

DEPARTMENT OF FINANCE
INITIAL STATEMENT OF REASONS
(Draft 6/27/2013)

Hearing Date: Thursday, August 29, 2013

Subject Matter of Proposed Regulations: Standardized Regulatory Impact Assessment for Major Regulations

Sections Affected: 1 CCR Sections 2000 – 2004

(1) Section Affected: 2000—Definitions.

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

The regulations contain terms that may not be known to all who would be affected by the regulations.

Certain terms need to be defined so as to make the regulations easier to read and understand (e.g. agency, notice of proposed action, Government Code, Department of Finance, GO-Biz, Office of Administrative Law, and the acronym for the standardized regulatory impact assessment).

Government Code Section 11342.548 does not specify the period of time over which the economic impact of a major regulation is to be measured nor whether the economic impact is computed on a “net” basis after subtracting any benefits or savings that might result. Nor does it define what constitutes “economic impact.”

There is no guidance as to the method an agency should use to make its preliminary estimate as to whether a proposed regulation will meet the threshold for a major regulation as that term is defined in SB 617 (Chapter 496, Statutes 2011).

2. Anticipated benefits from this regulatory action:

Specificity about the \$50 million threshold, about what constitutes “economic impact” and how to measure the economic impact of proposed major regulations ensures that agencies will be computing economic impact and the threshold

value in a consistent manner. Likewise, a definition of what “estimated by the agency” means will provide clarity and consistency to the process of making the initial estimate.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

Without a time specification, it would be difficult to ascertain whether a proposed regulation met the threshold value for a major regulation and agencies would not measure the impact consistently. The definition of a “major regulation” will ensure that all agencies are consistent in their approach to measuring the economic impact of a proposed regulation. In business and economics, one year is a standard time unit for measuring budget year, fiscal year or calendar year and economic impact. This proposal is based on that common standard of one year but allows agencies flexibility in determining the appropriate “year.” Further, the Department understands that this approach is consistent with the measurement some state agencies (such as the Air Resources Board) already use when assessing the economic impact of their proposed regulations.

Moreover, given variations in regulatory timeframes (e.g., regulations may exist or be effective for a prescribed period of time), this regulation will provide clarity to the public on the scope of a regulation’s impact and provide certainty for state agencies as to the baseline upon which regulations are to be evaluated for meeting the threshold for major regulations.

The Department recognizes that Health and Safety Code Section 57005 defines a “major regulation” as one having an economic impact on the state’s business enterprises in an amount exceeding \$10 million for those boards, departments and offices within CalEPA. These regulations will not apply to CalEPA regulations that have an economic impact that exceeds \$10 million but is less than \$50 million since SB 617 sets the threshold for compliance with these regulations at \$50 million.

Subdivision (b) will bring consistency and clarity to the process of estimating the economic impact of a regulation and will make agencies responsible for completing the assessment in a manner consistent with SB 617.

The overall goal of SB 617 is more cost effective regulation. A common perception is that “impact” means cost. However, a regulatory action can have both positive and negative impacts. In order to obtain an accurate assessment of economic impact, agencies must specify whether an “impact” includes costs, benefits, or some combination thereof.

In addition, a regulation can have both direct and induced impacts, but SB 617 does not

distinguish between the two types of impact. Direct impacts result from the immediate effect of a regulation. This includes the cost of compliance borne by the entities directly affected by the regulations—which is the concept most generally associated with “economic impacts.” Induced impacts affect the economy as a whole and show up as changes in statewide employment or gross domestic product. SB 617 alludes to induced effects in its wording (e.g., “creation or elimination of jobs within the state” and “creation of new businesses or the elimination of existing businesses” and “increase or decrease of investment in the state.”)

The broadest interpretation of “impacts” includes both direct and induced impacts. This would lead to a greater number of regulations being subject to the requirement for completing a standardized economic impact assessment. A narrow interpretation that considers only direct impacts would appear to be contrary to the intent of SB 617 in that it would ignore the full economic impacts of a regulation.

