

**ITEM 7**  
**ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING**  
**AMENDMENT TO CONFLICT OF INTEREST CODE**  
PROPOSED AMENDMENTS TO  
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5  
ARTICLE 9  
SECTION 1189.10 GENERAL PROVISIONS AND APPENDIX

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BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

In the Matter of:  
Amendments to California Code of  
Regulations, Title 2, Division 2, Chapter 2.5,  
Article 9

No. 21-01  
ORDER TO INITIATE RULEMAKING  
PROCEEDINGS  
*Amendment to Conflict of Interest Code*  
(adding two positions to the list of designated  
positions and a new disclosure category to the  
Appendix to section 1189.10)

Pursuant to California Code of Regulations, title 2, section 1188.1, the Commission on State Mandates (Commission) hereby adopts this order to institute rulemaking proceedings in accordance with Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9.

**PROPOSED REGULATORY ACTION.** The Commission proposes amending the Appendix to section 1189.10 in Article 9 of the California Code of Regulations, Title 2, Division 2, Chapter 2.5 with a proposed effective date of October 1, 2021.

The purpose of this rulemaking is to update the Commission’s Conflict-of-Interest Code to add two positions to the list of designated positions and a new disclosure category. Specifically, the proposed regulation amends the Appendix to section 1189.10 of the Conflict-of-Interest Code by: (1) adding the Attorney IV and Office Technician positions to the list of designated positions and assigning disclosure categories to these positions; and (2) adding Category 4 to the disclosure categories. Category 4, which requires disclosure of economic interests in any source which contracts with the Commission for the provision of goods and does not require disclosure of economic interests in sources that provide services to the Commission or interests in real property, applies to the Office Technician position because the Office Technician participates in making procurement decisions pertaining to goods only.

**AUTHORITY AND REFERENCE.** Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations.

**WRITTEN COMMENT PERIOD.** Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on March 22, 2021**. The Commission will consider only comments received at the Commission’s office by that time. Commenters are strongly encouraged to submit their written comments electronically if possible (to prevent the spread of COVID-19) via the Commission website “Drop Box” at: <http://www.csm.ca.gov/dropbox.php>. Written comments may also be submitted to:

Jill Magee, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Phone: (916) 323-3562

PUBLIC HEARING. The Commission will hold a hearing on March 26, 2021, if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than March 8, 2021.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Heather Halsey, Executive Director

CALIFORNIA CODE OF REGULATIONS

TITLE 2. ADMINISTRATION

DIVISION 2. FINANCIAL OPERATIONS

CHAPTER 2.5. COMMISSION ON STATE MANDATES

Article 9. Conflict-of-Interest Code for the Commission on State Mandates

§ 1189.10. General Provisions.

The Political Reform Act (Government Code Sections 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency’s code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix, designating positions and establishing disclosure categories shall constitute the conflict-of-interest code of the Commission on State Mandates (Commission).

Individuals holding designated positions shall file their statements of economic interests with the Commission, which will make the statements available for public inspection and reproduction. (Gov. Code, § 81008.) Upon receipt of the statements for the Commission members, their alternates, and the Executive Director, the Commission shall make and retain a copy and forward the originals to the Fair Political Practices Commission. All other statements will be retained by the Commission.

Note: Authority cited: Sections 87300, 87301, 87302, 87304 and 87306, Government Code. Reference: Sections 81008, 82019, 87206, 87207, 87300, 87301, 87302, 87304 and 87306, Government Code.

Appendix

<i>Designated Positions</i>	<i>Disclosure Categories</i>
Members and alternates of the Commission on State Mandates	1
Executive Director	1
Chief Legal Counsel (Career Executive Assignment)	1
<u>Attorney IV</u>	<u>1</u>
Attorney III	1
Attorney	1
Senior Legal Analyst	2, 3
Staff Services Manager I, II	2, 3
Staff Services Analyst	2, 3
Associate Governmental Program Analyst	2, 3
Graduate Legal Assistant	1

1	Senior Information Systems Analyst	2
2	Staff Information Systems Analyst	2
3	<u>Office Technician</u>	<u>4</u>
4	Consultants/New Positions*	

5 *Disclosure Categories*

6 Category 1 designated positions must disclose all investments, and business positions in business  
7 entities, interests in real property, and income, including gifts, loans, and travel payments, from  
8 any source.

