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GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

NOTICE OF EMERGENCY RULEMAKING

FINDING OF EMERGENCY

STATEMENT OF CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 48

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency action to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

JUSTIFICATION OF EMERGENCY

The Governor's Office of Emergency Services finds an emergency exists and that this proposed emergency regulation is necessary to address a situation that calls for immediate action to avoid serious harm to the public peace, health and safety, and the general welfare.

The Legislature adopted Government Code Section 8574.44(c) which provides:

> The adoption of regulations pursuant to this section shall be considered by the Office of Administrative Law as an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340)

of Part 1 of Division 3 of Title 2, emergency regulations adopted by the director and the board pursuant to this section shall be filed with, but not repealed by, the Office of Administrative Law and shall remain in effect until revised or repealed by the director.

INFORMATION PURSUANT TO GOVERNMENT CODE SECTION 11346.5(a)(2)-(6)

AUTHORITY AND REFERENCE

Authority: Government Code Sections 8574.32(a)(1) and 8574.44(c).

Reference: Government Code Sections 8574.30 – 8574.48.

INFORMATIVE DIGEST

The purpose of the Regional Railroad Accident Preparedness and Immediate Response Regulations are to establish a schedule of fees to be paid for the top 25 Most Hazardous Material Commodities that are transported by rail car in California. The fees collected by the railroad will be utilized to build, develop, and enhance emergency response capabilities in the event of a hazardous material spill involving a railroad in California. The objective of this rulemaking is to address the gaps in California's ability to respond to, and mitigate the effects of, an incident involving a hazardous material commodity transported by rail in California, thereby reducing the exposure of the owners of such hazardous material commodities.

Protection of the health and safety of Californians and the environment is of the utmost importance. Given the volume and volatility of the hazardous material commodities transported by rail through California, there is an ever-present danger of the consequences that will emerge from a devastating incident involving the transport by rail of hazardous material commodities.

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Creating and enhancing a robust statewide hazardous material spill response capability will benefit the owners of the commodities being transported, in that the destruction following an incident involving such a hazardous material commodity being transported by rail will be substantially reduced. Expenditures from the revenue generated from this rulemaking will directly address California's existing gaps in its ability to effectively respond to and recover from an incident involving a hazardous material commodity transported by rail in California. California's first responders will be better equipped and trained to effectively respond to a release of a hazardous material commodity transported by rail in California, thereby mitigating the effects of such an incident. This mitigation will reduce the exposure of the owners of hazardous material commodities being transported by rail in that it will save lives, property, and the environment. This proposed rulemaking is critical to accomplishing this program's objective of creating a safer and more resilient California.

The Regional Railroad Accident Preparedness and Immediate Response Program and Fund, to which this proposed rulemaking relates, were created through legislation in 2015. There are no existing regulations pertaining to this matter. This proposed rulemaking is not inconsistent or incompatible with any existing state regulations. Similarly, there are no federal regulations or statutes related to this matter.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Governor's Office of Emergency Services conducted an updated gap analysis for rail in California to identify existing hazardous material capabilities and emergency response resources available to respond either directly or as part of a mutual aid request to an accident resulting in a major hazardous materials release. This analysis also identified gaps in adequate planning, training, and response capabilities.

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MATTERS PRESCRIBED BY STATUTE APPLICABLE TO THE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OR REGULATIONS

None.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Governor's Office of Emergency Services has determined this proposed regulatory action does not impose a mandate on local agencies or school districts.

FISCAL IMPACT ESTIMATES

The proposed rulemaking will result in additional costs to the Governor's Office of Emergency Services and the Board of Equalization for administration of the Regional Railroad Accident Preparedness and Immediate Response Fund. However, the Governor's Office of Emergency Services received appropriated funds, in the form of a loan, to cover the initial costs of this program. Once this loan has been reimbursed pursuant to Government Code section 8574.44, it is anticipated that a portion of the revenue generated from the funds created by this rulemaking will cover the administrative costs incurred by the Governor's Office of Emergency Services and the Board of Equalization in administering this program. The proposed rulemaking will not result in costs to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.