

**ITEM 7**  
**ADOPTION OF COMMISSION ORDER TO INITIATE RULEMAKING**  
**DIGITAL SIGNATURES ON E-FILED COMMISSION FORMS AND**  
**GENERAL CLEANUP PROVISIONS**

PROPOSED AMENDMENTS TO  
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5  
ARTICLES 1, 2, 3, 5, 6, AND 7  
SECTIONS 1181.1, 1181.3, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6,  
AND 1187.8

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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,  
Articles 1, 2, 3, 5, 6, and 7

No. 22-03  
ORDER TO INITIATE RULEMAKING  
PROCEEDINGS  
*Digital Signatures on E-Filed Commission  
Forms and General Cleanup Provisions*

Pursuant to California Code of Regulations, title 2, section 1188.2, 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 revised language, punctuation, and citations in Articles 1, 2, 3, 5, 6, and 7 of the California Code of Regulations, Title 2, Division 2, Chapter 2.5 with a proposed effective date of October 1, 2022, if no public hearing is requested, or January 1, 2023, if a public hearing is requested.

The purpose of this rulemaking is to require e-filed Commission forms to be digitally signed and to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. The proposed regulations: (1) require e-filed Commission forms to be digitally signed and clarify the e-filing process; (2) clarify the process for submitting late written comments when participating in a Commission hearing via teleconference; (3) make minor, non-substantive consistency edits and corrections; and (4) update reference citations.

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 comment period closes at **5:00 p.m. on May 23, 2022**. The Commission will only consider written comments received at the Commission’s 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 “dropbox” 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 May 27, 2022 if it receives a written request for a public hearing from any interested person or their authorized representative, no later than May 9, 2022.

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

1                                   **CALIFORNIA CODE OF REGULATIONS**  
2                                   **TITLE 2. ADMINISTRATION**  
3                                   **DIVISION 2. FINANCIAL OPERATIONS**  
4                                   **CHAPTER 2.5. COMMISSION ON STATE MANDATES**

5                                   **Article 1. General**

6   **§ 1181.1. Delegation of Certain Functions; Executive Director Appeals.**

7   (a) Whenever it is stated in these rules that the "Commission" may or shall exercise or discharge  
8   any power, duty, purpose, function, or jurisdiction, the Commission on State Mandates  
9   specifically has reserved the same for its own exclusive action.

10 (b) Whenever it is stated that the "executive director" may or shall exercise or discharge any  
11 power, duty, purpose, function, or jurisdiction, or it is not expressly stated that the Commission  
12 itself shall so act, the executive director of the Commission has the authority to act thereon.

13 (c) A real party in interest to a matter may appeal to the Commission for review of the actions  
14 and decisions of the executive director on that matter.

15 (1) The appellant shall file the appeal in writing within 10 days of first being served written  
16 notice of the executive director's action or decision.

17 (2) The appellant shall certify, file, and serve the appeal in accordance with section 1181.3 of  
18 these regulations.

19 (3) The appeal shall explain the basis for the appeal, state the action being requested of the  
20 Commission, and include all facts and materials the appellant believes are relevant to the appeal.

21 (4) The executive director shall schedule the appeal for hearing and vote by the Commission as  
22 soon as practicable following receipt of the appeal.

23 (5) Other parties may file comments on an appeal, which shall be certified, filed, and served in  
24 accordance with section 1181.3 of these regulations.

25 (6) The Commission shall determine whether to uphold the executive director's decision by a  
26 majority vote of the members present. The decision shall be final and not subject to  
27 reconsideration.

28 (7) The executive director shall notify the appellant in writing within 10 days of the  
29 Commission's decision.

30 (d) Nothing herein prohibits the executive director from delegating to subordinates as provided  
31 in Government Code section 18572.

32 Note: Authority cited: Sections 17527(g), 17530 and 17531, Government Code. Reference:  
33 Section 17530, Government Code; and *Redevelopment Agency v. Commission on State Mandates*  
34 (1996) 43 Cal.App.4th 1188.

35   **§ 1181.3. Certification, Filing, and Service of Written Materials and New Filings.**

36 (a) Certification. All new filings and written materials filed with the Commission shall be signed  
37 at the end of the document, under penalty of perjury, with the declaration that the filing is true  
38 and correct to the best of the declarant's personal knowledge, information, or belief. The date of

1 signing, the declarant's title, address, telephone number, and email address, if applicable, shall  
2 be included.

3 (b) Documents filed with the Commission shall not contain personal identifying information that  
4 violates state or federal privacy laws, including, but not limited to California Civil Code section  
5 1798 et seq.

6 (c) Filing and Service. New filings and written materials may be filed as described in this  
7 subdivision.

8 (1) E-Filing. Except as provided in subdivision (c)(2) of this section, all new filings and written  
9 materials shall be electronically filed (or e-filed) with the Commission.