9 Category 2 designated positions shall report all investments, business positions in any business  
10 entity, interests in real property, and income, including gifts, loans, and travel payments, from  
11 any source of the type which has contracted, or in the future may contract, with the Commission  
12 to provide services, supplies, materials, machinery or equipment.

13 Category 3 designated positions shall report all business positions and income, including gifts,  
14 loans, and travel payments, from any school district, local governmental agency or special  
15 district which has received, or in the future may receive, state reimbursement under article XIII  
16 B, section 6 of the California Constitution.

17 Category 4 designated positions shall report all investments, business positions in any business  
18 entity, and income, including gifts, loans, and travel payments, from any source of the type  
19 which has contracted, or in the future may contract, with the Commission to provide supplies,  
20 materials, machinery or equipment.

21 \*Consultants and new positions shall be included in the list of designated positions and shall  
22 disclose pursuant to the broadest disclosure category in the code, subject to the following  
23 limitation:

24 The executive director may determine in writing that a particular consultant or new position,  
25 although a "designated position," is hired to perform a range of duties that is limited in scope and  
26 thus is not required to fully comply with the disclosure requirements in this section. Such written  
27 determination shall include a description of the consultant's or new position's duties and, based  
28 upon that description, a statement of the extent of disclosure requirements. The executive  
29 director's determination is a public record and shall be retained for public inspection in the same  
30 manner and location as this conflict-of-interest code. (Gov. Code § 81008.)

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TITLE 2. ADMINISTRATION  
DIVISION 2. FINANCIAL OPERATIONS  
CHAPTER 2.5. COMMISSION ON STATE MANDATES

**NOTICE OF INTENT TO AMEND CONFLICT OF INTEREST CODE**

The Commission on State Mandates (Commission) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Commission has not scheduled a public hearing for this proposed action. However, if it receives a written request for a public hearing from any interested person or his or her authorized representative no later than 15 days before the close of the written comment period by March 8, 2021, the Commission will conduct a public hearing on this proposed action on March 26, 2021, and will notify all persons of the date, time, and location of the hearing pursuant to Government Code section 11346.8(a).

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on March 22, 2021**. The Commission will consider only comments received at the Commission offices by that time. Commenters are strongly encouraged to submit their written comments electronically if possible (to prevent the spread of COVID-19) via the Commission website “Drop Box” at: <http://www.csm.ca.gov/dropbox.php>. Written comments may also be submitted to:

Jill Magee, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Phone: (916) 323-3562

**AUTHORITY AND REFERENCE**

Government Code section 17527(g) authorizes the Commission to adopt the proposed regulations. Reference citations: Government Code sections 11123, 11346.4, 11347, 11347.1, and 17500 et seq.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Commission on State Mandates (Commission) is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Government Code section 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welfare and Institutions Code section 17000.6).

The Political Reform Act (Government Code section 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes that specify financial disclosure categories for officials and employees who participate in governmental decision-making. A conflict-of-interest code includes an appendix that: (1) designates those positions within the agency “which involve the making or participation in the making of decisions which

may foreseeably have a material effect on any financial interest” and that are therefore required to file a statement of economic interest with the Fair Political Practices Commission (FPPC); and (2) establishes the categories of economic interests to be disclosed for each position (Government Code section 87302). The FPPC’s regulations contain a standard conflict-of-interest code, which state agencies can incorporate by reference into their own regulations (California Code of Regulations, Title 2, section 18730). The Commission has adopted the FPPC’s standard conflict-of-interest code as its own under section 1189.10 of the Commission’s regulations, along with an Appendix, which enumerates the designated member, employee, and consultant positions and establishes disclosure categories.