Underlying Data

1. SB 617 (Chapter 496, Statutes 2011)
2. OMB Circular A-4--http://www.whitehouse.gov/omb/circulars_a004_a-4
3. See, for example, California Constitution Article 13B, Sections 2, 5, 6, and 8 and Government Code Sections 13290-13291 showing use of one year as a standard time unit for measuring government fiscal functions such as budget.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Defining the method used to determine whether a proposed regulation meets the threshold for a major regulation as the life time of the regulation. This alternative was rejected because in many situations it is almost impossible to determine the lifetime of a regulation. The economic assessment becomes more speculative the farther in the future it is projected. This alternative would result in inconsistency in that agencies could use differing criteria for determining the life span of a regulation.

2. Not clarifying how to determine whether a proposed regulation meets the threshold for a major regulation. This alternative was rejected because it provides no

guidance, does not resolve the ambiguity in the statute, and would result in inconsistent methods of calculating the \$50 million threshold.

3. Select some other specific length of time to be used in determining whether a regulation meets the threshold for a major regulation. This alternative was rejected because it was arbitrary and because the usual standard with respect to fiscal matters and economic impact is one year.

4. Assessing whether a proposal meets the \$50 million threshold for a major regulation by using the net economic impact, after offsetting benefits of the proposed regulation. This alternative was rejected because it is inconsistent with the statutory intent of SB 617.

5. Use net economic impact in determining whether a regulation meets the threshold of SB 617. This alternative was rejected because it is inconsistent with SB 617.

6. Not require consideration of induced costs or benefits. This alternative was rejected because it would not capture the full range of economic consequences of a proposed major regulation.

(2) Section Affected: 2001—Notification and Consultation

Specific Purpose of each adoption, amendment, or repeal:

1. Problem being addressed:

The Department of Finance (“Department”) must have sufficient advance notice of proposed major regulations to permit it to adequately plan for workload needs and to provide assistance to agencies early in the process of developing a proposed major regulation.

There is no single State web site where a list and description of proposed major regulations can be found.

The Legislature had concluded that agencies were not adequately considering all possible reasonable alternatives before proposing major regulations, particularly those regulations that would negatively affect businesses and job growth in California, and were not inviting possible alternatives from those who would be affected by the major regulations.

There is currently no mechanism by which the Governor’s Office of Business and Economic Development (“GO-Biz”) or other state agencies can be informed of an anticipated proposed major regulation.

2. Anticipated benefits from this regulatory action:

- Advance notice of potential major regulations permits the Department to engage in adequate planning and preparation so that it can ensure it has sufficient resources and to permit its early involvement in major regulations and a more efficient review of those regulations.
- Involving GO-Biz and other state agencies will permit them to participate more fully and effectively in the regulation development process.
- Posting the list and summary of each proposed major regulation will enhance opportunities for early participation in the regulation development process.
- Involving the Department and affected parties could result in the discovery of additional and perhaps more cost-effective alternatives to the proposed major regulations that are consistent with the enabling law and also those alternatives that might require legislative changes.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

Subdivision (a)

Advance notice of all potential major regulations is necessary for the Department to engage in adequate planning and preparation so that it can ensure it has sufficient resources to permit both early involvement in and a more efficient and timely review of major regulations. February was selected as the most appropriate date for the required notification. New laws have already been signed and agencies should know by that time whether regulations will be needed to implement, interpret or make specific a statute. In addition, agencies are submitting annual rule making calendar to OAL at this time. Further, key budget deadlines for the spring budget process occur in February. Therefore, the Department must know by February approximately how many major regulations will be sought in the upcoming year so that it can complete its planning process. The information required in the notification to the Department is the bare minimum necessary to allow the Department to complete the planning process.

The advance notice needs to include sufficient information to allow the Department to evaluate its resource needs, including information regarding the subject matter, the problem to be addressed, the estimated economic impact of a proposed major regulation, and the anticipated date on which the agency proposes to initiate the formal rulemaking process for a proposed major regulation.

For those notifications made after the February 1 date, the Department has determined, based on its expertise and also recognizing that this review will be in addition to its current heavy workload, that 60 days notice provides sufficient time for it to participate in

the economic assessment process.