10 ~~(A) All new filings and written materials shall be filed by filing the signed original document in  
11 an unlocked PDF file via the Commission's e-filing system, available on the Commission's  
12 website. Documents e-filed with the Commission shall be in a legible and searchable format  
13 using a "true PDF" (i.e., documents digitally created in PDF, converted to PDF or printed to  
14 PDF) or optical character recognition (OCR) function, as necessary, that allows Commission  
15 staff to electronically date stamp the document and append additional pages for posting on the  
16 Commission's web site with a proof of service for e-service by the Commission, in lieu of the  
17 filer serving the document to the entire mailing list for the matter.~~

18 (B) Any new filing required to be filed on a form prescribed by the Commission shall be  
19 digitally signed, using the digital signature technology and authentication process contained  
20 within the Commission forms. The completed form shall be e-filed separately from any  
21 accompanying documents. Accompanying documents shall be e-filed together in a single file in  
22 accordance with subdivision (c)(1)(C) of this section, and shall not exceed 500 megabytes.  
23 Accompanying documents exceeding 500 megabytes shall also comply with subdivision  
24 (c)(1)(D) of this section.

25 (C) All e-filed documents, other than forms prescribed by the Commission, shall:

26 (i) be in unlocked PDF file format, to allow Commission staff to electronically date stamp the  
27 document and append additional pages for posting on the Commission's website with a proof of  
28 service for e-service by the Commission, in lieu of the filer serving the document to the entire  
29 mailing list for the matter; and saved, converted, or printed to PDF and filed in their original,  
30 searchable form;

31 (ii) include a scanned copy of but the signed signature page shall be replaced with a scanned  
32 copy, rather than a digitally signed document. The scanned copy shall be in black and white (not  
33 gray scale or color).

34 (D) E-filed documents shall not exceed 500 megabytes. Documents larger than 500 megabytes  
35 shall be e-filed in multiple volumes and labeled as such (i.e., "Volume I, Volume II" etc.) and  
36 shall, in that case, include a table of contents. Filing of color documents is strongly discouraged.  
37 However, if a color image(s) is necessary for readability or comprehension, the color image(s)  
38 shall be e-filed in a separate and final volume of exhibits. E-filed documents shall include  
39 electronic bookmarks to each heading, subheading, and component (including but not limited to  
40 the table of contents, declarations, exhibits, proof of service) of the document. Documents not  
41 available or obtainable in electronic form may be scanned and OCR'd and e-filed in a separate  
42 volume, however it is prohibited to e-file scanned documents that are available or obtainable  
43 electronically. E-filed documents that must be scanned, shall be scanned in black and white (not

1 gray scale or color).

2 (E) The filer is responsible for maintaining the signed original new filing or written material for  
3 the duration of the process for the matter, including any period of appeal (this may be an  
4 electronic document, depending on how the filer creates and maintains its records). ~~If a new~~  
5 ~~filing or written material is e-filed, no additional copies shall be filed with the Commission.~~ The  
6 following shall apply to new filings and written materials e-filed with the Commission:

7 ~~(AF)~~ An automated notice that the document was successfully sent is immediately available to  
8 the filer using the Commission's e-filing system and should be saved or printed for the filer's  
9 records. Commission staff shall also reply by e-mail confirming actual receipt of the legible,  
10 searchable document by the Commission within two business days of receipt. In the absence of a  
11 confirmation e-mail from Commission staff, it is the responsibility of the filer to obtain  
12 confirmation that the Commission actually received the filing.

13 ~~(BG)~~ By using e-filing, the filer agrees, in the event of failure of e-filing, to re-file the document  
14 no later than the business day after the business day on which notice of the failure of e-filing is  
15 received by the filer. The filer may re-file by any means authorized by these rules, in order to  
16 maintain the original filing date. "Failure of e-filing" occurs when the filer receives notification,  
17 in any manner, of non-receipt of an e-filed document or of any other inability of Commission  
18 staff to access the document.

19 ~~(CH)~~ Documents e-filed with the Commission are served by Commission staff to persons who  
20 have provided an e-mail address for the mailing list for the matter in accordance with section  
21 1181.4 of these regulations. E-filed documents do not need to be served by the filer and proof of  
22 service does not need to be provided by the filer for persons who have provided an e-mail  
23 address for the mailing list in accordance with section 1181.4. Nothing in this regulation excuses  
24 a filer from serving hard copies of written material on persons who appear on the mailing list and  
25 have not provided an e-mail address for the mailing list, or from providing a proof of service  
26 with the e-filing to the Commission for the service of the document on those persons.

27 ~~(DI)~~ Upon confirmation of actual receipt of the e-filed document, Commission staff shall notify  
28 all persons on the mailing list for the matter that written material may be viewed on the  
29 Commission's website. For "new filings" as defined by section 1181.2(k) of these regulations,  
30 Commission staff shall notify all persons on the mailing list prepared pursuant to section 1181.4  
31 of these regulations, of the availability of those filings on the Commission's website when  
32 Commission staff issues its notice of complete filing to the filer.

33 ~~(EJ)~~ The Commission may serve any document by e-mail service, or by making it available at a  
34 particular URL, unless doing so would be contrary to state or federal law.

35 ~~(FK)~~ The executive director may issue any order consistent with these rules to govern e-mail  
36 service for a particular matter.

37 (2) Hard Copy Filing and Service in Cases of Undue Hardship or Significant Prejudice. If e-  
38 filing legible and searchable PDF documents, as described in subdivision (c)(1) of this section,  
39 would cause the filer undue hardship or significant prejudice, filing may occur by first class mail,  
40 overnight delivery or personal service only upon approval of a written request to the executive  
41 director.

42 (A) Filing. If the executive director authorizes filing by first class mail, overnight delivery, or  
43 personal service, the filer shall file the unbound original document with the Commission.

