

Title 27. California Environmental Protection Agency

Notice of Proposed Amendments to the Environmental Enforcement and Training Grant Program Regulations

The California Environmental Protection Agency (CalEPA) will consider approving for adoption the proposed amendments to the Environmental Enforcement and Training Grant Program Regulations at 1001 I Street, Sacramento, CA 95814.

CalEPA will not conduct a public hearing unless a hearing is requested. To request a hearing, any interested person, or his or her duly authorized representative, may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code section 11346.8 by emailing eetagrants@calepa.ca.gov. If a hearing is requested, CalEPA will issue a public agenda and notice of the hearing. Please consult the public agenda, which will be posted ten days before the hearing date, for important details, including, but not limited to, the place of the hearing and the day on which this item will be considered, as well as any appropriate direction regarding a possible remote-only hearing.

CalEPA may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. CalEPA may also approve for adoption the proposed regulatory language with other modifications if the text, as modified, is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

Written Comment Period and Submittal of Comments

In accordance with the Administrative Procedure Act, interested members of the public may present comments in writing by postal mail or by electronic submittal. The public comment period for this regulatory action will begin on March 11, 2022. Written comments must be submitted on or after March 11, 2022, and received no later than April 26, 2022. Comments submitted outside that comment period are considered untimely. CalEPA may, but is not required to, respond to untimely comments, including those raising significant environmental issues.

Comments submitted must be addressed to one of the following:

Postal mail: California Environmental Protection Agency
Jessica Aresca
1001 I Street, 25th Floor
Sacramento, CA 95814

Electronic submittal: eetagrants@calepa.ca.gov

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

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

Authority and Reference

This regulatory action is proposed under the authority granted in Penal Code sections 14300, 14301, 14303, 14306, 14307, 14308, 14309, 14314, and 14315. This action is proposed to implement, interpret, and make specific Penal Code sections 14300, 14301, 14303, 14306, 14307, 14308, 14309, and 14314.

Informative Digest of Proposed Action and Policy Statement Overview (Gov. Code, § 11346.5, subd. (a)(3))

Sections Affected:

Proposed amendment of California Code of Regulations, title 27, sections 10011, 10012, 10013, 10014, 10015, 10016, 10017, and 10018

Proposed adoption of California Code of Regulations, title 27, section 10019

Background and Effect of the Proposed Regulatory Action:

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 and codified in Penal Code sections 14300 et seq. The Program funds training and enforcement projects that fall within the descriptions in Penal Code Sections 14306 to 14308 and 14309 to enhance the enforcement of environmental laws in the State for the benefit of all Californians. The Legislature adopted some changes to the Program's authorizing statute in 2021, through SB 157.

The Secretary administers the Program through its implementing regulations in California Code of Regulations, title 27, sections 10011 through 10018. CalEPA is proposing this rulemaking 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 rulemaking will update the existing regulations to reflect changes to the Program made by SB 157, including changing the eligibility of grant recipients, adding community-based organizations as eligible training participants, and removing funding set-asides for circuit prosecutors and the California District Attorneys Association. In addition, the proposed rulemaking will remove outdated technology references, such as references to fax, add more clear criteria to the application, reporting, and auditing provisions, and re-organize the provisions to add clarity and

make the regulation easier to follow. Finally, the proposed rulemaking will also add a severability provision, so that it is clear to regulated entities that if a court invalidates one portion of the regulation, the other portions remain in effect. CalEPA may also consider other changes to the sections affected, as listed on page one of this notice, or other sections within the scope of this notice, during the course of this rulemaking process.

The proposed rulemaking will make ineligible the entity the Legislature has rendered ineligible to receive funds in SB 157. This will reduce funds previously available to that entity, but 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. This proposed rulemaking is not expected to have an economic impact on other regulated entities.

The proposed rulemaking will help achieve the Legislature's goals of enhancing environmental enforcement for the benefit of all Californians by making the requirements to apply for and use funding more clear. This could result in increased environmental, public health, and worker safety benefits if additional training and enforcement result, but the existing regulation already provides most of those benefits. The proposed amendments will also promote fairness and social equity by updating the eligibility to reflect changes made by SB 157 that now explicitly provide for training for staff of community-based organizations, thereby supporting the Legislature's goal to enhance environmental enforcement to benefit all Californians.

Objectives and Benefits of the Proposed Regulatory Action:

The proposed amendments would update the regulations to reflect changes to the Program's authorizing statute 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.

CalEPA conducted a pre-rulemaking process to develop this proposed rulemaking, including sending out an economic impact statement, holding a workshop on February 16, 2022, and holding informal rulemaking discussions with some stakeholders.

CalEPA determined the benefits of this proposed rulemaking based on the information CalEPA learned from this pre-rulemaking process, and from implementing the existing regulations, and based on the benefits the Legislature believed would come from the Program, as expressed in Penal Code sections 14300 et seq. Based on the aforementioned, these proposed regulations are expected to help support the existing benefits to worker safety, health, and the environment from the enhanced training and

enforcement of environmental laws under the existing program. The proposed regulations will also make it easier to understand, implement, and follow the regulation.

Comparable Federal Regulations:

There are no comparable federal regulations on the same issue as the proposed rulemaking.

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

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

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

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

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

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

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

CalEPA has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons. More information about this is in the Initial Statement of Reasons for this proposed rulemaking.

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

CalEPA has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new

businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

The objectives of the proposed regulatory action are to 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, and make the regulation more clear and organized. The proposed rulemaking is expected to support benefits to the health and welfare of California residents, worker safety, and the State's environment by improving the regulations supporting the enhancement of environmental laws that protect public and worker health and safety and the environment.

Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)): The reporting requirements in the proposed regulatory action apply only to private nonprofits and public agencies, not to businesses.

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

In developing this regulatory proposal, CalEPA evaluated the potential economic impacts on representative private persons or businesses. CalEPA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

CalEPA has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses because the proposed rulemaking does not apply to small businesses.

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

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

Environmental Analysis

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 changes are 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.

Special Accommodation Request

Special accommodation or language needs may be provided for any of the following:

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

To request these special accommodations or language needs, please contact eeagrants@calepa.ca.gov as soon as possible, but no later than ten business days before the end of the scheduled comment period.

Agency Contact Persons

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Sarah Taylor, at (916) 345-4551, or Jessica Aresca, at jessica.aresca@calepa.ca.gov.

Availability of Documents

CalEPA has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikethrough format to allow for comparison with the existing regulations, may be accessed on CalEPA's website listed below, starting on March 11, 2022. Please contact Sarah Taylor, at (916) 345-4551 if you need physical copies of the documents. Because of current travel, facility, and staffing restrictions, CalEPA's offices have limited public access. Pursuant to Government Code section 11346.5, subdivision (b), upon request to Sarah Taylor, physical copies could be obtained from the Public Information Office, CalEPA, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

Further, the agency representative to whom non-substantive inquiries concerning the proposed administrative action may be directed is Sarah Taylor, at (916) 345-4551. CalEPA has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the above-named contact persons.

Final Statement of Reasons Availability

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

Internet Access

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on CalEPA's website for this rulemaking:

<https://calepa.ca.gov/environmental-enforcement-and-training-grant-program-2022-rulemaking/>.

California Environmental Protection Agency

A handwritten signature in black ink, appearing to read "Jared Blumenfeld", is written over a solid horizontal line.

Jared Blumenfeld
Secretary for Environmental Protection
Date: March 1, 2022