEPA proposes to add “at a minimum, all of” before “the following information.” In addition, CalEPA proposes to replace the period at the end of each lettered subdivision within (a)(4) with a comma.

CalEPA proposes to add a new subdivision 10015(a)(4)(A) that reads “[a] concise description of the proposed project.” CalEPA proposes to move the existing language in (A) to a new subdivision (B) and modify it as follows: delete “identify” at the beginning; capitalize “the”; and add “[t]his includes the need the project seeks to address, the communities the project is intended to benefit, and a description of how the proposed project will enhance the enforcement of environmental laws.”

CalEPA proposes to add a section 10015(a)(4)(C) with language that training course applications must include one of three listed environmental justice learning objectives for course participants, and proposes three learning objectives, or explain why an environmental justice learning objective is not included. This concept is proposed to be clarified and moved to this provision from subdivision (G).

CalEPA proposes to re-letter the existing (B) as (D); remove “identify”; capitalize “the”; add “project’s environmental” before “enforcement and/or training target audience”; and add “, and how the organization intends to reach this audience” at the end of the subdivision.

CalEPA proposes to re-letter subdivision (C) as (E), remove “identify” from the subdivision, and capitalize “the.”

CalEPA proposes to re-letter subdivision (D) as (F), remove “provide” from the subdivision, capitalize “a;” replace “introduction that states” with “description of” before “the nature of the organization;” add a comma after “organization;” add a requirement

that the applicant describe whether the applicant is a private non-profit; and replace “the organizations” [sic] with “its.”

CalEPA proposes to delete current subdivision (E).

CalEPA proposes to re-letter subdivision (F) as (G), and change it as follows: change “describe” to “a description of,” and add language that would require applicants to describe success on similar projects and how the organization’s past successes will help it better implement the proposed project.

CalEPA proposes to delete the current language in (G).

CalEPA proposes to modify existing subdivision (H) as follows: replace “[p]rovide” with “[e]stimated” before “project completion plans/time frames;” add a “the” before “expected results,” and add language clarifying that circuit prosecutor project applications need not identify specific cases for prosecution, but must provide the expected results, to the extent feasible.

CalEPA proposes to modify subdivision (I) to replace the language with a requirement that applications include “[m]etrics for evaluating the success of the project.”

CalEPA proposes to modify subdivision (J) to replace “provide” with “proposed budget.”

CalEPA proposes to replace the language in current subdivision (K) with the language in subdivision (L), with the following changes: replace “[p]rovide a” with “[a]n,” add “the” before “resumes,” and add an “and” at the end of the subdivision.

CalEPA proposes to re-letter current subdivision (M) as (L) and in that subdivision, to delete “[p]rovide,” capitalize “letter(s),” add a comma after “commitment,” delete “significant,” and add a requirement that applications include an estimate of monetary contributions from other organizations and other grants awarded the project.

Purpose of Proposed Amendments to Section 10015(a)(5): CalEPA proposes to add a subdivision (a)(5), moving it from a different provision of the existing regulation, that requires training course applications to include an explanation of how the proposed course complies with Penal Code sections 14306 or 14307; that requires circuit prosecutor project applications to explain how the proposed project complies with Penal Code section 14309, including matching fund requirements; and that requires the Commission, when seeking additional training funding, to show that the training is mandated or there are substantial changes in the law that require the Commission to revise its environmental law courses.

Purpose of Proposed Amendments to Section 10015(a)(6): CalEPA proposes to add subdivision (a)(6), which requires applicants to provide a certification stating that all organizations involved in the project are compliant with applicable laws as of the application date.

Purpose of Proposed Amendments to Section 10015(a)(7): CalEPA proposes to add subdivision (a)(7), which requires applications to include any other information requested by the Secretary to evaluate the application.

Rationale for Proposed Amendments to Section 10015(a)

CalEPA proposes to delete the “n” in “an” to make the sentence grammatically correct in light of the additional proposed language. CalEPA also proposes to add the qualifier “discretionary grant for” before “enforcement”, and add “or for a peace officer training grant for funds reallocated pursuant to section 10013(b)(1), after “training” in order to clarify that the application requirements in this section apply to grants for any of the purposes in Penal Code sections 14306 through 14308, and 14309, and grants that the Secretary will allocate with money declined by the Commission pursuant to section 10013(b)(1) of the regulations. Under the Act, monies earmarked for, and declined by, the Commission must be used specifically for peace officer training, so a specification is needed for clarity and accuracy. The proposed replacement of “and” with “or” after “enforcement” and before “training” will make the provision more accurate and clear, as the Act authorizes the Secretary to award grants for enforcement or training; a project need not include both enforcement and training to be funded. CalEPA proposes to delete “grant” after “training” because “grant” is now redundant in light of the proposed rewrite, which CalEPA thinks is more clear.

CalEPA proposes to replace “qualified” with “eligible” to use more accurate language: it is entities eligible to receive funds who may apply for grants under the program.

CalEPA proposes to delete “as specified by the Secretary.” This proposed change will eliminate language no longer needed since the rest of the proposed edits to section 10015(a) will provide all the specific application requirements. CalEPA also proposes to delete “The application will require” because that language is no longer needed with the new proposed streamlined writing of subdivision (a).

In addition, CalEPA proposes to add a requirement that the application be signed by an authorized representative of the organization under penalty of perjury. The signature requirement is proposed to be moved up and changed from existing section 10015(a)(2) to flag that the application must be signed. The signature must be by an authorized person to ensure that the person signing the application has authority from the organization to apply for and sign the application on behalf of the organization. Further, the signature must be under penalty of perjury to ensure that the application contains true and accurate information, which helps ensure that grant awards are properly made to legitimate projects and applicants, and that grant awards may be recouped, as appropriate, for misstatements and lies in the application.

Finally, CalEPA proposes to add “that includes, at a minimum, all of” to make clear to regulated entities that each application must include at least all of the items specified in section 10015(a).

Rationale for Proposed Amendments to Section 10015(a)(1): CalEPA proposes to delete “mailing” and add “business” before “address,” and add “business” before “telephone number” to make clear that applicants should be reporting official business addresses and phone numbers, not personal ones, for their organizations, since they may be released to the public in CalEPA reports on the program, or in response to Public Records Act (PRA) requests. Further, CalEPA proposes to delete the requirement that applications include fax numbers, since that technology is out-of-date and not customarily used anymore, so CalEPA does not need it anymore. CalEPA proposes to delete the “s” in “numbers” to make it grammatically correct in light of the other proposed changes. Finally, CalEPA proposes to add “if applicable” after “e-mail and web page addresses” so that applicants need not include them in their applications if the applicant organization does not have them.

Rationale for Proposed Amendments to Section 10015(a)(2): CalEPA proposes to delete language requiring that the application be signed by an authorized person because CalEPA proposes to move it up to section 10015(a), where it seems to flow better, since this provision is about the authorized representative’s information that must be included in the application. CalEPA also proposes to change the terminology from “authorized person” to “authorized representative” to make more clear that the person signing the form should be authorized to represent the organization, and to make references to this person consistent throughout the regulation. Further, CalEPA proposes to add a requirement to include in the grant application the authorized representative’s name and title, so that CalEPA will know how to refer to the authorized representative. CalEPA also proposes to add “business” to “telephone” to make clear that the authorized representative’s telephone number in the application should be his or her official business telephone number, especially since the number could be subject to public disclosure under the PRA. Finally, CalEPA proposes to delete “fax” from the list of numbers for the authorized representative that the application must include because fax technology is out-of-date and not customarily used anymore, so CalEPA does not need it anymore.

Rationale for Proposed Amendments to Section 10015(a)(3): CalEPA proposes to move the requirement that applications include the telephone number and email address of the person with day-to-day responsibility for the proposed project up in the provision to make it a list to improve the clarity and flow of the provision. CalEPA also proposes to add a requirement that the organization’s telephone number and e-mail address be their business number and e-mail address to avoid submission of confidential information, since CalEPA may have to produce it in response to a legal request. CalEPA additionally proposes to remove the requirement to include a fax number because fax technology is out-of-date and not customarily used anymore, so CalEPA does not need it anymore. CalEPA proposes to add “title” to the list of items that applicants must report for the person with day-to-day responsibility for the proposed project, so that CalEPA will know how to refer to this person. CalEPA proposes to add “the” before “authorized representative” to make the language more grammatically correct. Finally, CalEPA proposes to delete the requirement that applications include the person’s fax number

because fax technology is out-of-date and not customarily used anymore, so CalEPA does not need it anymore.