1 (B) Service. If written materials are filed in hard copy, the filing shall simultaneously be served  
2 on everyone on the mailing list using the same method used for the filing. Unless otherwise  
3 provided in this section, a proof of service shall be included with any written material filed with  
4 the Commission. Proof of personal service requires a declaration of the messenger of the time  
5 and place that the written material was served. Service is not required for new filings because  
6 mailing lists for matters are only prepared, pursuant to section 1181.4 of these regulations, after a  
7 new filing is deemed complete. Completed new filings will be served on the mailing list by  
8 Commission staff with the Notice of Complete Filing.

9 (3) Time of Filing. New filings or written materials filed with the Commission no later than 5  
10 p.m. on a business day (i.e., Monday through Friday, except state holidays) are deemed filed on  
11 that business day. New filings or written materials filed with the Commission after 5 p.m. on a  
12 business day, or on a Saturday, Sunday, or state holiday, are deemed filed on the following  
13 business day.

14 Note: Authority cited: Sections 16.5, 17527(g), 17553(a), 17570(d) and 11104.5, Government  
15 Code. Reference: Sections 1633.1 et seq., 1798 et seq., Civil Code; and Sections 11020(a),  
16 17530, 17551, 17557(d), 17558.7, 17570, 17573(b), 17574(c) and 17573(g), Government Code.

#### 17 **§ 1181.10. Commission Meeting Procedures.**

18 (a) Presiding Member. The chairperson shall preside over all meetings of the Commission when  
19 present. In the chairperson's absence, the vice chairperson shall preside. If neither the  
20 chairperson nor the vice chairperson is in attendance, the member present who has the greatest  
21 seniority on the Commission shall preside. The presiding member may yield the chair.

22 (b) Public Comments.

23 (1) Comments in Writing. Any person may submit comments in writing on any agenda item by  
24 certifying, filing, and serving them in accordance with 1181.3 of these regulations. To be  
25 included as a part of the administrative record for the matter, comments must be provided to the  
26 Commission members and be made available for public review either before or at the  
27 Commission hearing on the matter.

28 (A) Comments received at least 15 days in advance of the meeting shall be included in the  
29 Commission's meeting binders, a copy of which is available for public viewing at the  
30 Commission meeting.

31 (B) Comments received more than five days in advance of the meeting shall be included in the  
32 Commission's meeting binders, if feasible, or shall be provided to the Commission when the item  
33 is called, unless otherwise agreed to by the Commission or the executive director.

34 (C) For written comments received less than five days in advance of the meeting, the commenter  
35 shall provide 12 copies to Commission staff at the in-person meeting. In the case of participation  
36 via teleconference, a PDF copy shall be filed via the Commission's dropbox at least 24 hours  
37 prior to the meeting. Commission staff shall provide copies of the comments to the Commission  
38 and shall place a copy on a table for public review when the item is called or, in the case of  
39 participation via teleconference, shall provide an electronic copy to the Commission and post a  
40 copy on the Commission's website, and may share the document with the Commission and the  
41 public using the "share screen" function.

1 (2) Oral Comments. Any person present and so desiring shall be given an opportunity to make  
2 oral comments on any agenda item, provided, however, that the presiding member may limit or  
3 preclude comments as necessary for the orderly conduct of business.

4 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
5 11125.7, 17525 and 17526-17528, Government Code.

6 **Article 2. Applications for a Finding of Significant Financial Distress**

7 **§ 1182.2. Filing of an Application for a Finding of Significant Financial Distress.**

8 (a) Pursuant to Welfare and Institutions Code section 17000.6, in order for the board of  
9 supervisors of any county to obtain a finding of significant financial distress, the board of  
10 supervisors must submit a written application to the Commission on State Mandates.

11 (b) The applicant shall certify, file, and serve an original application, including supporting  
12 documents, ~~with the Commission~~ in accordance with section 1181.3 of these regulations.

13 (c) All applications shall contain at least the following:

14 (1) A table of contents, indicating page numbers.

15 (2) A copy of a resolution from the county board of supervisors stating that compliance with the  
16 standards set forth in Welfare and Institutions Code section 17000.5 will result in significant  
17 financial distress to the county for a specified period of time, up to 36 months.

18 (3) A written narrative, including a summary, detailing the relevant financial or other budgetary  
19 information and documents necessary for a county to make a compelling case that basic county  
20 services, including public safety, cannot be maintained without a reduction in the standard of aid  
21 as provided in Welfare and Institutions Code section 17000.5. The narrative shall also include:

22 (A) The monthly caseload of General Assistance recipients for each of the 12 months preceding  
23 the date the application is filed.

24 (B) The current monthly rate of the General Assistance Standard of Aid.

25 (C) The proposed reduced rate of the General Assistance Standard of Aid.

26 (D) An overview of county finances, including, but not limited to county revenue sources;  
27 budget reserve data; budget expenditures; mandated expenditures and maintenance of effort  
28 costs.

29 (E) A detailed summary of program needs and expenditure flexibility, including, but not limited  
30 to department-by-department data on unmet program needs for basic county services.

31 (F) The county's total population at the time the application is filed, and the total county  
32 population for the two fiscal years prior to the year in which the application was filed.

33 (d) The written narrative shall be submitted under penalty of perjury. If representations of fact  
34 are made, they shall be supported by documentary or testimonial evidence, submitted in  
35 accordance with section 1187.5 of these regulations.