For major regulations adopted via the emergency process, contemporaneous filing will not interfere with or slow down that emergency process and in the Department's opinion, will provide sufficient time for the Department to work with the agency to identify alternatives that may reduce the economic impact of the proposed major regulation.

Subdivision (b)

GO-Biz is the office that serves as California's single point of contact for economic development and job creation efforts. GO-Biz offers a range of services to business owners including clearing of regulatory hurdles, and assistance with state government, among other activities. Therefore, it is necessary to provide GO-Biz with a copy of the lists and summaries of proposed major regulations so that it can perform the functions assigned to it. Other state agencies may also have an interest in a proposed major regulation as such a regulation could impact their program. Notification would aid those agencies by providing them with information that could assist them with their regulatory functions. The Department selected 15 days as a reasonable time frame for providing the information to GO-Biz and other state agencies based on resource availability.

Subdivision (c)

Posting the list and summary of each proposed major regulation on the Department's web site will assist interested parties in becoming aware of a proposed major regulation early in the process and thereby give them an opportunity to participate more fully and effectively in the process. The Department selected 15 days as a reasonable time frame for posting the information on its web site, based on its need to review the list and summary and also its limited resources.

Subdivision (d)

Concerns have been expressed by the Legislature that agencies do not work with affected individuals, businesses or affected governmental agencies to develop cost-effective solutions to the problem being addressed. This regulation will directly address those concerns through the requirement for seeking public input from those who would be affected by the proposed major regulation. This proposal does not impose an additional outreach requirement on those agencies that currently solicit public input on alternatives prior to initiating the formal rulemaking process. Involving the Department and affected parties early in the process could result in the discovery of additional and perhaps more cost-effective alternatives to the proposed major regulations. A requirement for public input prior to the formal rulemaking process will ensure that discarded alternatives will be publicly reviewed and evaluated.

Underlying Data

1. October 1, 2012 letter from various legislators to Governor Brown

2. Little Hoover Commission Report entitled "Better Regulations: Improving California's Rulemaking Process (October 2011)
3. Analysis prepared for Senate Committee on Governmental Organization, hearing date: May 10, 2011
4. Analysis prepared for Assembly Committee on Accountability and Administrative Review, hearing date: September 7, 2011
5. Guidelines for Preparing Economic Analyses
U.S. EPA
EPA-240-R-00-003
September 2000

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not require notification to the Department of upcoming proposed major regulations. This alternative was rejected because it would adversely affect the Department's ability to obtain adequate staffing in a timely manner.
2. Not post the list and summary of each proposed major regulation on the Department's web site. This alternative was rejected because it would decrease opportunities for early participation in the regulation development process.
3. Not provide the list and summary of proposed major regulations to GO-Biz and other state agencies who request this information. This alternative was rejected because it could adversely affect those agencies' ability to perform their assigned functions and statutory responsibilities.

(3) Section Affected: 2002 – Standardized Regulatory Impact Assessment

Specific Purpose of each adoption, amendment, or repeal:

1. Problem(s) being addressed:

Government Code Section 11346.3(f) does not specify when an agency must submit its completed Standardized Regulatory Impact Assessment (“SRIA”) to the Department nor precisely what it must include.

Agencies cannot ascertain from the statute all the information that must be provided in the SRIA and how it should be presented.

There is no one online location where an interested person can find succinct information about all proposed major regulations.

The Legislature has asked, via SB 617 (Chapter 496, Statutes 2011) for a more complete economic impact analysis and for a standardized approach to that analysis.

There is currently no mechanism by which GO-Biz or other state agencies can provide input to the Department regarding the economic assessments in the SRIA.

2. Anticipated benefits from this regulatory action:

- Ensures greater transparency and consistency in the identification and consideration of alternatives to the solution set forth in the proposed major regulation.
- Ensures that the Department will have sufficient time prior to the initiation of the formal rulemaking process within which to review the SRIA and provide its comments to an agency that is proposing a major regulation.
- Agencies will have a clear understanding of what must be included in the SRIA.
- Posting the form attached to the SRIA for each proposed major regulation will enhance opportunities for interested parties to understand the economic impact of a proposed major regulation and assist them in assessing the alternatives considered during the regulation process and whether additional reasonable alternatives exist.
- Involving GO-Biz and other state agencies will permit them to participate more fully and effectively in the process.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