Rationale for Proposed Amendments to Section 10015(a)(4): CalEPA proposes to add “at a minimum, all of” before “the following information” to make clear that the narrative/work plan must contain at least all of the information in section 10015(a)(4)(A)-(K), but may contain more, if the applicant finds it necessary. Also, CalEPA proposes to re-letter certain subdivisions within section 10015(a)(4) to reflect proposed deletions and additions of language throughout the subdivision. The proposed replacement of the periods at the end of each subdivision with a comma would make more clear that this is a list of items, all of which must be included in an application for grant funds under this program.

CalEPA proposes to add a new section 10015(a)(4)(A) that requires applicants to describe the project, so that the application will now have require a holistic description of the project in one place—at the beginning of the application.

CalEPA proposes to move the existing language in (A) to a new subdivision (B) to reflect that CalEPA proposes to add a new subdivision (A), described above. CalEPA proposes to remove “identify” and capitalize “the” to make the sentence more grammatically correct and flow better with the language in (a)(4). Further, CalEPA proposes to add language requiring applications to address “the need the project seeks to address, the communities the project is intended to benefit, and a description of how the proposed project will enhance the enforcement of environmental laws.” This proposed addition will help the Secretary to evaluate how the proposed project meets the Act’s purposes and goals, to help the Secretary ensure that the grants are awarded to applications that further the Act and meet the Act’s requirements.

CalEPA proposes to add a new subdivision (C) to reflect that CalEPA proposes to add a new subdivision (A) and re-letter (A) to B, as described above. Also, CalEPA proposes to add language to new section 10015(a)(4)(C) from subdivision (G), requiring training courses to include one or more of three specified environmental justice learning objectives for course participants to build on the concept in the current subdivision (G), but make it more clear by incorporating all the specific requirements. It is proposed to be moved up in the application requirements to reflect SB 157’s stronger emphasis on environmental justice principles. This proposal will help ensure that proposed projects and grants ultimately funded adequately address the Act’s environmental justice and enforcement goals, while making it more clear exactly what is expected of the applicant, and thus easier for the applicant to comply. The proposed language would allow an applicant not to include one of the three environmental justice learning objectives in a training course if the application explains why such a component is not included, consistent with the existing regulation, because there are certain trainings that enhance environmental enforcement, but for which it may not make sense to include an environmental justice learning objective, such as witness preparation and inspector safety courses.

CalEPA's proposed changes to the new section 10015(a)(4)(D) would make the sentence more grammatically correct and flow better with the language in (a)(4); clarify that the enforcement and/or training must be environmental, consistent with the Act; and will help the Secretary to evaluate how the proposed project meets the Act's purposes and goals, to help the Secretary ensure that the grants are awarded to applications that further the Act and meet the Act's requirements.

CalEPA's proposed changes to new section 10015(a)(4)(E) would make the sentence more grammatically correct and flow better with the language in (a)(4).

CalEPA's proposed changes to the first word of the new section 10015(a)(4)(F) would make the sentence more grammatically correct and flow better with the language in (a)(4). The proposed replacement of "introduction that states" with "description of" helps to make more clear that the application must include a specific description of the items in this subdivision. The proposed requirement that the application describe whether the applicant organization is a private nonprofit would enable the Secretary to determine whether the applicant is an eligible entity to receive grant funds under the Act, as the Secretary may only award grants to certain entities. Finally, CalEPA proposes to alter the final sentence of this subdivision to streamline it and make it read better, as well as to make it consistent with how CalEPA spells nonprofit throughout the rest of the regulation.

CalEPA proposes to delete the existing section 10015(a)(4)(E) because this information is no longer going to be used by the Secretary to make grant decisions.

CalEPA proposes to re-letter subdivision (F) as (G) to reflect proposed additions and deletions to the list of subdivisions in section 10015(a)(4). CalEPA's proposed changes to the first word of new section 10015(a)(4)(G) would make the sentence more grammatically correct and flow better with the language in (a)(4). Further, the proposed additions would provide the Secretary additional information about how well-equipped the applicant is to implement the proposed project and satisfy the goals and requirements of the Act.

CalEPA's proposed deletion of the existing language in subdivision (G) is necessary to avoid duplication with the new proposed language in subdivision (B), where the language fits better.

CalEPA's proposed change to the first word of section 10015(a)(4)(H) would make the sentence more grammatically correct and flow better with the language in (a)(4). Adding "the" also makes the sentence more grammatically correct, ensuring that the reader understands that the expected results must relate back to the proposed project. In addition, the proposal to add language that allows circuit prosecutor project applications not to name specific cases acknowledges that proposed circuit prosecutor projects are, by their nature, less concrete at the time of application than training or local enforcement projects, and thus tailors the proposed application requirements accordingly. Thus, the proposal affords circuit prosecutor project applications flexibility

to seek money when specific cases are not yet known, so they will have the necessary resources to pursue cases when they crop up, while still requiring them to provide the expected results of the project like every other applicant, so that the reader understands that the expected results must relate back to the proposed project.

CalEPA's proposed replacement of the existing language in section 10015(a)(4)(I) streamlines the language to provide more clarity about exactly what the application should include regarding how the Secretary should measure the success of the proposed project.

CalEPA's proposed replacement of the first word in section 10015(a)(4)(J) would make the sentence more grammatically correct and flow better with the language in (a)(4). The proposed addition of the word "budget" will make it more clear that the figures and projections that must be included must relate to the budgetary spending of the grant amounts being sought.

CalEPA proposes to delete the language in existing subdivision (K) because the Secretary will no longer require applications to include an explanation of how the project may serve as a model in other settings, since the Secretary no longer considers this to be an important factor in awarding grant funds under these regulations.

CalEPA's proposes to move the language in (L) up to (K) to reflect proposed additions and deletions to the list of subdivisions in section 10015(a)(4). CalEPA also proposes to replace the first word in (K) to make the sentence more grammatically correct and flow better with the language in (a)(4). The proposed addition of "the" before "resumes" will make the sentence more grammatically correct, and thus more clear to regulated entities, making it easier to read and comply with the requirement. The proposed addition of "and" at the end would make more clear that this is a list of items, and all of them must be included in an application for grant funds under this program.

CalEPA proposes to re-letter subdivision (M) as (L) to reflect proposed additions and deletions to the list of subdivisions in section 10015(a)(4). CalEPA's proposed deletion of the first word and capitalization of "I" in "Letter(s)" in subdivision (L) would make the sentence more grammatically correct and flow better with the language in (a)(4). In addition, the proposed addition of a requirement that applications include information about other funds available for the proposed project would help the Secretary evaluate and compare the applications to determine which ones will best meet the goals of the Act and community needs, and which projects need funding.

Rationale for Proposed Amendments to Section 10015(a)(5): Under the Act, the Secretary may only fund training projects that comply with Penal Code sections 14306 or 14307, and circuit prosecutor projects that further the purposes in, and are consistent with, Penal Code section 14309. Penal Code section 14309 also requires district attorney office applicants to provide matching or in-kind funds of at least 20 percent of the expense of the deputized environmental circuit prosecutor. Finally, the proposed addition about what the Commission must show if it is seeking additional training

funding is consistent with the Act's requirements. The proposed addition of new subdivision (a)(5) will help applicants understand exactly what they must demonstrate for different types of projects, and what the Secretary needs to see, based on the requirements of the Act, making the regulations easier to implement and comply with.

Rationale for Proposed Amendments to Section 10015(a)(6): The proposed addition of new subdivision (a)(6) will help ensure that the Secretary is awarding grants only to organizations that are already compliant with all levels of applicable law. Having a certification will allow the Secretary to pursue legal action, where appropriate, when those certifications were not true and accurate. Finally, including a point in time to which the certification applies helps provide certainty to the applicant about what it is attesting to, and allows the applicant to do diligent research to ensure that the time period about which it is certifying. The certification also helps CalEPA remain compliant with the authorizing statute and all other applicable laws, too, by not funding noncompliant projects.

Rationale for Proposed Amendments to Section 10015(a)(7): The proposed addition of new subdivision (a)(7) will ensure that applicants have the flexibility to include any other information needed by the Secretary, and that the Secretary has all the information that the Secretary needs to evaluate whether the application meets the requirements of the Act and CalEPA's implementing regulations.

Purpose of Proposed Amendments to Section 10016

CalEPA proposes to add "for Environmental Enforcement and Training Act Grants" to the end of the title of this section.

Rational for Proposed Amendments to Section 10016

CalEPA's proposed addition to the end of the title helps to make the title consistent with the rest of the regulation's section titles, such as section 10015, and to add clarity that section 10016 applies to Environmental Enforcement and Training Act Grants.