36 (e) Each page of the application, including all supporting documentation, shall be consecutively  
37 numbered.

- 1 (f) The original application, including all supporting documentation, shall be unbound and  
2 single-sided.
- 3 (g) The executive director shall notify an applicant within 10 days of receipt of an application  
4 whether its application is incomplete. If the application is incomplete, the executive director may  
5 return the application to the county. An application shall be considered incomplete if the  
6 elements in subdivisions (b) through (f) of this section have not been satisfied, are illegible or are  
7 not included. The requirements for Commission public hearings and decisions, as set forth in  
8 Welfare and Institutions Code section 17000.6(c), apply only to complete applications.
- 9 (h) Within 10 days of receipt of a completed application, the executive director shall notify the  
10 applicant that the application is complete, and notify the applicant of the schedule. The executive  
11 director shall also send the application to interested persons located in the applicant county.
- 12 (i) Prior to filing an application, a county may request a tentative date for conducting the hearing  
13 in the county. If a complete application is not received by a specified date, a new tentative  
14 hearing date may be set.

15 Note: Authority cited: Section 17527(g), Government Code; and Section 17000.6(b), Welfare  
16 and Institutions Code. Reference: Section 17000.6, Welfare and Institutions Code.

17 **Article 3. Test Claims**

18 **§ 1183.17. Amendments to Parameters and Guidelines.**

19 (a) All requests pursuant to Government Code section 17557 to amend parameters and guidelines  
20 shall include the proposed language for the specific sections of the existing parameters and  
21 guidelines that are to be changed, and include a narrative explaining why the amendment is  
22 required.

23 A request to amend parameters and guidelines may be filed to make any of the following  
24 changes to the parameters and guidelines:

- 25 (1) Delete any reimbursable activity that is repealed by statute or executive order after the  
26 adoption of the original or last amended parameters and guidelines.
- 27 (2) Update offsetting revenue and offsetting savings that apply to the mandated program and do  
28 not require a new legal finding that there are "no costs mandated by the state" under Government  
29 Code section 17556(e).
- 30 (3) Include a reasonable reimbursement methodology for all or some of the reimbursable  
31 activities in accordance with Government Code section 17518.5. Any request to include a  
32 reasonable reimbursement methodology based on, in whole or in part, costs that have been  
33 included in claims submitted to the Controller, shall include a statement to this effect on the  
34 cover or first page of the request.
- 35 (4) Clarify reimbursable activities consistent with the original decisions on the test claim and  
36 parameters and guidelines.
- 37 (5) Add new reimbursable activities that are reasonably necessary for the performance of the  
38 original state-mandated program pursuant to section 1183.7(d) of these regulations.
- 39 (6) Define what is not reimbursable consistent with the original decisions on the test claim and  
40 parameters and guidelines.



- 1 (7) Consolidate the parameters and guidelines for two or more programs.
- 2 (8) Amend the "boilerplate" language.
- 3 (b) For purposes of this section, "boilerplate" language is defined as the language in the  
4 parameters and guidelines that is not unique to the state-mandated program that is the subject of  
5 the parameters and guidelines.
- 6 (c) The addition or substitution of requesters and supporting declarations based on the original  
7 facts alleged in an existing parameters and guidelines amendment request is not an  
8 "amendment." However, new proposals for amendments must be filed as a new parameters and  
9 guidelines amendment request.
- 10 (d) A claimant or state agency requesting an amendment to existing parameters and guidelines  
11 shall certify, file, and serve the request in accordance with section 1181.3 of these regulations. If  
12 representations of fact are made, they shall be supported by documentary or testimonial evidence  
13 in accordance with section 1187.5 of these regulations.
- 14 (e) Within 10 days of receipt of a request to amend parameters and guidelines, Commission staff  
15 shall issue a copy to those who are on the mailing list described in section 1181.4 of these  
16 regulations, and shall post the request on the Commission's website.
- 17 (f) Commission staff shall notify those who are on the mailing list described in section 1181.4 of  
18 these regulations that they shall have the opportunity to file written comments concerning the  
19 proposed amendment of the parameters and guidelines within 21 days of service, and shall post a  
20 copy of the notice on the Commission's website.
- 21 (g) Written comments on the request to amend the parameters and guidelines shall be certified,  
22 filed, and served in accordance with section 1181.3 of these regulations. If representations of fact  
23 are made, they shall be supported by documentary or testimonial evidence in accordance with  
24 section 1187.5 of these regulations.
- 25 (h) Written rebuttals to the comments may be filed within 21 days of service of the comments.  
26 Written rebuttals shall be certified, filed, and served in accordance with section 1181.3 of these  
27 regulations. If representations of fact are made, they shall be supported by documentary or  
28 testimonial evidence in accordance with section 1187.5 of these regulations.
- 29 (i) After review of the proposed amendment to the parameters and guidelines, written comments,  
30 and rebuttals filed, Commission staff shall prepare and issue for comment a draft proposed  
31 decision recommending whether the requester's proposed amendment to the parameters and  
32 guidelines should be adopted.
- 33 (j) Written comments on the draft proposed decision and recommendation on the proposed  
34 amendment to the parameters and guidelines shall be certified, filed, and served ~~with the~~  
35 ~~Commission~~ in accordance with section 1181.3 of these regulations, by the date noticed by the  
36 executive director. A three-week period for comments shall be given, subject to the executive  
37 director's authority to expedite all matters pursuant to Government Code section 17530. If  
38 representations of fact are made, they shall be supported by documentary or testimonial evidence  
39 in accordance with section 1187.5 of these regulations. All written comments timely filed shall  
40 be reviewed by Commission staff and may be incorporated into the proposed decision and  
41 recommendation on the proposed amendment to the parameters and guidelines.

