

DEPARTMENT OF FINANCE
FINAL STATEMENT OF REASONS

Hearing Date: August 29, 2013

Subject Matter of Proposed Regulations: Major Regulations

Section Affected: Title 1, California Code of Regulations 2000-2004

Updated Information

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

- §2000(e): The definition has been modified to clarify that “economic impact” includes all costs or all benefits whether direct, indirect or induced. The definition has also been modified as a result of public comments to clarify that “California” business enterprises and individuals are those located in or doing business in California.
- §2000(g): As a result of recommendations made during the public comment period, the definition has been modified to delete the reference to “any single year” and to extend the period of time for calculation of economic impact through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency). The definition was also modified to use the more correct technical word “offsetting” with respect to the proscription against netting benefits against costs.
- §2001(a) through (c), inclusive, the requirement for a detailed summary (and the specified contents of that summary) was removed as a result of recommendations made during the public comment period. The requirement to include the name of the regulation was also removed as redundant. The requirement that the list include the name of the responsible unit within the agency was added to ensure easier communication with the most appropriate persons working on a proposed major regulation. Subdivision (a)(1) was also modified to clarify the calendar year to which the list of proposed major regulations will apply. The original text presented and discussed at the interested parties meeting used the phrase “the following calendar year” because originally the notice was to be submitted in November for the following calendar year. As a result of comments made during the interested parties meeting, the date for submitting the list was changed to February 1 to make it closer to the time a rulemaking calendar must be filed with the Office of Administrative Law. The use of the word “following” was inadvertently not changed when the date contained in the regulation was changed to February 1. From the comments received during the public comment period, it was clear that the commenters understood that the

list of proposed major regulations was intended to include the year for which the list was submitted, not the following year. This change will conform the regulation to the change made previously to the date on which the list must be submitted. Subdivision (a)(2) was also modified as result of the Department's decision to strike the requirement for submission of a list when filing a notice of proposed action related to an emergency regulation.

§2002(b)(2) and (3): The Department of Finance (Department) believes the changes to this subdivision are nonsubstantive in that they are minor clarifying changes and do not modify the underlying requirements of the section. The Department modified this subdivision to ensure that it was clear that "types" refers to "categories" of individuals and business enterprises and that the references in subdivision (c)(2)(C),(D), and (E) are to the assessment of the economic impact and not those portions of the STD 399 related to economic impact assessment. It also removed the reference in subdivision (b)(3) to section 2002 as redundant

- §2002(c)(4), (5) and (8) have been withdrawn from OAL review at this time.
- §2002(c)(6) was modified to conform to the deletion from §2000(g) of the reference to "the single year."
- 2002(c)(11):As a result of recommendations made during the public comment period, the requirement for the signature of the agency secretary has been deleted and replaced with a requirement for the signature of the head of the agency. In the Department's experience, it is necessary that an agency demonstrate that something as significant as a major regulation has been reviewed and approved by the head of the agency.
- §2003(c): The Department modified this section to replace the word "between" with the word "among" as there may be more than two different identifiable groups that may be affected. The Department believes this change is nonsubstantive because it does not modify the underlying requirements of the section.
- §2003(d): As a result of recommendations made during the public comment period, the words "its proposed" were stricken to clarify that an agency must compare "regulatory alternatives" with a baseline. §2003(e): This subdivision was modified to substitute "proposed major regulation" for "proposed alternative" in order to provide greater clarity. The term "proposed alternative" was always intended to mean "proposed major regulation" and was understood by commenters to have such meaning. The Department has also modified (e)(1)(A) to clarify that its focus is on how the *need* for the proposed major regulation affects the selection of regulatory alternatives. There may be circumstances where an agency changes a regulation in the absence of a requirement by statute or court order and the term "need" encompasses all of the motivations.

- §2003(f): The Department modified this subdivision to ensure consistency in the references to businesses and/or individuals, so that there would be no discrepancy in the section between the two places where those words are used. The reference to “individuals” was inadvertently omitted from one of the two locations.
- §2003(h): The Department modified this subdivision to require compliance with the Department of Finance instructions in the State Administrative Manual (SAM). The Department also excluded section 6603 from the listing of SAM section because it is not applicable, as it contains no instructions regarding fiscal impact on state and local government agencies.
- The Department has consulted periodically with the Office of Administrative Law during the development of these regulations, as required by Govt. Code §11346.36(a). It has also consulted with other agencies, in compliance with that same section. Among other things, the Department:
 1. Conducted a survey of rulemaking agencies in September 2012;
 2. Held an interested parties meeting regarding the proposed regulations on April 24, 2013. The meeting was attended by representatives these entities:
 1. Department of Resources Recycling and Recovery
 2. Air Resources Board
 3. Department of Public Health
 4. Department of Insurance
 5. Environmental Protection Agency
 6. California Department of Transportation
 7. Department of Housing and Community Development
 8. Cal Fire
 9. California Energy Commission
 10. Department of Health Care Services
 11. Office of Administrative Law
 12. Fish and Game Commission
 13. Department of Social services
 14. Department of Corrections and Rehabilitation
 15. Governor’s Office of Business and Economic Development
 16. California Chamber of Commerce
 17. Sloat Higgins-Jensen
 18. KP Public Affairs
 19. California Business Roundtable
 20. Gualco Group
 21. California Manufacturers & Technology Association
 22. Econosystems
 3. Held (and continues to hold) regular meetings regarding the proposed regulations with a group of economists representing various state agencies.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This action will not have a significant adverse economic impact on small businesses.

Benefits

The Department has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and state's environment: These regulations would increase openness and transparency in government because affected individuals, businesses and governmental agencies must be offered the opportunity to participate in the regulation development process. They will lead to a more complete and consistent assessment of the economic impact of a proposed major regulation. These regulations would also promote the health and welfare of California residents because they should result in better, more cost effective regulations.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

These regulations affect only agencies within state government. They do not affect private persons.

Reasonable alternatives which were considered or were identified and brought to the attention of the Department are enumerated in the Initial Statement of Reasons and described in comments received during the comment period. An alternative that resulted in a change to the proposed regulation was accepted as being more effective in carrying out the purpose for which it was proposed. However, none of the remaining alternatives considered or otherwise identified and brought to the attention of the Department would be more effective in carrying out the purpose for which it was proposed than the alternative selected because those alternatives were either inconsistent with the intent of SB 617 in that they would reduce public participation in the development and consideration of alternatives, would reduce consistency in conducting a standardized regulatory impact assessment (SRIA), or would make it more difficult for the Department to determine whether an agency is assessing the economic impact of a proposed major regulation in a manner consistent with the Department's regulations.

Objections or Recommendations/Responses

Comments received during the 45-day comment period:

See attached Chart A (Revised)

Comments received during the 15-day comment period:

See attached Chart B (Revised)