Purpose of Proposed Amendments to Section 10016(a)

CalEPA proposes to add "entity" before "eligibility" to the title of subdivision (a).

In addition, CalEPA proposes to change subdivision (a)(1) by adding language and subsections (A) to (C) with language specifying which entities cannot receive funds or apply for grants, and from which the Secretary may not consider applications, including individuals, organizations not statutorily allowed to receive funding, and organizations out of compliance with the law. CalEPA also proposes to delete "are not eligible to receive grants" after "individuals."

CalEPA proposes to change subdivision (a)(2) by adding language and subsections (A) to (C) with language specifying which entities can receive funds or apply for grants, and from which the Secretary may consider applications. CalEPA proposes to move the

language in subdivision (a)(6) to (a)(2)(B). CalEPA also proposes to add to the existing language that private nonprofits and public entities must be eligible under the regulations to receive funds, and proposes to delete “may submit an application for discretionary grants;” and to add that applicants who have previously received funds are still eligible as long as they are otherwise eligible under the regulations.

CalEPA proposes to re-letter subdivision (a)(3), and to delete or move subdivisions (a)(4) and (a)(5).

Rationale for Proposed Amendments to Section 10016(a)

CalEPA proposes to change the title of section 10016(a) to “Entity Eligibility” to clarify that there are two different types of eligibility the Secretary must consider when evaluating an application: entity and project. Subdivision (a) will describe what entities, or organizations, are eligible to apply for funds.

CalEPA’s proposed changes to section 10016(a), such as putting the language into more subdivisions and grouping the sections into subdivisions detailing which entities are eligible and which are not, will, in general, create more organization in the section, allowing the section to be more easily read and understood.

CalEPA proposes changes to subdivision (a)(1) in order to specify which organizations cannot apply for or receive grants under the regulations. The Act prohibits certain organizations from receiving grants, and specifies that only public and private organizations, not individuals, may receive grants. Further, CalEPA proposes to prohibit organizations that are not compliant with law from applying for or receiving grants under the Act to ensure that only organizations that are compliant with existing law receive grants made for the purposes of upholding and enforcing the law. The proposed additions of subdivisions (a)(1)(A) through (a)(1)(C) will help provide structure to make the regulation easier to read and understand.

CalEPA proposes to delete from (a)(1)(A) “are not eligible to receive grants” after “[i]ndividuals” because this language is no longer needed with the proposed language in (a)(1).

CalEPA proposes changes to subdivision (a)(2) in order to make more clear which organizations may apply for or receive grants under the regulations. The Act specifies which categories of organizations may receive grants. CalEPA proposes to move the language in subdivision (a)(6) to (a)(2)(B) so that all the rules about entity eligibility are more properly grouped into a section on which entities are eligible to receive grants.

CalEPA proposes to delete “may submit an application for discretionary grants” because this language is no longer needed with the proposed language in (a)(2).

CalEPA proposes to renumber subdivision (a)(3) to (a)(2)(C) to be consistent with the numbering and lettering in the rest of the regulatory provisions, and to reflect changes

made to the numbering and lettering within this provision, due to new proposed language and subdivisions.

CalEPA proposes to delete subdivision (a)(4) because, in awarding grants, the Secretary will no longer generally consider whether an organization has previously received a grant or offer preferences to organizations that have never before received grants.

CalEPA proposes to delete subdivision (a)(5) because this is a restatement of the Act that does not need to be restated in the regulations.

Purpose of Proposed Amendments to Section 10016(b)

CalEPA proposes to add a new subdivision (b) to section 10016, with a new proposed title and new proposed language regarding which projects are eligible and not eligible to receive grants. Section 10016(b)(1) is proposed to add language about which projects are not eligible for grant funding, and from whom the Secretary shall not consider applications, including projects already fully funded for the proposed grant period or not allowed under any law, projects inconsistent with the regulations, and projects operated or managed by an ineligible entity under the proposed new section 10016(a)(1). As part of these changes, CalEPA proposes to change “(7)” to “(B)” and delete “[a]pplications that propose,”; capitalize “projects”; delete “are ineligible for funding and will not be evaluated;” and capitalize “projects” in the proposed new (b)(1)(B); and add an “and” at the end.

In addition, CalEPA proposes to add a new subdivision (b)(2), with new language regarding which projects are eligible to receive grants, and the references to the Penal Code sections describing such projects.

CalEPA also proposes to move language from the existing (b)(1) to a new subdivision (b)(3). The language still prohibits the Secretary from considering more than one application per applicant for the same project, but allows applicants to submit more than one application for separate and distinct projects or activities.

Rationale for Proposed Amendments to Section 10016(b)

CalEPA’s proposed addition of new subdivision (b) and proposal of more subdivisions and grouping of the sections into subdivisions detailing which projects are eligible and which are not will, in general, create more organization in the section, allowing the section to be more easily read and understood.

In particular, the proposed title of subdivision (b) will help readers to identify the contents of subdivision (b), so that it is easier for an applicant to locate the regulatory provisions describing which projects are eligible to receive funds under the Act.

CalEPA proposes new language in proposed new subdivision (b)(1) to help applicants better identify which projects are not eligible for funding, and to help applicants understand that the Secretary will not consider applications for funding that propose such projects.

CalEPA proposes the language in subdivision (b)(1)(A) to better carry out the purposes of the Act. The grants are intended to help provide training to enhance environmental enforcement, and for circuit prosecution. Monies should not be used for projects that do not need grants because they are fully funded for the proposed grant period. However, this provision is not intended to render a project ineligible simply because it is a longstanding undertaking that has had sufficient funding to succeed in past years, where, for example, full funding is uncertain from year-to-year, or where the grant applicant seeks to expand the scope of a previously fully funded undertaking. Further, CalEPA proposes to prohibit projects that are not compliant with law from being included in applications or being funded under the Act to ensure that only projects that are compliant with existing law be funded by grant monies allocated for the purposes of upholding and enforcing the law.

In subdivision (b)(1)(B), CalEPA proposes to delete “[a]pplications that propose” to remove language made unnecessary by the proposed new language in subdivision (b)(1). CalEPA proposes to capitalize “projects” in this section to reflect deletion of “[a]pplications that propose,” making “projects” the new first word in the sentence, which is always capitalized in the English language. CalEPA also proposes to add language that the Secretary will not consider or fund applications for projects inconsistent with any provisions of California Code of Regulations, title 27, sections 10011 et seq. because the regulations implement the Act, so projects not permitted by the regulations are also not permitted by the Act and thus the Secretary has no authority to fund those projects. Because the Secretary has no authority to fund those projects, the Secretary will not spend time reading applications for those projects. CalEPA proposes to add “and” at the end to reflect that this is an inclusive list.

CalEPA proposes to add new subdivision (b)(1)(C), with new language that the Secretary will not consider or fund applications for projects operated or managed by an entity not eligible to apply for or receive funds to implement the Act and reflect updates made to the Act by SB 157. The Act and SB 157 prohibit the Secretary from awarding funds to certain entities specified in the statutory provisions, so this proposed new regulatory language reflects that the Secretary similarly has no authority to consider applications for, or award funds to, projects the Legislature has deemed ineligible. Please see the rationale for proposed changes to subdivision (a)(1) for more information.

CalEPA proposes to add new language in proposed new subdivision (b)(2) to help identify in the regulation what kinds of projects are allowed to be funded under the Act, as amended by SB 157. This proposed language will put in one place information about what projects are eligible, so that it is easier for grant applicants to know where to look in deciding whether to apply for grant funds.

Finally, CalEPA proposes to add new language in proposed new subdivision (b)(3) to reflect that the Secretary will not review more than one application per applicant for a given project, only for separate projects. Applicants should include all information about a project in one application, rather than submitting multiple applications for the same project, to avoid the Secretary's re-review of the same information, providing more efficient review of grant applications.

Purpose of Proposed Amendments to Section 10016(c)

CalEPA proposes to re-letter subdivision (b) to (c). In new subdivision (c), CalEPA proposes to keep much of the language in the existing subdivision (b), with some proposed changes:

First, CalEPA proposes to delete language indicating that the Secretary will use the narrative/work plan as the primary basis for awarding grants.

CalEPA also proposes to delete the language in proposed subdivision (c)(1) and replace it with language that, in deciding whether to award funds to an application, the Secretary will consider whether the application includes all the information required under section 10015.