1 (k) It is the Commission’s policy to discourage the introduction of late comments, exhibits, or  
2 other evidence filed after the three-week comment period described in subdivision (j) of this  
3 section. The Commission need not rely on, and staff need not respond to, late comments,  
4 exhibits, or other evidence filed in response to a draft proposed decision after the comment  
5 period expires.

6 (l) An amendment shall be made only after the Commission has conducted a hearing in  
7 accordance with article 7 of these regulations.

8 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
9 17518.5, 17530, 17553 and 17557, Government Code.

10 **Article 5. Incorrect Reduction Claims**

11 **§ 1185.1. Incorrect Reduction Claim Filing.**

12 (a) To obtain a determination that the Office of State Controller incorrectly reduced a  
13 reimbursement claim, a claimant shall file an "incorrect reduction claim" with the Commission  
14 as follows:

15 (1) A county auditor, auditor-controller, or director of finance who has assumed the duties of  
16 controller, may file on behalf of a county.

17 (2) A city manager, director of finance, or other officer with a delegation by ordinance or  
18 resolution from the city council, may file on behalf of a city.

19 (3) A district superintendent may file on behalf of a school district.

20 (4) A chancellor, vice chancellor, director of finance, or other officer with authority delegated by  
21 the governing body by ordinance or resolution, may file on behalf of a community college  
22 district.

23 (5) A general manager or other officer with authority delegated by the governing body by  
24 ordinance or resolution may file on behalf of a special district.

25 (b) If a claimant intends to pursue an incorrect reduction claim on behalf of a class of claimants,  
26 it must notify the Commission of its intent to do so at the time it files its incorrect reduction  
27 claim and meet the requirements of section 1185.3 of these regulations.

28 (c) All incorrect reduction claims and amendments thereto shall be filed with the Commission no  
29 later than three years following the date a claimant first receives from the Office of State  
30 Controller a final state audit report, letter, or other written notice of adjustment to a  
31 reimbursement claim, which complies with Government Code section 17558.5(c) by specifying  
32 the claim components adjusted, the amounts adjusted, interest charges on claims adjusted to  
33 reduce the overall reimbursement to the claimant, and the reason for the adjustment. The filing  
34 shall be returned to the claimant for lack of jurisdiction if this requirement is not met.

35 (d) An incorrect reduction claim shall pertain to alleged incorrect reductions in a reimbursement  
36 claim filed by one claimant. The incorrect reduction claim may be for more than one fiscal year.

37 (e) All incorrect reduction claims, or amendments thereto, shall be filed on a form provided by  
38 the Commission.

39 (f) All incorrect reduction claims, or amendments thereto, shall contain at least the following  
40 elements and documents:

- 1 (1) A copy of the Office of State Controller's claiming instructions that were in effect during the  
2 fiscal years of the reimbursement claims.
- 3 (2) A written detailed narrative that describes the alleged incorrect reductions. The narrative shall  
4 include a comprehensive description of the reduced or disallowed areas of costs.
- 5 (3) All representations of fact shall be supported by testimonial or documentary evidence in  
6 accordance with section 1187.5 of these regulations.
- 7 (4) A copy of any final state audit report, letter, or other written notice of adjustment from the  
8 Office of State Controller that explains the claim components adjusted, amounts reduced, and the  
9 reasons for the reduction or disallowance.
- 10 (5) A copy of the subject reimbursement claims the claimant submitted to the Office of State  
11 Controller.
- 12 (g) An incorrect reduction claim, or amendment thereto, and any accompanying documents, shall  
13 be certified, filed, and served in accordance with section 1181.3 of these regulations.
- 14 ~~(h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and~~  
15 ~~accompanying documents with the Commission in accordance with section 1181.3 of these~~  
16 ~~regulations.~~

17 Note: Authority cited: Sections 17527(g) and 17553(a), Government Code. Reference: Sections  
18 17530, 17551(d), 17553(d), 17558.5(c) and 17558.7(a), Government Code.

19 **§ 1185.4. Joining a Consolidated Incorrect Reduction Claim.**

- 20 (a) Within 30 days of receipt of the Commission's notice regarding the original claimant's notice  
21 of intent to consolidate an incorrect reduction claim, any other eligible claimant may, on a form  
22 provided by the Commission, file a notice of intent to join the consolidated incorrect reduction  
23 claim.
- 24 (b) All notices of intent to join a consolidated incorrect reduction claim shall comply with  
25 section 1185.1(c) and contain at least the following elements and documents:
- 26 (1) A copy of the final state audit report, letter, or other written notice of adjustment from the  
27 Office of State Controller that explains the claim components adjusted, amounts reduced, and the  
28 reasons for the reduction.
- 29 (2) A copy of the subject reimbursement claims submitted to the Office of State Controller.
- 30 (3) A notice of intent to join a consolidated incorrect reduction claim shall include a certification  
31 by the joining claimant authorizing the original claimant to act as its representative in the  
32 consolidated incorrect reduction claim, and a declaration under penalty of perjury that the filing  
33 is true and complete to the best of the declarant's personal knowledge, information, or belief. The  
34 date signed, the declarant's title, address, telephone number, and e-mail address shall be  
35 included. All representations of fact shall be supported by testimonial or documentary evidence  
36 in accordance with section 1187.5 of these regulations.
- 37 (4) The joining claimant shall certify, file, and serve one original notice of intent to join and  
38 accompanying documents ~~with the Commission~~ in accordance with section 1181.3 of these  
39 regulations.