Timely submission of the SRIA to the Department will help ensure that the agency is using an appropriate method to evaluate alternatives, consistent with the intent of SB

617. Further, the Department will be better able to provide assistance if it knows how an agency focused on a preferred alternative, the selection of which is a crucial and difficult step in the economic impact assessment process. The 60 day submission time was selected because it is consistent with the time frame in section 2001(a)(1) and also because it would provide sufficient time for the Department to review the SRIA before the agency files a notice of proposed changes with OAL. The Department has 30 days from receipt of the SRIA within which to provide its comments to the agency. The 60-day time period gives the agency time to consider and respond to the Department's comments before filing its notice of proposed action with OAL. If an agency has not consulted with the Department, then it will likely take that agency much longer to consider and respond to the Department's comments as the Department's comments are likely to be much lengthier than if such consultation had occurred. Thus, a 90-day submission date was selected to ensure thorough consideration and review of the Department's comments prior to filing a notice of proposed action.

The Legislature identified a need to develop more complete economic impact assessments of proposed regulations, an assessment that should capture the true total state impact on businesses and individuals. The large (perhaps unlimited) number of economic assessment approaches would result in inconsistent estimates of the true economic impact of the proposed major regulations, contrary to the intent expressed by the Legislature in SB 617. Inclusion in the SRIA of a description and explanation of the economic impact method and approach, the underlying assumptions used by the agency and the rationale and basis for those assumptions will enable the Department to assess whether the method meets the criteria in section 2003.

Without the information required in subdivision (b), the Department would be unable to verify the conclusions reached by the agency. It would be unable to assure that the methodology used was viable and that it had resulted in a reasonable economic assessment of the various alternatives. Subdivision (b) requires that the information described in Government Code Section 11346.36(b)(5), which is an integral part of the required economic assessment, be included in the SRIA so that all economic impact information will be placed in one document, thus making those impacts more readily accessible to those affected by the proposed major regulation and also by the Department.

The terms used in subdivision (b) (2) (c) and (d) are terms of art used by economists.

Without the information required by subdivision (c), provided in a consistent format, the Department would be faced with the potentially time-consuming (and resource-consuming) task of sorting out this information from the collection of documents provided to it by an agency. This would be inefficient and counter-productive, given that the Department has only 30 days within which to comment on the SRIA. Absent this précis and segregation of information, it would potentially be very difficult for the Department to analyze and comment on the SRIA within that short timeframe. Having the information provided in a consistent format will result in staff efficiency as it provide

a means by which the Department's staff can more readily check to ensure that all the required information has in fact been provided.

Posting on the Department's web site a copy of the form that contains the succinct summary of the SRIA for each proposed major regulation will assist interested persons by providing economic impact assessment information with respect to a proposed major regulation in one State web site location. Interested persons can then contact the agency that is proposing the major regulation to obtain further information. The Department selected 10 days as a reasonable time frame for posting a copy of the form on its web site, based on its need to review the form and also its limited resources.

Subdivision (e)

As California's single point of contact for economic development and job creation efforts, it is necessary to provide GO-Biz with a copy of the form required by subdivision (c) which places detailed information concerning the economic impact assessment for a proposed major regulation in one document so that it can perform the functions assigned to it. Other state agencies may have similar needs as their programs might be impacted by another agency's proposed major regulation. The Department has only 30 days from receipt of a SRIA within which to provide comments to an agency. The Department anticipates it will take a maximum of 10 days to review, copy and transmit what may be extensive paperwork to GO-Biz and any other state agency that has requested the information. Giving GO-Biz and other state agencies 10 days within which to evaluate the information contained in the form required by subdivision (c) of section 2002 and get back to the Department would give the Department sufficient time to review and consider those comments for possible incorporation into its comments to the agency. The Department selected 10 days as a reasonable time frame for providing the information to GO-Biz and other state agencies, based on its resources.

Underlying Data

OMB Circular A-4--http://www.whitehouse.gov/omb/circulars_a004_a-4

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not mandate timely submission of the SRIA to the Department. This alternative was rejected because it would reduce the possibility of discovering cost-

effective alternatives in a timely manner.