In proposed subdivision (c)(2), CalEPA proposes to delete "every application will be evaluated;" capitalize "based;" and add language allowing the Secretary to consider "the overall effectiveness of the project design and the extent to which the project addresses unmet needs, when comparing the narrative/work plan descriptions under section 10015(a)(4) of this Article of the various applications" in determining the merit of the proposed project under subdivision (c)(2). CalEPA proposes to add "and" at the end of this provision.

CalEPA proposes to delete all the language in proposed subdivision (c)(3) and instead the provision will say "[w]hether the applicant and proposed project are eligible to receive funds, as described in subdivisions (a) and (b)"; and to add an "and" at the end of the subdivision.

Finally, CalEPA proposes to delete existing subdivisions (b)(3)(A), (b)(3)(B), (b)(3)(C), (b)(4), and (b)(5).

Rationale for Proposed Amendments to Section 10016(c)

CalEPA proposes to re-letter subdivision (b) to (c) to reflect that CalEPA proposes to add a new subdivision (b), described above.

CalEPA proposes to delete language from this subdivision indicating that the Secretary will use the narrative/work plan as the primary basis for awarding grants because the subdivision is proposed to add more specific criteria that the Secretary will use to evaluate applications. Adding more specific criteria helps applicants and grant recipients

better understand what the Secretary expects and looks for in evaluating applications and determining which applications will be funded.

CalEPA proposes to delete the language in proposed new (c)(1) (existing (b)(1)) because that language is not related to the subject of this subdivision—criteria for awarding grants. That language is proposed to be moved to a more relevant section, as discussed above. CalEPA proposes to replace the deleted language with language specifying that, in deciding whether to award funds to an application, the Secretary will consider whether the application includes all the information required under section 10015 to track the application requirements. This proposed addition ensures that the Secretary receive applications that contain all the information required for the Secretary to make sure that applications meet the requirements and goals of the Act.

In proposed subdivision (c)(2) (existing (b)(2)), CalEPA proposes to delete “[e]very application will be evaluated” to remove redundant language in light of proposed changes to proposed subdivision (c). CalEPA proposes to capitalize “based” because it is proposed to be the new first word in the sentence, which is customarily capitalized in the English language. CalEPA proposes to add “and” at the end to reflect that this is an inclusive list.

CalEPA proposes to delete from proposed subdivision (c)(3) (existing (b)(3)) language about ensuring the fair treatment of all because this is merely a statement of existing law and does not need to be in the regulation. The proposed deletion does not change CalEPA’s dedication to this principle.

CalEPA also proposes to delete from proposed subdivision (c)(3) (existing (b)(3)(A) through (b)(3)(C)) language regarding environmental justice components required for training courses because this language does not relate to the purpose of this section—criteria for reviewing applications and awarding funds—and so is proposed to be moved to a more relevant section, as discussed above. CalEPA proposes to instead put in proposed subdivision (c)(3) that the Secretary shall consider entity and project eligibility under subdivisions (a) and (b) when reviewing applications and awarding funds. The Secretary does not have authority to award funds to ineligible applicants or projects, and so this language helps make clear to regulated entities that the Secretary must consider eligibility in reviewing applications and awarding funds.

CalEPA proposes to delete subdivision (b)(4) because this is no longer a criterion the Secretary will use to determine which applications to fund.

Finally, CalEPA proposes to delete subdivision (b)(5) because CalEPA is proposing to update proposed subdivision (c) as a whole to identify the specific criterion with a reference to the application requirements the Secretary will consider in reviewing applications and awarding funds. Proposed subdivision (c)(1) now tracks the application requirements, which contain the same items listed in existing subdivision (b)(5), rendering the existing (b)(5) less specific and redundant, and thus unnecessary.

Purpose of Proposed Amendments to Section 10016(d)

CalEPA proposes to re-letter subdivision (c) to (d), to add a (1) before the existing language, and to renumber subdivision (1) to (2). In new subdivision (d), CalEPA proposes to keep much of the language in the existing subdivision (c), with some proposed changes:

In proposed new subdivision (d)(1), CalEPA proposes to add “applications received from eligible applicants for eligible projects for the criteria in subdivision (c), and then” after “[t]he Secretary shall review”; add “compare,” after “evaluate”; add “from those applications” after “select grant recipients”; and add a sentence at the end of the subdivision that reads “[t]he Secretary shall consult with the Commission prior to selecting applications for peace officer education and training programs.”

In proposed new subdivision (d)(2), CalEPA proposes to remove “mail” and change “acknowledgements to applicants” to “receipt.” CalEPA proposes to delete the existing subdivision (d)(2).

In subdivision (d)(3), CalEPA proposes to add “the received” before “applications”; replace “recommended for funding” with “reviewed”; replace “will” with “may”; add “select projects for funding from the applications received. The Secretary shall” before “notify”; replace “the finalist(s) in writing by mail and request” with “each applicant of the decision on their particular application”; add language that applicants selected to receive funding may be required to provide additional information; remove “necessary” and “such as tax identification numbers. The finalist(s) may be required by existing law to complete additional government forms”; and add “and will be required to execute a grant agreement” before “prior to receiving grant funds.”

In subdivision (d)(4), Cal EPA proposes to replace “not” with “be unable to” and add “received” at the end.

CalEPA proposes to delete the language in subdivision (d)(5) and replace it with the language in subdivision (d)(6), with the addition of “and peace officer training grants for funds reallocated pursuant to section 10013(b)(1)” before “awarded,” and thus also to delete “(6)”.

Rationale for Proposed Amendments to Section 10016(d)

CalEPA proposes to re-letter and renumber subdivision (c) as described above to incorporate and reflect proposed changes to the language and organization of the subdivision, making it more clear for an applicant to read and easier to comply with.

CalEPA proposes to add language to proposed subdivision (d)(1) to reflect the Secretary’s actual process when reviewing applications and determining which applications will receive grant funds. The proposed addition of “applications received from eligible applicants for eligible projects for the criteria in subdivision (c)” refers back

to the criteria subdivision ((c)) for ease of reading. Consistent with subdivisions (a) and (b), the Secretary will only review applications from eligible entities for eligible projects, because the Secretary only has authority to award grants to eligible entities for eligible projects, and will not spend time reviewing applications for projects to which the Secretary has no authority to award grants funds. CalEPA's proposed addition of "and then" before "evaluate" is intended to reflect the chronology of the Secretary's actions as to the applications. CalEPA also proposes to add "compare" to the list of the Secretary's actions as to the applications to be consistent with language in proposed subdivision (c)(2) that the Secretary will select applications by comparing them to other applications and choosing the best one.

The proposal to add "from those applications" to the end of the first sentence in proposed subdivision (d)(1) would reflect that the Secretary's actions, mentioned earlier in the sentence, relate to applications received.

Finally, CalEPA's proposed new sentence at the end of proposed subdivision (d)(1) incorporates language in the statute that requires CalEPA to consult with the Commission before awarding grants to peace officer education and training programs. This proposed addition informs applicants of all the Secretary's actions to evaluate the applications in one place, making it easier to read and understand the review and selection process for the grants.

In proposed subdivision (d)(2), CalEPA proposes to alter the language so that the provision makes more clear that CalEPA will notify applicants that their applications have been received, but removes the requirement for CalEPA to mail those notices. It also proposes to remove the requirement that CalEPA notify the applicant, giving the applicant flexibility to designate a different contact person or authorized representative to receive such notices.

CalEPA proposes to delete the existing subdivision (d)(2) because the language about review and evaluation is proposed to be moved up to proposed subdivision (d)(1), so that the Secretary's actions as to the applications are all together in one subdivision, for clarity and ease of finding them. The second sentence is proposed to be deleted because the Secretary may take many factors into consideration in determining whether to fund a particular project, and it is not possible to include an exhaustive list here. The proposed deletion allows CalEPA to avoid unnecessarily limiting the factors the Secretary may consider, other than as limited by the Act. There is no need for the regulations to point out that the Secretary is limited by the Act because that would be a restatement of existing law.

In proposed subdivision (d)(3), CalEPA proposes to add "received" and "reviewed" to clarify that the Secretary will only review those applications that the Secretary actually receives. CalEPA proposes to delete "recommended for funding" because this is confusing language that does not make the process any more clear to applicants and does not need to be in the regulations. CalEPA proposes to add to the end of the first sentence that the Secretary "may select projects for funding from the applications

received” to reflect that the grants awarded by the Secretary are discretionary and, thus, the Secretary has authority to decline to fund any applications.