1 (c) Within 10 days of receipt of a notice of intent to join a consolidated incorrect reduction claim,  
2 Commission staff shall notify the joining claimant if the notice of intent to join is complete or  
3 incomplete. Notices of intent to join a consolidated incorrect reduction claim will be considered  
4 incomplete if any of the elements required in subdivision (b) of this section are illegible or not  
5 included. Incomplete notices of intent shall be returned to the joining claimant. If a complete  
6 notice of intent to join a consolidated incorrect reduction claim is not received by the  
7 Commission within 30 days from the date the incomplete notice of intent was returned to the  
8 joining claimant, the Commission shall deem the filing to be withdrawn.

9 (d) Any notice of intent to join the consolidated incorrect reduction claim, or portion thereof, that  
10 the Commission lacks jurisdiction to hear for any reason, including that the notice was not filed  
11 within the period of limitation required by section 1185.1(c) of these regulations, may be rejected  
12 or dismissed by the executive director with a written notice stating the reason therefor.

13 Note: Authority cited: Sections 17527(g), 17553(a) and 17558.7(g), Government Code.  
14 Reference: Sections 17558.5(c) and 17558.7, Government Code.

## 15 **Article 6. State Mandates Apportionment System**

### 16 **§ 1186.6. Request for Review of an Apportionment or Base Year Entitlement.**

17 (a) Upon request of a local agency, school district or state agency the Commission shall review  
18 the apportionment or base year entitlement pursuant to Government Code section 17615.8(a).

19 (b) In order to obtain a review of an apportionment or base year entitlement a "Request for  
20 Review" shall be certified, filed, and served in accordance with section 1181.3 of these  
21 regulations with the Commission.

22 (c) The request for review shall contain at least the following elements:

23 (1) Identification of the mandated program that is alleged to require review.

24 (2) A detailed narrative describing the need to modify the apportionment or base year  
25 entitlement.

26 (3) A statement to the effect that the other mandated programs included in the local agency or  
27 school district's apportionment are not overfunded in an amount sufficient to offset any  
28 underfunding.

29 (4) Cost information that outlines the amount of the funding for the total apportionment and the  
30 calculations necessary to show that the program needing modification either under or over  
31 reimburse the local agency or school district's actual costs by 20 percent or by \$1,000, whichever  
32 is less.

33 (d) Requests for review will be considered incomplete if any of the elements required in  
34 subdivision (c) of this section are illegible or not included. Incomplete requests for review shall  
35 be returned to the requester for completion. If a complete request is not received by the  
36 Commission within 30 days from the date the incomplete request was returned, the Commission  
37 shall deem the request to be withdrawn.

38 Note: Authority cited: Sections 17527(g) and 17615.8(a), Government Code. Reference: Section  
39 17615.8, Government Code.

1                   **Article 7. Quasi-Judicial Hearing Procedures and Decisions**

2   **§ 1187.8. Representation at Hearing.**

3   (a) A party may appear in person or through an authorized representative. When using an  
4   authorized representative, a party shall designate in writing the authorized representative to act as  
5   its sole representative and shall certify, file, and serve written notice identifying the authorized  
6   representative in accordance with section 1181.3 of these regulations.

7   (b) A representative of a party shall be deemed to control all matters respecting the interest of  
8   that party in the proceeding. All correspondence and communications shall be issued to the  
9   authorized representative.

10   (c) Withdrawal of appearance of any representative may be effected by certifying, filing, and  
11   serving a written notice of withdrawal in accordance with section 1181.3 of these regulations.  
12   Any change in representation shall be authorized by the party in writing and certified, filed, and  
13   served in accordance with section 1181.3 of these regulations.

14   Note: Authority cited: 17527(c), 17527(g), 17551, 17553(a), 17555, 17620, 17621 and 17622,  
15   Government Code. Reference: Sections 17527(c), 17551 and 17553, Government Code.

16

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

**NOTICE OF PROPOSED RULEMAKING**

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 their authorized representative no later than 15 days before the close of the written comment period, by May 9, 2022, the Commission will conduct a public hearing on this proposed action on May 27, 2022, 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 their authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The comment period closes at **5:00 p.m. on May 23, 2022**. The Commission will only consider written 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 “dropbox” 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 is a seven-member quasi-judicial body created by the Legislature 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 (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to require e-filed Commission forms to be digitally signed and to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. The proposed regulations: (1) require e-filed Commission forms to be digitally signed and clarify the e-filing process; (2) clarify the process for submitting late written

comments when participating in a Commission meeting via teleconference; (3) make minor, non-substantive consistency edits and corrections; and (4) update reference citations.

Therefore, the Commission proposes revised language and citations in Articles 1, 2, 3, 5, 6 and 7 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 (Sections 1181.1, 1181.3, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6, and 1187.8) with a proposed effective date of October 1, 2022, if no public hearing is requested or January 1, 2023, if a public hearing is requested.