2. Not require reporting of what method and approach was used or the underlying assumptions, description of the types of business enterprises and individuals who would be affected, the inputs into and outputs from the economic impact assessment, or the agency's interpretation of the results. This alternative was rejected because the Department would be unable to evaluate the accuracy and validity of the estimates made as part of the assessment.

3. Not require submission of a form that contains in one location a succinct version of the key components of the SRIA. This alternative was rejected because without this information, it would be very difficult for the Department to review and comment within the 30-day time period and also because it would not provide the guidance in this area that state agencies have indicated to the Department they need. (c)(8) Not require the standardized regulatory impact analysis to include a report on the discarded options reviewed and the reasons for their rejection. This alternative was rejected because it would be inconsistent with Government Code Section 11346.36(b)(2) and also inconsistent with the intent of SB 617 as evidenced in Government Code Section 11346.2(b)(5).

4. Not post a copy of the form on the Department's web site. This alternative was rejected because it would reduce the transparency of the process and make it more difficult for the public to locate the information on a state-wide basis.

5. Not provide the form that accompanies a SRIA to GO-Biz or other state agencies that request it. This alternative was rejected because it could adversely affect both GO-Biz's ability to perform its assigned functions and the ability of other state agencies to perform their regulatory functions.

(4) Section Affected: 2003 – Standardized Regulatory Impact Assessment

Specific Purpose of each adoption, amendment, or repeal:

1. Problem(s) being addressed:

The total state economic impact is not generally evaluated (as opposed to localized effects or immediate economic impact on directly affected entities).

There is currently no standardized approach to economic impact assessment, which leads to inconsistent or inadequate results, and no guidance as to which economic and demographic projections an agency should utilize.

Many departments lack the expertise and guidance to make the economic assessments required by law.

There is no consistency among agencies as to the capabilities that an economic impact method or approach must have in order to yield a valid analysis.

The Legislature has asked, via SB 617 (Chapter 496, Statutes 2011), for a more complete economic impact analysis and for a standardized approach to that analysis.

Regulations may adversely impact some groups to a greater extent than other groups since some groups may be better able to absorb the cost of those regulations; however this distinction is not consistently addressed in economic assessments.

Government Code Section 11346.36(b)(2) requires the department to assist agencies in determining the appropriate methodology for comparing alternatives with an established baseline.

Agencies are required by law to assess the monetary and nonmonetary benefits of proposed major regulations but currently have no guidance as to how to make such an assessment.

SB 617 requires the Department to provide guidance to agencies regarding assessing the effects of a regulatory proposal on state and local government funds, including the cost of enforcement and compliance to the agency.

2. Anticipated benefits from this regulatory action:

- A more complete assessment of the economic impact of a proposed major regulation.
- Consistency in the type of economic impact analysis being conducted.
- Greater confidence in the results of that economic impact analysis.
- Ensures a more thorough assessment of alternatives to the solution set forth in the proposed major regulation.
- Consistency in determining the appropriate baseline for comparing proposed regulatory alternatives for a proposed major regulation.
- Agencies will receive the guidance necessary to assist them in better assessing the monetary as well as the nonmonetary benefits of proposed major regulations, as required by SB 617.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

The Legislature identified a need to develop more complete economic impact

assessments of proposed regulations, an assessment that should capture the true total state impact on businesses and individuals. The large (perhaps unlimited) number of economic assessment approaches would result in inconsistent estimates of the true economic impact of the proposed major regulations, contrary to the intent expressed by the Legislature in SB 617. Specifying the capabilities which such methods must possess is necessary to ensure confidence and consistency in the results of the economic impact assessment. Further, this proposed regulation will result in more precise assessments and a clearer validated assessment of costs and benefits.

Certain economic methods and approaches are professionally accepted by economists and others may appropriately be used only for limited purposes. The methods and approaches used by agencies must provide a consistent method of measuring economic impact and must be able to provide results that can be validated. The proposed regulation has been designed so as to permit flexibility without sacrificing the level of confidence in the results of such assessments. As a result of its meetings with sixteen agencies, the Department has determined that agencies need to have flexibility in the type of economic impact assessment methods and approaches they wish to utilize. Some agencies (such as Fish and Wildlife) need to be able to use the same economic impact assessment method and approach as that used by the federal government, which is one of the professionally accepted methods. Other agencies may have developed their own method and approach and should be able to use if it will provide results consistent with those provided by the professionally accepted methods and approaches and if those results can be validated.