The purpose of this rulemaking is to update the Commission’s Conflict-of-Interest Code to add two positions to the list of designated positions and a new disclosure category. Specifically, the proposed regulation amends the Appendix to section 1189.10 of the Conflict-of-Interest Code by: (1) adding the Attorney IV and Office Technician positions to the list of designated positions and assigning disclosure categories to these positions; and (2) adding Category 4 to the disclosure categories. Category 4, which requires disclosure of economic interests in any source which contracts with the Commission for the provision of goods and does not require disclosure of economic interests in sources that provide services to the Commission or interests in real property, applies to the Office Technician position because the Office Technician participates in making procurement decisions pertaining to goods only.

Therefore, the Commission proposes amending the Appendix to section 1189.10 in Article 9 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date of October 1, 2021.

#### Anticipated Benefits of the Proposed Regulation

The proposed amendments are necessary to reflect the addition of the Attorney IV and Office Technician positions to the Commission’s list of designated positions and the economic interests that must be disclosed by these positions, as required by Government Code section 87302.

#### Consistency and Compatibility with Existing State Regulations

After conducting a review of existing regulations, the Commission has concluded that California Code of Regulations, title 2, sections 1189.10 and 1189.11 are the only regulations concerning the Commission’s Conflict-of-Interest Code. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

### **DESCRIPTION OF PROPOSED REGULATIONS**

#### **I. Add Attorney IV and Office Technician positions to the Conflict-of-Interest Code Appendix in Section 1189.10.**

Section 1189.10. General Provisions and Appendix of the Conflict-of-Interest Code.

#### *Specific Purpose of the Regulation*

Section 1189.10 of the regulations contains the general provisions of the Commission’s Conflict-of-Interest Code, including an Appendix. The Appendix identifies the Commission member, employee, and consultant positions required to file statements of economic interest with the FPPC and establishes disclosure categories for each position.

### *Proposed Change*

The proposed amendments add the newly created Attorney IV position and the Office Technician position to the list of designated positions and specify disclosure categories for those positions.

Attorney IV: In January 2020, the Commission reclassified one of its Attorney III positions as an Attorney IV position. An employee holding the Attorney IV position makes and participates in making decisions which foreseeably have a material effect on economic interests and is therefore required to file a statement of economic interest with FPPC. The Attorney IV is assigned to the broadest disclosure category, Category 1, which states as follows:

Category 1 designated positions must disclose all investments, and business positions in business entities, interests in real property, and income, including gifts, loans, and travel payments, from any source.

The Attorney IV reports to the Chief Legal Counsel and may be relied upon to directly advise the Executive Director and the Commission and to act as Chief Legal Counsel in the Chief Legal Counsel's absence. The Attorney IV is responsible for the most complex and sensitive legal work for the Commission and may serve in a lead capacity in assigned project areas, reviewing the work product of other attorneys and providing training and consultation to Commission staff, as well as staff of state and local government agencies. Given the breadth of the Attorney IV job duties, full disclosure of personal financial interests is necessary.

Office Technician: While an office technician typically does not perform job duties that require making or participating in making governmental decisions, the Commission's small size and organizational structure require the Office Technician to participate in decision-making pertaining to the procurement of goods on behalf of the Commission. Specifically, the Office Technician has been assigned the role of "Purchase Order Receiving Processor" in the Financial Information System for California (FI\$Cal).

The Office Technician is assigned to Category 4. Category 4, which is proposed to be added to the Commission's disclosure categories as part of these amendments, reads as follows:

Category 4 designated positions shall report all investments, business positions in any business entity, and income, including gifts, loans, and travel payments, from any source of the type which has contracted, or in the future may contract, with the Commission to provide supplies, materials, machinery or equipment.

The Office Technician reports to the Assistant Executive Director (Staff Services Manager II) and participates in the determination of whether contracts for goods received by the Commission have been satisfied by receipting all purchased goods (i.e., receiving, inspecting, and returning items, preparing a written inventory of the number and condition of items received to determine whether the contract has been satisfactorily fulfilled) and creating receipts in FI\$Cal. Because the Office Technician participates in making decisions on behalf of the Commission pertaining to the procurement of goods, the position must be included in the list of designated positions.