Next, in proposed subdivision (d)(3), CalEPA proposes to add “[t]he Secretary shall” before “notify” to clarify that the Secretary is required to notify applicants of the decisions on their own application only, which was not clear in the existing language. CalEPA also proposes to remove language requiring the Secretary to notify finalists in writing by mail to give flexibility to notify all applicants using any method, not just the finalists, and not just by mail. The remaining proposed changes are intended to clarify that applicants selected to receive funds will not receive the funds until they provide any additional information and execute a grant agreement. Proposed deletion of “necessary” before “to complete” removes a confusing term that does not provide clarity about what is required of grant recipients. Proposed deletion of “such as tax identification numbers” provides flexibility for the Secretary to require whatever is needed; providing a list creates the mistaken assumption that the Secretary will only request the listed or related items. Finally, proposed deletion of “[t]he finalist(s) may be required by existing law to complete additional government forms” helps to resolve confusion and add flexibility for the Secretary to request needed information, even if it is not strictly required by existing law, but is otherwise needed.

In proposed subdivision (d)(4), CalEPA proposes to add a comma after “available” because the clauses before and after independent clauses, so adding the comma makes it more grammatically correct. In this same subdivision, CalEPA also proposes to replace “not” with “be unable to” before “fund all applications,” and to add “received” at the end, to add clarity that the Secretary may not have the funding available to fund all applications received, not that the Secretary may choose not to fund all applications received.

CalEPA proposes to delete the language in subdivision (c)(5) (proposed to be (d)(4)) and move the concept up, with similar proposed language, to proposed subdivision (d)(4) so that similar concepts at the same stage of the Secretary’s process are grouped together in one subdivision. Instead of saying what the Secretary will notify each group of applicants (grant recipients and those who will not be selected to receive grants), the proposed language more simply and clearly says that all applicants will be notified of the decision on their respective applications.

Finally, CalEPA proposes to move the language in subdivision (c)(6) to proposed subdivision (d)(5) to reflect that CalEPA proposes to delete the language in subdivision (c)(5) (proposed to be (d)(4)). CalEPA proposes to add to new (c)(5) a reference to the peace officer training grants for funds reallocated pursuant to section 10013(b)(1) to make clear that this provision also applies to those peace officer training grants.

Purpose of Proposed Amendments to Section 10017

CalEPA proposes to change the title of section 10017 from “Restrictions on Grants” to “Grant Restrictions and Additional Requirements.”

Purpose of Proposed Amendments to Section 10017(a): In this provision, CalEPA proposes to replace “for the purposes” with “as” before “set forth in an approved narrative/workplan”; and replace “must be consistent with the statutory authority for the award” with “shall not be used for any purpose prohibited by law.”

Purpose of Proposed Amendments to Section 10017(b): CalEPA proposes to replace “cannot” with “shall not”, and to change “or intervention” to “or to intervene.”

Purpose of Proposed Amendments to Section 10017(c): CalEPA proposes to delete the language in subdivision (c).

Purpose of Proposed Amendments to Section 10017(d): CalEPA proposes to move existing subdivision (d) up to (c) and make the following modifications: delete “State law requires”; replace “to” with “shall”; capitalize “state”; add “, federal, and local” after “state” and before “laws”; and add “, under this Article, and shall actually comply” at the end of the provision.

Purpose of Proposed Amendments to Section 10017(d): CalEPA proposes to add new subdivision (d), with new proposed language that entities contributing funds to the Account may designate that those funds be used for a purpose set forth in Penal Code sections 14306 through 14309, but that the Secretary may still subtract amounts due to the Commission under the Act.

Purpose of Proposed Amendments to Section 10017(e): CalEPA proposes to add new subdivision (e), with new proposed language requiring that funded projects be completed within the timeframes set out in the work plan, unless the Agency alters the time frames in writing.

Purpose of Proposed Amendments to Section 10017(f): CalEPA proposes to add new subdivision (f), with new proposed language that organizations that receive grant funding under the regulation are responsible for successfully completing the project in their grant application, and that the project must be completed in accordance with the regulation and the grant agreement for the project.

Purpose of Proposed Amendments to Section 10017(g): CalEPA proposes to add new subdivision (g), with new proposed language that requires grant funds remaining at the end of the fiscal year to be returned to CalEPA or extended for use in the following fiscal year, if approved by the Secretary where good cause is demonstrated.

Purpose of Proposed Amendments to Section 10017(h): CalEPA proposes to add new subdivision (h), with language proposed to be moved from a different provision of the existing regulation to this one saying that grant recipients must comply with audit requests from the Secretary or the Department of Finance (DOF), and that compliance with such audit requests includes, but is not limited to, sharing documents and other information the Secretary or DOF may request to conduct the audit.

Rationale for Proposed Amendments to Section 10017

CalEPA proposes a title change to section 10017 to reduce verbiage, but still reflect that CalEPA proposes to move additional grant requirements to this section from other sections because they more properly go in this section.

Rationale for Proposed Amendments to Section 10017(a): CalEPA's proposed replacement of "for the purposes" with "as" clarifies that awarded grant funds can only be used as described in the application the Secretary approved, not, more broadly, for the purposes of the application. The proposed replacement of "must be consistent with the statutory authority for the award" with "shall not be used for any purpose prohibited by law" clarifies that grants may not be used for anything that is not allowed by any law, which is more specific than the existing language. This latter replacement would also expand the legal scope of the prohibition from the Act to all laws that could apply.

Rationale for Proposed Amendments to Section 10017(b): The proposed replacement of "cannot" with "shall not" makes it more clear that the prohibition is mandatory and not optional. The proposed change of "or intervention" to "or to intervene" is merely to make the sentence read better and be more clear, and has no regulatory impact.

Rationale for Proposed Amendments to Section 10017(c): CalEPA proposes to delete subdivision (c) because it is potentially in tension with the Act, which requires matching funds for circuit prosecutor grants, and because this prohibition is no longer needed to adequately implement the Act. Further, the matching fund requirement also allows Program funds to be used to fund more projects.

Rationale for Proposed Amendments to Section 10017(d): CalEPA proposes to move the language currently in (d) into (c) to reflect that the language in the existing subdivision (c) is proposed to be deleted, so the language in (d) would become the new (c). In addition, CalEPA proposes to delete "State law requires" because these regulations may only include language that is allowed by State law, so this language is not needed and redundant. Further, CalEPA proposes to replace "to" with "shall" to reflect the earlier change, and to make clear that the actions subsequently described are mandatory, not optional. CalEPA also proposes to add ", federal, and local" after "state" and before "laws" because the Secretary would like to award grants for the training on and enforcement of laws only to applicants who are actually compliant with all applicable laws, not just State laws. The proposal to add "under this Article" clarifies that the certification applies to grant funds awarded under this regulatory scheme. Finally, CalEPA proposes to add "and shall actually comply" at the end of the provision to ensure that applicants not only certify compliance with applicable laws before receiving grant funds, but also that applicants actually do comply with all applicable laws while receiving grant funds. This provision also helps CalEPA remain compliant with the authorizing statute and all other applicable laws, too, by not funding noncompliant projects.

Rationale for Proposed Amendments to new Section 10017(d): CalEPA proposes to add new subdivision (d) to reflect that contributing entities may wish to earmark their contributions for one or more of the Act's statutory purposes. This may provide an incentive for increased contributions to the fund, which has seen a significant decline in contributions from settlements and judgments in recent years. At the same time, the language clarifies that the earmarks may only be for one or more of the Act's statutory purposes, and does not authorize an earmark beyond that, for example, to a particular entity. Further, the language clarifies that the Secretary may deduct from any earmarked funds such amounts needed to comply with Penal Code section 14314, subdivision (a), which allocates twenty-five percent of the funds awarded, or \$100,000, whichever is less, to the Commission for peace officer training, unless the Commission declines, in which case the funds must still be used for peace officer training. If contributors earmark contributions for a purpose other than peace officer training, and depending on the total contributions and balance in the fund in a particular year, CalEPA may face conflicting donor intent and statutory mandates. (For example, if contributions to the fund one year are 100% earmarked for circuit prosecutor projects, CalEPA would not be able to comply with its statutory mandate to earmark funds for the Commission without running afoul of donor intent.) The language authorizing the Secretary to deduct any amounts necessary to comply with Penal Code section 14314, subdivision (a) avoids any such conflict, while creating an incentive for increased contributions to the fund by authorizing earmarks to the maximum extent feasible.

Rationale for Proposed Amendments to Section 10017(e): CalEPA's proposes to add this language because it was deleted, in part, from a different section and more properly belongs under this section. The proposed language makes clear that projects that receive grant awards must be completed as approved by the Secretary in the work plan in the application, unless the Secretary agrees to a different timeline in writing. A writing is needed to ensure that the extension is actually approved by the Secretary.