#### Anticipated Benefits of the Proposed Regulations

The specific benefits anticipated from the proposed regulations are: a simpler and more secure method for signing e-filed Commission forms; decreased exposure to and transmission of COVID-19 by using a paperless and contactless process for signing e-filed Commission forms; increased accessibility of the mandates process through clear instructions for filing late written comments when participating in a Commission meeting via teleconference; improved readability, clarity and consistency; and a more complete and accurate listing of references.

#### 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 1181.1 et seq., are the only regulations concerning the Commission's process. Therefore, the proposed regulations are consistent and compatible with existing state regulations.

### **DESCRIPTION OF PROPOSED REGULATIONS**

#### **I. Add Requirement to Digitally Sign All Electronically Filed Commission Forms and Clarify the Requirements for All Other Electronically Filed Documents in Section 1181.3(c)(1).**

##### Section 1181.3. Certification, Filing, and Service of Written Materials and New Filings.

The proposed changes to section 1181.3(c)(1) add the requirements in newly-added subdivision (c)(1)(B) that a digital signature must be used when signing and e-filing a form prescribed by the Commission; that the digitally signed form must be filed separately from any accompanying documents; and that the accompanying documents must be filed together in a single file, unless the file size exceeds 500 megabytes, in which case the accompanying documents shall be filed in multiple volumes, in accordance with the requirements specified in newly labeled subdivision (c)(1)(D).

The proposed changes clarify in newly-added subdivision (c)(1)(C) that all e-filed documents other than Commission forms shall continue to be filed in unlocked PDF file format, with a black-and-white scanned copy of the signed signature page, rather than a digitally signed document.

#### **II. Clarify the Process for Submitting Written Public Comments in the Case of a Teleconference Meeting**

##### Section 1181.10. Commission Meeting Procedures.

The proposed amendments to section 1181.10(b)(1)(C) clarify the procedure for submitting late written comments, less than five days prior to a Commission meeting, when participating via teleconference. The proposed changes add that when participating in a Commission meeting via

teleconference, a PDF copy of the comments shall be filed via the Commission’s dropbox 24 hours prior to the meeting and Commission staff shall provide an electronic copy of the late-filed comments to the Commission, shall post a copy on the Commission’s website, and may share the comments with the Commission and the public during the teleconference meeting using the “share screen” function.

### **III. Minor, Nonsubstantive Consistency Edits and Corrections**

The proposed amendments make minor, nonsubstantive consistency edits and improve readability in sections 1181.1, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6, and 1187.8 of the regulations.

The proposed amendments add, delete, or update word usage to make all references to the certification, filing, and service requirements under section 1181.3 consistent throughout the regulations (change “shall file and serve” to “shall certify, file, and serve” in 1181.1(c)(2); add “which shall be certified, filed, and served” to 1181.1(c)(5); add “by certifying, filing, and serving them in accordance with 1181.3 of these regulations” to 1181.10(b)(1); remove “with the Commission” from 1182.2(b) and 1183.17(j); change “shall file” to “shall certify, file, and serve” and remove “with the Commission” in 1185.4(b)(4); change “shall be filed with the Commission” to “shall be certified, filed, and served in accordance with section 1183.1 of these regulations” in 1186.6(b); change “filing and serving” to “certifying, filing, and serving” in 1187.8(c); and change “filed and serve” to “certified, filed, and served” in 1187.8(c).

The proposed amendments reletter and add new subparts to section 1181.3(c)(1), in accordance with the substantive amendments discussed in Section I above.

The proposed amendments eliminate redundancy by deleting section 1185.1, subdivision (h), and moving the nonredundant language in subdivision (h) to subdivision (g) (adding “and any accompanying documents”).

### **IV. Update to Reference Citations in Section 1181.3.**

#### Section 1181.3. Certification, Filing, and Service of Written Materials and New Filings.

The proposed amendments to the reference statutes for section 1181.3 add Civil Code sections 1633.1-1633.17 (the Uniform Electronic Transactions Act) and Government Code section 16.5, which provide the governing statutory authority permitting the use of digital signatures in written communication with state agencies and define “digital signature” as the term applies to section 1181.3.

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

In developing the proposed changes, the Commission relied on the following documents:

1. State Administrative Manual Management Memo Number 20-07, California Department of General Services: <https://www.dgs.ca.gov/Resources/ManagementMemos> (accessed January 27, 2022); and
2. State Administrative Manual, Section 1734, California Department of General Services: <https://www.dgs.ca.gov/Resources/SAM/TOC/1700/1734> (accessed February 8, 2022).

The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.



**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,  
TEXT OF PROPOSED REGULATIONS,  
AND FULL TEXT OF DOCUMENTS RELIED UPON**

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, the full text of the documents relied upon, 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 UPON**

After considering all timely and relevant comments received and holding a public hearing, if necessary, the Commission may adopt the proposed regulations 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 upon 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 upon 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 THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons and any Documents Relied Upon may be obtained by contacting Ms. Jill Magee at the address, phone number, or email address listed above.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the Full Text of Documents Relied Upon 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**

**DIGITAL SIGNATURES ON E-FILED COMMISSION FORMS AND  
GENERAL CLEANUP PROVISIONS**

**ARTICLES 1, 2, 3, 5, 6 AND 7**

SECTIONS 1181.1, 1181.3, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6,  
AND 1187.8

**SPECIFIC PURPOSE OF THE REGULATIONS**

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 (Gov. Code, § 17500 et seq.) and to hear matters involving county applications for a finding of significant financial distress (Welf. & Inst. Code, § 17000.6).