## **II. Add Disclosure Category 4 to the Conflict-of-Interest Code Appendix in Section 1189.10.**

Section 1189.10. General Provisions and Appendix of the Conflict-of-Interest Code.

*Specific Purpose of the Regulation*



Section 1189.10 of the regulations contains the general provisions of the Commission’s Conflict-of-Interest Code, including an Appendix. The Appendix identifies the Commission member, employee, and consultant positions required to file statements of economic interest with the FPPC and establishes disclosure categories for each position. The proposed amendment adds a new disclosure category (Category 4), which lists the economic interests in any source which contracts with the Commission for the provision of goods and which must be reported by any designated position subject to this category. Because the Office Technician participates in making procurement decisions on behalf of the Commission which pertain to goods only, it is necessary to add a disclosure category that is similar to Category 2 but that does not include economic interests in sources that provide services to the Commission or require disclosure of interests in real property.

*Proposed Change*

The proposed amendment adds Category 4 to the list of disclosure categories in the Conflict-of-Interest Code Appendix. Category 4 is identical to Category 2, with two exceptions: (1) interests in real property are *not* included; and (2) source type does *not* include services. The proposed text reads as follows:

Category 4 designated positions shall report all investments, business positions in any business entity, and income, including gifts, loans, and travel payments, from any source of the type which has contracted, or in the future may contract, with the Commission to provide supplies, materials, machinery or equipment.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED ON TO DEVELOP REGULATIONS**

Commission staff did not rely on any technical, theoretical, or empirical studies or reports in proposing the adoption of this regulation. The Commission relied upon the statutes and cases cited in the authority and reference sections of the regulation.

**DISCLOSURES REGARDING THE PROPOSED ACTION**

The Commission has made the following initial determinations:

Mandate on local agencies and school district:	None
Cost or savings to any state agency:	None
Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630:	None
Other non-discretionary cost or savings imposed on local agencies:	None
Cost or savings in federal funding to the state:	None
Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:	None
Significant effect on housing costs:	None

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### Results of the Economic Impact Analysis/Assessment

The Commission concludes that the proposal will: (1) not create or eliminate jobs within California; (2) not create new businesses or eliminate existing businesses within California; and (3) not affect the expansion of businesses currently doing business within California.

### Small Business Determination

Because the Commission has no jurisdiction over small businesses and small businesses are not parties before the Commission, the proposed regulatory action will have no impact on small businesses.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or 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 provision of law.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

## **CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Jill Magee, Program Analyst  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(jill.magee@csm.ca.gov)

The backup contact person for these inquiries is:

Heidi Palchik, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Telephone: (916) 323-3562  
(heidi.palchik@csm.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information on which the rulemaking is based to Ms. Jill Magee (see contact information above) or download it from the Commission's website at <http://www.csm.ca.gov/rulemaking.php>.

## **AVAILABILITY OF STATEMENT OF REASONS, AND TEXT OF PROPOSED REGULATIONS**

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is

published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Commission order to initiate rulemaking proceedings.

Copies may be obtained on the Commission's website (see below) or by contacting Ms. Jill Magee (see contact information above). All persons on the Commission's interested persons mailing list will be provided a copy of the rulemaking file by making it available on the Commission's website and providing notice of how to locate it.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT AND  
DOCUMENTS RELIED ON**

After considering all timely and relevant comments received, and holding a public hearing, if necessary, the Commission may adopt the proposed regulation substantially as described in this notice. If the Commission makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) and any documents relied on available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations or documents relied on to the attention of Ms. Jill Magee (see contact information above). The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Intention to Amend Conflict of Interest Code, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the Commission's website at <http://www.csm.ca.gov/rulemaking.php>.

**INITIAL STATEMENT OF REASONS**  
**CALIFORNIA CODE OF REGULATIONS**  
**TITLE 2. ADMINISTRATION**  
**DIVISION 2. FINANCIAL OPERATIONS**  
**CHAPTER 2.5. COMMISSION ON STATE MANDATES**  
**AMENDMENT TO CONFLICT OF INTEREST CODE**  
**ARTICLE 9**  
**SECTION 1189.10 GENERAL PROVISIONS AND APPENDIX**  
**SPECIFIC PURPOSE OF THE REGULATION**

The Commission on State Mandates (Commission) is a seven-member quasi-judicial body authorized to resolve disputes regarding the existence of state-mandated local programs (Government Code section 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welfare and Institutions Code section 17000.6).