Rationale for Proposed Amendments to Section 10017(f): CalEPA proposes to add this language because it was deleted, in part, from a different section and more properly belongs under this section. Further, this language makes clear to organizations that the applicant will be held responsible for failures to complete projects, and that projects must be

Rationale for Proposed Amendments to Section 10017(g): CalEPA proposes this new provision so that applicants know what to do with any remaining grant funds at the end of the allotted grant period. The proposed language also provides flexibility to the Secretary to extend the use of remaining funds to the year immediately following the year in which the grant was approved for use where good cause is demonstrated. CalEPA proposes to use good cause as the criteria to provide the Secretary flexibility to consider different reasons, because the regulation cannot provide an exhaustive list.

Rationale for Proposed Amendments to Section 10017(h): The language proposed to be added in this new provision was moved from a different section of the regulation into this section because it relates to grant restrictions and so more properly belongs here.

The proposed language is consistent with the existing regulatory requirement that grant recipients comply with audit requests, but clarifies the requirement. The language about audit compliance is proposed to be added to clarify the various means by which the Secretary is able to ensure that grant monies are being spent as required by law; and DOF may require an audit of grant funding for the same reason. CalEPA proposes to add the language describing that compliance with an audit includes, but is not limited to, providing requested information and documents to help regulated entities understand what types of actions may be required of them if they are asked to comply with an audit, but it is not possible to provide an exhaustive list; this is also added to clarify the audit requirement that was already in the regulation.

Purpose of Proposed Amendments to Section 10018

Purpose of Proposed Amendments to Section 10018(a): CalEPA proposes to delete the language in subdivision (a) and move up the language in existing subdivision (c) to subdivision (c), with the following modifications: replace “[a]ll recipients must” with “[e]ach grant recipient shall”; delete “and final” before “reports to the Secretary”; add “each” and delete “the” before “quarter”; add “of implementing a project receiving grant funds pursuant to this Article except the last quarter,” after “quarter”; delete “or” and add “and shall submit a final report to the Secretary within 30 calendar days of the” before “end of the project”; delete “for final reports” after “end of the project”; and add language designating that the reports must be signed by an authorized representative, under penalty of perjury, and must include at least all of the items designated, including a certification that the organizations remain in compliance with applicable law, have used the grant funds as set forth in the grant agreement, and any other information requested by the Secretary.

Purpose of Proposed Amendments to Section 10018(b): CalEPA proposes to delete existing subdivision (b).

Purpose of Proposed Amendments to Section 10018(c): CalEPA proposes to delete existing subdivision (c) and replace it with a new subdivision (c) that states that “[a]ny failure to submit a required report may result in termination of the grant.”

Purpose of Proposed Amendments to Section 10018(d): CalEPA proposes to delete existing subdivision (d).

Purpose of Proposed Amendments to Section 10018(e): CalEPA proposes to delete existing subdivision (b).

Purpose of Proposed Amendments to Section 10018(f): CalEPA proposes to re-letter subdivision (f) as subdivision (b), with the following proposed modifications: replace “will” with “may”; delete “collect,”; add “use” to the list of what the Secretary will do with the report; delete “ees” from “grantees” and add “recipients” after “grant”; delete “final” before “reports”; delete the comma after “reports”; and delete “to serve as model

programs and will use the reports to develop information for mandated reports to the Governor and the Legislature”.

Rationale for Proposed Amendments to Section 10018

Rationale for Proposed Amendments to Section 10018(a): CalEPA proposes to delete the language in subdivision (a) and move up the language in existing subdivision (c) because the existing (a) and (b) are proposed to be moved to a different section to which their subjects better relate, making the language in (c) the new language in (a). Further, CalEPA proposes to replace “[a]ll recipients must” with “[e]ach grant recipient shall” to make clear that each individual recipient is required to submit reports, and that submitting reports is mandatory, not optional.

CalEPA proposes to delete “and final” before “reports” because later proposed language will address final reports, rendering this language unnecessary.

CalEPA proposes to add “calendar” before both mentions of “days” to resolve ambiguity about the number of days, making clear the expectation that reports must be submitted within 30 calendar days, not 30 business days.

CalEPA proposes to add “each” before “quarter” to clarify the timing and frequency of quarterly reports—that they will be due after each 3-month period, or quarter year, of the life of a project. In addition, CalEPA proposes to add “except the last quarter” regarding what quarterly reports are required in order to reduce unnecessary reporting obligations by not requiring grant recipients to submit quarterly reports for the final quarter of a project, because they will instead submit a final report covering the entire life of the project, including the final quarter. CalEPA also proposes to add “of implementing a project receiving grant funds pursuant to this Article” regarding quarterly report submission to clarify that reports are only due during the time period when a grant project is being performed.

CalEPA proposes to delete “or” and “for final reports” after “end of project”, and add “and shall submit a final report to the Secretary within 30 calendar days of the” to make more clear that CalEPA requires grant recipients to submit final reports to the Secretary, and to identify the deadline to submit final reports (30 days after the project completion deadline) in a more clear way.

CalEPA proposes to the requirement that the grant recipient’s authorized representative must sign each report to make more clear that the person signing the form should be authorized to represent the organization, so that the organization can still be held accountable for what the authorized person says, and to make references to this person consistent throughout the regulation. CalEPA proposes to require the reports to be signed under penalty of perjury to ensure that the information included in the reports is true and accurate, and to provide CalEPA with evidence if a report turns out to have been falsified. Finally, CalEPA proposes to add “and shall include all of the following, at a minimum” to communicate that each of the subsequent listed items must be in the

report for the report to be complete, while giving grant recipients flexibility to add other information if they would like to do so.

In proposed new section 10018(a)(1), CalEPA proposes to require reports to include a description of the progress the grant recipient has made toward accomplishing the goals in section 10014 and the project's objectives identified in the application, by reference to the metrics of success identified in the application, as well as, if applicable, an explanation of why the project did not achieve one or more of the identified metrics. This proposed information is needed by CalEPA to allow CalEPA to evaluate whether the grant recipient actually implemented the project in the application and as required by the Act, and whether the project was useful, so CalEPA can ensure that the grant funds are being used as authorized and intended by the Act.

In proposed new section 10018(a)(2), CalEPA proposes to require reports to include a certification that all the organizations involved in the project, including the grant recipient, remain in compliance with all applicable laws and have used the grant funds only as allowed in the grant agreement. This language is proposed to ensure that these grants, which are for training and enforcement to enhance the enforcement of environmental laws, go only to organizations that are compliant with applicable laws, and as authorized by the Secretary. The certification also helps CalEPA remain compliant with the authorizing statute and all other applicable laws, too, by not funding noncompliant projects.

Finally, CalEPA proposes to require reports to include any other information requested by the Secretary because the Secretary needs flexibility to request the information needed to evaluate whether project execution complied with the applicable requirements, and an exhaustive list that addresses all the possible circumstances of every project is not possible.

Rationale for Proposed Amendments to Section 10018(b): CalEPA proposes to delete existing subdivision (b) because CalEPA proposes to move it to a different section in the regulation, as described above, where it better fits.

Rationale for Proposed Amendments to Section 10018(c): CalEPA proposes to move the language in existing subdivision (c) up to subdivision (a) to reflect the proposal to delete the language in existing (a) and (b), and modify the language as described above for the reasons described in the rationale for proposed amendments to section 10018(a). CalEPA proposes to add a new subdivision (c) that specifies that failures to submit required reports may result in grant termination to provide notice to regulated entities that the Secretary may have to terminate a grant if the applicant does not submit the information the Secretary needs to evaluate whether a project is being implemented as allowed and required by law.

Rationale for Proposed Amendments to Section 10018(d): CalEPA proposes to delete existing subdivision (d) because CalEPA proposes to move it to a different section in the

regulation, as described above, where it better fits.

Rationale for Proposed Amendments to Section 10018(e): CalEPA proposes to delete existing subdivision (e) because CalEPA proposes to move it to a different section in the regulation, as described above, where it better fits.

Rationale for Proposed Amendments to Section 10018(f): CalEPA proposes to re-letter subdivision (f) as (b) to reflect the proposed deletions of subdivisions (b) through (e). CalEPA proposes to change “will” to “may” because the Secretary has the discretion to decide whether to review, use, or disseminate any reports required under section 10018, so those actions are not mandatory, as “will” suggests. Further, CalEPA proposes to delete “collect” from, and add “use” to, the list of actions the Secretary may take as to reports under section 10018, because applicants are already required to submit reports to the Secretary, so use of the word “collect” is redundant and unnecessary, and to provide the Secretary with broader flexibility to use the report in a way that is not just for review and dissemination, including as the basis of a proposed rulemaking or to inform its own work. In addition, CalEPA proposes to delete “final” before “reports” to make more clear that the Secretary is able to use the information in any report submitted under Section 10018, not just the final report.