With respect to subdivision (b), it is necessary to require the use of the Department's most current public state economic and demographic projections because those are the most widely accepted baseline California data on which to base an assessment of the economic impact of a proposed major regulation. However, the timing of those projections may create delays in an agency's rulemaking process if new projections are issued during the formal process. Therefore, deviations from this requirement should be permitted on a case-by-case basis.

The requirements contained in subdivisions (c) and (f) will ensure that agencies will adequately evaluate whether a proposed major regulation will have a disproportionate adverse economic impact on some groups. An agency cannot identify and evaluate reasonable alternatives or fully understand the direct impact to affected persons if it has not separated out the impact on the various groups affected by the regulation. Based on its experience, the Department believes the costs described in subdivision (c) must be identified in order for an agency to be able to do a complete economic impact assessment. For example: in crafting regulations to improve landfill safety, small landfills found it much more difficult to comply with the improvement regulations than large landfills and were thus more likely to be supplanted by larger businesses as they could not continue operating due to the higher cost to them. This resulted in a potential elimination of businesses of a certain size.

Requiring an identification of costs to affected government agencies allows the Department to assess the impact of the proposed major regulations on the state budget and will permit local government agencies to identify any potential mandates and to assess the impact of a proposed major regulation on their budgets.

Given the requirement of SB 617 that agencies compare the economic impact of proposed regulatory alternatives for a major regulation with a baseline, an agency needs to utilize a baseline for comparing alternatives that reflects whether and to what extent behaviors are anticipated to change even in the absence of the proposed major regulation. The requirement in subdivision (d) is necessary in order to accurately assess the economic impact resulting from the regulation itself rather than from other factors. An agency cannot identify and evaluate reasonable alternatives or fully understand the direct impact to affected persons if it has not separated out the impact of the proposed regulatory alternatives from the impact expected to be generated by anticipated changes in behavior that do not result from the regulation itself but rather from other factors. Recognizing that agencies may need further guidance in this area, the Department has included such permissive type of guidance in subdivision (e), which is derived from OMB Circular A-4.

The Legislature has determined in SB 617 that agencies must assess the monetary and nonmonetary benefits of a proposed major regulation. The economic impact of a proposed major regulation should carefully distinguish the costs to the regulated entity from the benefits to the state itself with respect to the policy objectives underlying the statute that is being implemented, interpreted, or made specific. Those policy objectives may result in both monetary and nonmonetary benefits and it is important that those benefits be identified. This information is necessary in order for the Department and for affected persons to assess how the agency reached its determinations and valuations of benefits.

There are several widely used approaches to assessing the value of monetary and nonmonetary benefits, including revealed or stated preferences (direct and indirect) methods. These approaches have been included in this section to provide guidance to agencies that may be promulgating a major regulation. In addition, if none of the listed methods is applicable, the Department would then assist agencies in determining the most appropriate methodology for assessing the value of both monetary and nonmonetary benefits. Providing guidance on the methods and approaches that an agency may use to assess the value of monetary and nonmonetary benefits will bring greater consistency to that assessment process.

With respect to subdivision (h), the Legislature has determined in SB 617 that the Department must provide guidance to agencies in assessing the effects of a regulatory proposal on state and local government agencies' funds. The State Administrative Manual ("SAM") currently provides guidance in this area and the Department believes it is appropriate to refer agencies to that guidance. This will prevent any future conflict between the Department's regulations and SAM.