The Political Reform Act (Government Code section 81000 et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes that specify financial disclosure categories for officials and employees who participate in governmental decision-making. A conflict-of-interest code includes an appendix that: (1) designates those positions within the agency “which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest” and that are therefore required to file a statement of economic interest with the Fair Political Practices Commission (FPPC); and (2) establishes the categories of economic interests to be disclosed for each position (Government Code section 87302). The FPPC’s regulations contain a standard conflict-of-interest code, which state agencies can incorporate by reference into their own regulations (California Code of Regulations, Title 2, section 18730). The Commission has adopted the FPPC’s standard conflict-of-interest code as its own under section 1189.10 of the Commission’s regulations, along with an Appendix, which enumerates the designated member, employee, and consultant positions and establishes disclosure categories.

The purpose of this rulemaking is to update the Commission’s Conflict-of-Interest Code to add two positions to the list of designated positions and a new disclosure category. Specifically, the proposed regulation amends the Appendix to section 1189.10 of the Conflict-of-Interest Code by: (1) adding the Attorney IV and Office Technician positions to the list of designated positions and assigning disclosure categories to these positions; and (2) adding Category 4 to the disclosure categories. Category 4, which requires disclosure of economic interests in any source which contracts with the Commission for the provision of goods and does not require disclosure of economic interests in sources that provide services to the Commission or interests in real property, applies to the Office Technician position because the Office Technician participates in making procurement decisions pertaining to goods only.

Therefore, the Commission proposes amending the Appendix to section 1189.10 in Article 9 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 with a proposed effective date of October 1, 2021.

**I. Add Attorney IV and Office Technician positions to the Conflict-of-Interest Code Appendix in Section 1189.10.**

Section 1189.10. General Provisions and Appendix of the Conflict-of-Interest Code.

*Specific Purpose of the Regulation*

Section 1189.10 of the regulations contains the general provisions of the Commission's Conflict-of-Interest Code, including an Appendix. The Appendix identifies the Commission member, employee, and consultant positions required to file statements of economic interest with the FPPC and establishes disclosure categories for each position.

*Proposed Change*

The proposed amendments add the newly created Attorney IV position and the Office Technician position to the list of designated positions and specify disclosure categories for those positions.

Attorney IV: In January 2020, the Commission reclassified one of its Attorney III positions as an Attorney IV position. An employee holding the Attorney IV position makes and participates in making decisions which foreseeably have a material effect on economic interests and is therefore required to file a statement of economic interest with FPPC. The Attorney IV is assigned to the broadest disclosure category, Category 1, which states as follows:

Category 1 designated positions must disclose all investments, and business positions in business entities, interests in real property, and income, including gifts, loans, and travel payments, from any source.

The Attorney IV reports to the Chief Legal Counsel and may be relied upon to directly advise the Executive Director and the Commission and to act as Chief Legal Counsel in the Chief Legal Counsel's absence. The Attorney IV is responsible for the most complex and sensitive legal work for the Commission and may serve in a lead capacity in assigned project areas, reviewing the work product of other attorneys and providing training and consultation to Commission staff, as well as staff of state and local government agencies. Given the breadth of the Attorney IV job duties, full disclosure of personal financial interests is necessary.

Office Technician: While an office technician typically does not perform job duties that require making or participating in making governmental decisions, the Commission's small size and organizational structure require the Office Technician to participate in decision-making pertaining to the procurement of goods on behalf of the Commission. Specifically, the Office Technician has been assigned the role of "Purchase Order Receiving Processor" in the Financial Information System for California (FI\$Cal).

The Office Technician is assigned to Category 4. Category 4, which is proposed to be added to the Commission's disclosure categories as part of these amendments, reads as follows:

Category 4 designated positions shall report all investments, business positions in any business entity, and income, including gifts, loans, and travel payments, from any source of the type which has contracted, or in the future may contract, with the Commission to provide supplies, materials, machinery or equipment.