CalEPA proposes to delete “ees” from the end of “grantees” and add “recipients” to make references to organizations receiving the grants consistent throughout the regulation, and consistent with the proposed new definition section.

Finally, CalEPA proposes to delete “to serve as model programs and will use the reports to develop information for mandated reports to the Governor and the Legislature” to avoid unnecessarily limiting for what the Secretary may use reports submitted under section 10018 when the Secretary may need to use the reports for other reasons under the law.

Purpose of Proposed Amendments to Section 10019

CalEPA is proposing to add a new section 10019 entitled “[s]everability” that is proposed to include a severability provision. A severability provision provides that if any portion of a regulation is found to be invalid in any way by a court of competent jurisdiction, the remaining portions of the regulations remain valid and in effect.

Rationale for Proposed Amendments to Section 10019

CalEPA proposes to add a severability provision to ensure that it is clear to regulated entities that just because one part of the regulation is deemed invalid by a court does not mean they do not have to continue to comply with the rest of the regulation. CalEPA proposes to add this as a new section because it is a global qualification of all the other provisions in the section, and so it does not properly go in any other provision. CalEPA proposes to entitle the provision “severability” to succinctly reflect the contents of the

proposed language in the provision, to make it easy to find the provision when reading the regulation.

IV. The Anticipated Benefits of the Proposed Rulemaking, and The Benefits and Goals of the Authorizing Statute

When the Legislature adopted the Act in 2022, it found that “[t]he enforcement of California’s environmental laws is essential to protect human health, the environment, and the state’s economy” and “benefits law abiding businesses, firms, and individuals.”¹ The Legislature also noted, in the original Act and SB 157 amendments, that local and State enforcement agencies “can play an increasingly important role in protecting human health, the environment, and the state’s economy through greater involvement in the enforcement of environmental laws;” and that “[c]ommunity-based organizations play a critical role in ensuring that disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution receive the benefit of enforcement of the state’s environmental laws and therefore need access to training and resources.”² But the Legislature recognized that realizing these potential benefits required those enforcing environmental laws to receive special training, due to the complex nature and importance of the task.³ The Legislature adopted the Act to provide this environmental law training and enforcement support, and acknowledged in SB 157 that it would inure to the benefit of all Californians.⁴

The Act provides for the fair and equitable enforcement of all environmental laws. Environmental laws include “local, state, and federal environmental laws and regulations that impact public health and the environment, including, but not limited to, those that regulate toxic and carcinogenic materials, water quality, air quality, climate change, waste management, pesticides, noise, vibration, odors, and wildlife resources.”⁵ This ensures that all Californians will be shielded from the negative public health, economic, and environmental impacts caused by the violation, both civil and criminal, of environmental laws.

CalEPA’s regulations implementing the Act ensure that the benefits the Act seeks to confer, described above, are realized. Through its regulations, CalEPA funds training and enforcement of environmental laws for staff essential to the protection of the State’s environment, public health, and economy for all Californians. CalEPA’s enforcement funding allows professionals to investigate and prosecute violations of environmental laws in rural areas where enforcement might not usually occur, but where enforcement is just as important to protect the environmental resources and public health of the local communities and businesses, and provides jobs in those areas. Training funds are used to ensure that staff of relevant entities are properly trained to appropriately carry out the investigative and enforcement work needed to hold violators accountable and keep the

¹ Penal Code, § 14300, subds. (a)(1)&(2).

² Penal Code, § 14300, subds. (a)(4)&(5).

³ Penal Code, § 14300, subds. (a)(6)&(7).

⁴ Penal Code, § 14300, subd. (a)(5).

⁵ Penal Code, § 14300, subd. (b)(6).

environment clean, as well as to educate enforcement staff about environmental justice principles, so that all Californians can benefit from environmental enforcement.

The Act and CalEPA's implementing regulations thus protect the natural resources, public health, economy, and access to justice of all Californians.

V. Environmental Analysis

Based on CalEPA's review, CalEPA has determined that implementing the proposed rulemaking would not result in any physical changes to the environment, or any potentially significant adverse impacts on the environment. The proposed rulemaking proposes to add new requirements to the existing rulemaking to reflect eligibility changes made to the authorizing statute by recent legislation, and to make the regulation more clear, organized, and up-to-date.

CalEPA has reviewed the proposed rulemaking and concludes that it would not result in any significant or potentially significant adverse impacts on the environment because compliance with the proposed amendments would not result in any physical change to the existing environment. The amendments consist of administrative and procedural changes that affect only program administration, and do not involve or result in any new development, modifications to buildings, or new land use designations. Further, compliance with the proposed rulemaking would not involve any activity that would involve or affect aesthetics, air quality, agricultural and forestry resources, biological resources, cultural resources, geology and soils, greenhouse gases, hazardous material, hydrology and water quality, land use planning, mineral resources, noise, population and housing, public services, recreation, or traffic and transportation because they would not require any action that could affect these resources. No discussion of alternatives or mitigation measures is necessary because no significant adverse environmental impacts were identified.

The proposed changes are thus not anticipated to result in any environmental impacts, such as new building, traffic changes, natural resource impacts, etcetera. The proposed changes may offer environmental benefits, but those are unlikely to differ from those benefits offered by the existing regulation.

VI. Environmental Justice

State law defines environmental justice as the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (Gov. Code, § 65040.12, subd. (e)(1)). Environmental justice includes, but is not limited to, all of the following: (A) The availability of a healthy environment for all people; (B) The deterrence, reduction, and elimination of pollution burdens for populations and communities experiencing the adverse effects of that pollution, so that the effects of the pollution are not disproportionately borne by those populations and communities; (C) Governmental entities engaging and providing technical assistance to populations and communities most impacted by pollution to promote their meaningful participation in all phases of the environmental and land use

decision making process; and (D) At a minimum, the meaningful consideration of recommendations from populations and communities most impacted by pollution into environmental and land use decisions. (Gov. Code, § 65040.12, subd. (e)(2)). Environmental justice is one of CalEPA's core values, and fundamental to achieving its mission.

The proposed rulemaking updates the regulation to ensure that it reflects environmental justice. In particular, the rulemaking will reflect SB 157's addition of community-based organizations as eligible participants in training courses. SB 157 defines "community-based organization" as "an organization that engages directly and regularly with residents of identified communities or neighborhoods or that works to enforce environmental laws on behalf of disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution."⁶ Thus, this training funding will implement the Act's goal to ensure that "disadvantaged communities, low-income residents, and other populations that are disproportionately burdened by pollution receive the benefit of enforcement of the state's environmental law."⁷

The proposed rulemaking also proposes to amend section 10015 to clarify the environmental justice components for training projects, so that environmental justice is integrated as a core component of environmental trainings, to the maximum extent possible, and so that enforcement professionals trained under the Program learn about environmental justice and are encouraged to incorporate it into their environmental enforcement work.

VII. Economic Impacts Assessment

Government Code sections 11346.2(b)(2) and 11346.3(b) require the preparation of an economic impact assessment (EIA) for a non-major regulation. This proposed rulemaking is a non-major regulation.

To inform the EIA for this proposed rulemaking, CalEPA sent out an optional economic impact survey to known interested stakeholders, including previous grant applicants, district attorney's offices, environmental justice groups, and government agencies. CalEPA received three responses to the survey, two of which are included in Appendix B to this ISOR. CalEPA also developed this EIA by referencing previous grants. The conclusions in this section are based on the responses CalEPA received to its economic impact survey and previous grant information.

SB 157 rendered statutorily ineligible to receive funds under this program an entity that, under the prior version of the legislation, received a statutory earmark of 25% of funds for the purposes of circuit prosecution and 25% of funds for the purpose of environmental training. Because the regulations implement SB 157, they have a cost impact on this entity, but any adverse cost impact on the entity is statutorily mandated and thus unavoidable. Moreover, this economic impact is fully offset by the fact that

⁶ Penal Code, § 14300, subd. (b)(3).