Underlying Data

1. September 2012 Survey of Selected State Agencies by Dept. of Finance
2. California Department of Finance Dynamic Review Analysis (http://www.dof.ca.gov/html/fs_data/dyna-rev/dynrev.htm)
3. *Dynamic Revenue Analysis in California: An Overview* by P. Berck, E. Golan and B. Smith
4. Guidelines for Preparing Economic Analyses (EPA publication dated September 2000)
5. Regional Economic Models Inc. (<http://www.remi.com/products/pi>)
6. IMPLAN (http://implan.com/V4/index.php?option=com_content&view=frontpage&Itemid=70)

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Require use of one specific method or approach for assessing economic impact. This alternative was rejected because some agencies already have methods and approaches and expertise that yield valid results. To require them to adopt a new method and approach for this one subset of regulations would not be cost-effective.
2. Permit use of any method and approach for assessing economic impact. This alternative was rejected because it is inconsistent with the legislative intent in enacting SB 617 (Chapter 496, Stats. 2011) and because the Department would not be able to compare or verify results of such disparate methodologies.
3. Not require use of the Department's most current publicly available economic and demographic projections. This alternative was rejected because it would result in inconsistency in the projections used and make it difficult to assess the validity of conclusions based on other projections.
4. Not require costs and benefits to be separately identified for different groups

where the impact of the regulation will differ significantly between identifiable groups. This alternative was rejected because it would be difficult to complete the economic impact assessment or to interpret the results in the absence of such separate identification.

5. Not provide guidance regarding how to compare proposed regulatory alternatives with an established baseline. This alternative was rejected because the Legislature instructed the Department to provide such guidance and because failure to provide the guidance would leave to inconsistent analyses.

6. Not specify the type of information an agency must provide regarding its assessment of the value of benefits of the proposed major regulation. This alternative was rejected because such information is necessary in order for the Department to be able to evaluate an agency's assessment of the benefits of a proposed major regulation.

7. Offer no guidance as to methods by which benefits may be assessed. This alternative was rejected because it is inconsistent with SB 617

(5) Section Affected: 2004 – Failure to Comply with Requirements of This Chapter

Specific Purpose of each adoption, amendment, or repeal:

1. Problem(s) being addressed:

The Department must identify the areas in which an agency has failed to comply with that law or with its regulations.

2. Anticipated benefits from this regulatory action:

Agencies will clearly understand how the Department will respond to noncompliance with SB 617 or its regulations.

Factual Basis/Rationale

Factual basis for determination that each proposed change is reasonably necessary to address the problem for which it is proposed:

The Department cannot sanction agencies for failure to adhere to SB 617 or the Department's regulations. However, it is required to review and evaluate SRIAs for adherence to the law and regulations. Additionally, OAL must submit a report to the Legislature describing the extent to which SRIAs adhere to the Department's regulations. Since an agency must include a summary of the Department's comments in its notice of proposed action, the best mechanism for assisting OAL in this endeavor is for the Department to identify in its comments those areas in which an agency has not adhered to the Department's regulations.

Underlying Data

SB 617, Chapter 496, Statutes 2011

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

Not mandate that the Department identify in its comments any area in which the Department has determined an agency has not adhered to the Department's regulations. This alternative was rejected because it would be inconsistent with Government Code Section 11346.3(f).

Sections 2000 - 2004

Business Impact

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts or evidence/documents/testimony: This regulation does not impact businesses. It applies by statute only to the processes used by state agencies that are proposing major regulations.

Economic Impact Assessment

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it does not impact jobs within the state. It applies by statute only to the processes used by state agencies that are proposing major regulations.
- It will not create new business or eliminate existing businesses within the State of California because it does not impact businesses within the state. It applies by statute only to the processes used by state agencies that are proposing major regulations.
- It will not affect the expansion of businesses currently doing business within the

State of California because it does not impact businesses within the state. It applies by statute only to the processes used by state agencies that are proposing major regulations.

- This regulatory proposal benefits the health and welfare of California residents to the extent that it results in better, more cost-effective regulations.
- This regulatory proposal does not affect worker safety because it does not impact workers. It applies by statute only to the processes used by state agencies that are proposing major regulations. However, this regulatory proposal benefits the worker safety of California residents to the extent that it results in better, more cost-effective regulations.
- This regulatory proposal does not affect the state's environment because it does not impact the environment. It applies by statute only to the processes used by state agencies that are proposing major regulations. However, this regulatory proposal benefits California's environment to the extent that it results in better, more cost-effective regulations.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.