The Office Technician reports to the Assistant Executive Director (Staff Services Manager II) and participates in the determination of whether contracts for goods received by the Commission

have been satisfied by receipting all purchased goods (i.e., receiving, inspecting, and returning items, preparing a written inventory of the number and condition of items received to determine whether the contract has been satisfactorily fulfilled) and creating receipts in FISCal. Because the Office Technician participates in making decisions on behalf of the Commission pertaining to the procurement of goods, the position must be included in the list of designated positions.

*Necessity and Anticipated Benefit*

The proposed amendments are necessary to reflect the addition of the Attorney IV and Office Technician positions to the Commission's list of designated positions as required by Government Code section 87302.

**II. Add Disclosure Category 4 to the Conflict-of-Interest Code Appendix in Section 1189.10.**

Section 1189.10. General Provisions and Appendix of the Conflict-of-Interest Code.

*Specific Purpose of the Regulation*

Section 1189.10 of the regulations contains the general provisions of the Commission's Conflict-of-Interest Code, including an Appendix. The Appendix identifies the Commission member, employee, and consultant positions required to file statements of economic interest with the FPPC and establishes disclosure categories for each position. The proposed amendment adds a new disclosure category (Category 4), which lists the economic interests in any source which contracts with the Commission for the provision of goods and which must be reported by any designated position subject to this category. Because the Office Technician participates in making procurement decisions on behalf of the Commission which pertain to goods only, it is necessary to add a disclosure category that is similar to Category 2 but that does not include economic interests in sources that provide services to the Commission or require disclosure of interests in real property.

*Proposed Change*

The proposed amendment adds Category 4 to the list of disclosure categories in the Conflict-of-Interest Code Appendix. Category 4 is identical to Category 2, with two exceptions: (1) interests in real property are *not* included; and (2) source type does *not* include services. The proposed text reads as follows:

Category 4 designated positions shall report all investments, business positions in any business entity, and income, including gifts, loans, and travel payments, from any source of the type which has contracted, or in the future may contract, with the Commission to provide supplies, materials, machinery or equipment.

*Necessity and Anticipated Benefit*

The proposed amendment is necessary to reflect the economic interests that must be disclosed by the Office Technician position, a newly designated position, as required by Government Code section 87302.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS RELIED UPON TO DEVELOP REGULATIONS**

Commission staff did not rely on any technical, theoretical, or empirical studies or reports in proposing the adoption of this regulation. The Commission relied upon the statutes and cases cited in the authority and reference sections of the regulation.

### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

#### **Creation or Elimination of Jobs within the State of California**

The regulation is designed to update the Commission's list of designated positions to include the newly created Attorney IV position and the Office Technician position and to add a disclosure category (Category 4). No jobs in California will be created or eliminated as a result of this regulation.

#### **Creation of New or Elimination of Existing Businesses within the State of California**

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore, no new businesses in California will be created or existing businesses eliminated.

#### **Expansion of Businesses or Elimination of Existing Businesses within the State of California**

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore, no existing businesses in California will be expanded or eliminated.

#### **Benefits of the Regulations**

The regulation is designed to update the list of Commission positions required to file statements of economic interests to include the Attorney IV and Office Technician positions. By accurately reflecting all Commission positions that make or participate in making decisions which foreseeably have a material effect on economic interests and which must file statements of economic interest with FPPC, this regulation will increase the Commission's transparency and accountability to the public. By adding a disclosure category, this regulation will ensure that the Commission's disclosure categories are narrowly tailored to ensure the appropriate degree of disclosure while also protecting the right to privacy of Commission officials and employees.

### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives have been presented to or considered by the Commission.

### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE ECONOMIC IMPACT ON SMALL OR OTHER BUSINESSES**

The Commission has no jurisdiction over small or any other businesses and businesses are not parties before the Commission. Therefore, there is no adverse impact on small or other businesses.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

There are no businesses that are parties or interested parties in matters before the Commission.