⁷ Penal Code, § 14300, subd. (a)(5).

funding for other entities to perform grants for the same purposes remains available. Further, CalEPA believes that the part of this rulemaking that proposes to allow earmarks for specified purposes allowed by law may increase contributions to the funds and increase funding opportunities overall. Finally, the practical impact on the statutorily-ineligible entity is not materially different from the status quo of the last several years, in which CalEPA has not had sufficient funds to award grants under this program to that or any other entity.

Though statutorily-prohibited entities will no longer be eligible to apply for funding, the proposed rulemaking's implementation of SB 157 will not reduce the amount of funding for these purposes, because funds are still available to eligible entities for these same purposes. Further, the proposed language in this proposed rulemaking will allow earmarking contributions to the Program's fund for certain purposes, as allowed by law, which will further ensure funding for these purposes, if designated by donors.

Based on responses to its economic impact survey, CalEPA does not anticipate that this proposed rulemaking will impose any additional costs on any other regulated entities over the lifetime of the regulation. Though the proposed amendments make the application, reporting, and auditing requirements, more specific, regulated entities have told CalEPA that they do not believe this will increase their costs to comply, or have any other cost. Regulated entities have said that these proposed regulations may provide additional benefit, by making the requirements more clear, so that organizations have a better chance of actually receiving funding. Specific economic impacts CalEPA is required to consider are discussed below.

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

CalEPA has no evidence that its proposed rulemaking will lead to the creation or elimination of jobs in the State. To the extent that enhanced enforcement resulting from the training and enforcement grants CalEPA awards under these regulations leads to the creation or elimination of jobs, those jobs likely would have been created or eliminated even under the existing regulations and not due to any changes in this proposed rulemaking, and so are not economic impacts attributable to the proposed rulemaking.

B. The creation of new business, or the elimination of existing businesses within the State of California

CalEPA has no evidence that its proposed rulemaking will lead to the creation or elimination of existing businesses within the State. To the extent that enhanced enforcement resulting from the training and enforcement grants CalEPA awards under these regulations leads to the creation or elimination of businesses in the State, those businesses likely would have been created or eliminated under the existing regulations and not due to any changes in this proposed rulemaking, and so are not economic impacts attributable to the proposed rulemaking.

C. The expansion of businesses currently doing business within the State of California

CalEPA has no evidence that its proposed rulemaking will lead to the expansion or contraction of businesses currently doing business within the State. To the extent that enhanced enforcement resulting from the training and enforcement grants CalEPA awards under these regulations leads to the expansion or contraction of businesses currently doing business in the State, those businesses likely would have expanded or contracted even under the existing regulations and not due to any changes in this proposed rulemaking, and so are not economic impacts attributable to the proposed rulemaking.

D. Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete

CalEPA has no evidence that its proposed rulemaking will have a significant statewide adverse economic impact directly affecting businesses, including their ability to compete. Businesses are not subject to this regulation. Businesses may be impacted by enhanced enforcement funded by the regulations if they violate environmental laws, but not by the regulations themselves.

E. The benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment

The proposed rulemaking relates to grants for training and enforcement of environmental laws in the State that protect “public health and the environment, including, but not limited to, those that regulate toxic and carcinogenic materials, water quality, air quality, climate change, waste management, pesticides, noise, vibration, odors, and wildlife resources.”⁸ The proposed rulemaking will help ensure that enforcement of these environmental laws is enhanced for the benefit of all Californians.

Enhanced enforcement training and funding will help to ensure that those who would violate the laws protecting California’s natural resources, public health, and economy will be penalized and brought back into compliance with the law. The proposed rulemaking will help ensure that the best projects receive grants for environmental enforcement and training. This ensures that environmental regulators, prosecutors, community-based organizations, and others are prepared to properly enforce environmental laws in all our communities, for the benefits of all, and the knowledge that enforcement is a real threat will deter many from violating these laws in the first place.

As a result, this rulemaking is likely to improve worker safety and the health and welfare of California residents, and protect the State’s environment, by deterring and fixing violations of environmental standards that protect air and water quality and prevent

⁸ Penal Code, § 14301, subd. (b)(6).

contamination with toxic materials, thereby helping to protect worker and general public health and safety from exposure to poor air and water quality and noxious materials.

VIII. Evaluation of Regulatory Alternatives

Government Code section 11346.2, subdivision (b)(4) requires CalEPA to consider and evaluate reasonable alternatives to the proposed regulatory action, and provide reasons for rejecting those alternatives. This section discusses alternatives evaluated, and provides reasons why these alternatives were not included in the proposal. As explained below, no alternative proposed was found to be less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing law. CalEPA also has not identified any reasonable alternatives that would lessen any adverse impact on small business.

A. Alternative One: SB 157 Changes Only

Alternative One would propose changes to CalEPA's regulations only as needed to update them to reflect changes made to the Act through SB 157, including eliminating the eligibility of entities to apply for and receive grant funds if they are not statutorily-authorized to do so, incorporating staff of community-based organizations as eligible training participants, and eliminating fund set-asides for the California District Attorneys Association and the Circuit Prosecutor Project housed within the California District Attorneys Association. Alternative One was rejected because it would not achieve the rulemaking's objectives of making the regulation more clear and organized, and removing unnecessary language. Regulated entities could find it difficult to continue to understand and comply with the regulation. These challenges could undermine the Act's goals to enhance environmental enforcement for the benefit of all Californians.

B. Alternative Two: Reduce Reporting and Other Requirements.

Alternative Two would reduce application, reporting, other requirements that can be burdensome for private nonprofits and public agencies to carry out. Alternative Two was rejected because it would not allow the Secretary to collect information the Secretary needs to ensure that applicants and grant recipients are complying with the Act and the regulations, which could prevent CalEPA from discovering that funds are being expended for non-grant purposes, grants for unallowable projects and/or to ineligible entities, and could undermine the Act's goals to enhance environmental enforcement for the benefit of all Californians.

C. Small Business Alternative

CalEPA did not analyze a small business alternative because the portions of the proposed rulemaking that reflect agency discretion (not including the portions that reflect changes made by SB 157) are not expected to have a cost impact on any regulated entity. Even if there is a cost impact on an entity, those cost impacts come from required reporting and auditing, and there are no reasonable alternatives that

would meet the legal requirements and objectives of the rulemaking that also reduce the burden on small businesses. Therefore, CalEPA has not identified any reasonable alternatives that would lessen any adverse impact on small businesses.

D. Performance Standards in Place of Prescriptive Standards

The proposed rulemaking does not mandate the use of specific technologies or equipment. The proposed amendments would update the application, reporting, and audit requirements to require specific actions or procedures that could be argued to be prescriptive. For most of these, regulated entities have some flexibility to choose what information to provide to respond to these requirements. These arguably prescriptive requirements are necessary to ensure that applications and reports contain all the information the Secretary needs to be able to determine if the proposed project and applicant meet the applicable legal requirements, and ensure that grant funds are being expended consistent with the terms of the grant and program requirements. Further, the arguably prescriptive audit requirements are necessary to ensure that the Secretary can exercise necessary oversight. CalEPA did consider whether there were any performance standard alternatives, such as leaving the reporting and audit language as is, but determined there were no reasonable performance standard alternatives. Leaving the language as is, or including more performance-based standards for any of these, would not achieve the aforementioned rulemaking objectives of making the language more clear and organized, and reflecting SB 157, and thus would not meet the requirements of the Act or the objectives of this proposed rulemaking.

E. Health and Safety Code section 57005 Major Regulation Alternatives

The proposed regulation will not result in a total economic impact on state businesses of more than \$10 million in one or more years of implementation. Therefore, this proposal is not a major regulation as defined by Health and Safety Code section 57005.

IX. Justification for Adoption of Regulations Different from Federal Regulations Contained in the Code of Federal Regulations

No federal regulations address the same issues as CalEPA's proposed rulemaking.

X. Public Process for Development of the Proposed Action (Pre-Regulatory Information)

Consistent with Government Code sections 11346, subdivision (b), and 11346.45, subdivision (a), CalEPA staff held a public workshop on February 16, 2022, to obtain feedback on potential draft regulatory text and CalEPA's potential approach to this rulemaking, and had other meetings with interested persons during the development of the proposed regulation. CalEPA also sent out an economic impact survey to gather information from impacted stakeholders about any economic impacts this rulemaking might have on them. These informal pre-rulemaking discussions provided staff with useful information that was considered during development of the regulation that is now being proposed for formal public comment.

XI. References

1. Cal. Sen. Bill 157, Reg. Session 2021-2022, Ch. 83 (2021).

XII. Appendices

Appendix A: Proposed Amendments to CalEPA's Environmental Enforcement and Training Grant Program Regulations

Appendix B: Responses to Economic Impact Survey