The purpose of this rulemaking is to require e-filed Commission forms to be digitally signed and to generally clean-up, clarify, and streamline Commission regulations and update language for consistency. The proposed regulations: (1) require e-filed Commission forms to be digitally signed and clarify the e-filing process; (2) clarify the process for submitting late written comments when participating in a Commission meeting via teleconference; (3) make minor, non-substantive consistency edits and corrections; and (4) update reference citations.

Therefore, the Commission proposes revised language and citations in Articles 1, 2, 3, 5, 6 and 7 of the California Code of Regulations, Division 2, Title 2, Chapter 2.5 (Sections 1181.1, 1181.3, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6, and 1187.8) with a proposed effective date of October 1, 2022, if no public hearing is requested, or January 1, 2023, if a public hearing is requested.

**I. Add Requirement to Digitally Sign All Electronically Filed Commission Forms and Clarify the Requirements for All Other Electronically Filed Documents in Section 1181.3(c)(1).**

Section 1181.3. Certification, Filing, and Service of Written Materials and New Filings.

*Specific Purpose of the Regulation*

Section 1181.3 provides the procedure for certifying, filing, and serving new filings and written materials for all Commission matters, both electronically (e-filing) and in hard copy. With limited exceptions, section 1181.3(c) requires all new filings and written materials to be electronically filed via the Commission’s e-filing system. Under section 1181.2 of the Commission’s regulations, “new filing” includes but is not limited to a test claim; incorrect reduction claim and notice of intent to join a consolidated incorrect reduction claim; and request for mandate redetermination, all of which must be filed on Commission forms.<sup>1</sup> Subdivision

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<sup>1</sup> See Government Code sections 17553(b), 17558.7(c) and (e), and 17570(d)(1), respectively.

(c)(1) requires all e-filed documents, including Commission forms, to be filed in unlocked, searchable PDF file format, with a scanned copy of the handwritten signature page.

The purpose of the proposed amendments to section 1181.3(c)(1) is to modify the signature requirement for e-filed Commission forms to require the use of a digital signature and to clarify the requirements applicable to all other documents e-filed with the Commission.

Under the current regulations, the filer has to scan the form to submit the original signature, which regularly requires filing parties to perform tasks in office, or for hard copies of the form or signature page to be handled by more than one staff person, which potentially increases COVID-19 exposure and transmission. Because the Commission's forms have not previously been formatted to accept digital signatures, the COVID-19 pandemic has necessitated the Commission accepting electronically-signed forms, rather than scanned copies of original wet-signed signature pages.

Furthermore, beginning January 1, 2022, most state agency forms must be capable of accepting e-signatures that are secure and verifiable.<sup>2</sup> Digital signatures are a type of permissible e-signature for use on state agency forms. While the Commission's statutorily-prescribed forms are exempt from the state form e-signature requirement,<sup>3</sup> in light of the ongoing state of emergency in California caused by the COVID-19 pandemic and the need to slow the spread of COVID-19 by encouraging telework by public agency personnel and paperless transactions to the extent possible, the proposed changes to section 1181.3(c)(1) provide a secure mechanism for signing e-filed Commission forms and reflect the current work environment, as well as the growing trend amongst state agencies of using digital signatures on agency forms.

Both the Uniform Electronic Transactions Act (UETA) (Civ. Code, § 1633.1 et seq.) and Government Code section 16.5 authorize the use of digital signatures in written communication with public entities, including state agencies. The UETA provides that any law that requires a

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<sup>2</sup> State Administrative Manual Management Memo Number 20-07, California Department of General Services: <https://www.dgs.ca.gov/Resources/ManagementMemos> (accessed January 27, 2022), which states in relevant part the following:

This policy requires all forms that are designed to be completed by internal or external customers (public or private sector entities) conducting business with the State of California, whether standard (STD) or agency forms, are available in an electronic format. Agencies shall use electronic signatures (hereafter "e-Signatures" or "e-Sign") in place of a wet signature unless prohibited by law.

<sup>3</sup> See Government Code section 14774, which provides that the State Forms Management Program, under which the Department of General Services is authorized to develop statewide standardization of state agency forms, does not apply to any state agency form with provisions specifically authorized and established by statute. As discussed above, Government Code sections 17553(b), 17558.7(c) and (e), and 17570(d)(1), respectively, require test claims, incorrect reduction claims, notices of intent to join consolidated incorrect reduction claims, and requests for adoption of a new test claim decision to be filed on forms prescribed by the Commission.

signature is satisfied by an electronic signature.<sup>4</sup> Under the UETA, government agencies are permitted to accept electronic signatures, which are defined as follows:

“Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record. For purposes of this title, a “digital signature” as defined in subdivision (d) of Section 16.5 of the Government Code is a type of electronic signature.<sup>5</sup>

A “digital signature” under Government Code section 16.5(d) is defined as a type of electronic signature under the UETA and “an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.” Section 16.5 authorizes the use of a “digital signature” in any written communication with a public entity in which a signature is required or used, provided that the digital signature is unique to the person using it; capable of verification; under the sole control of the person using it; linked to data in such a manner that if the data is changed, the digital signature is invalidated; and conforms to regulations adopted by the Secretary of State.<sup>6</sup>

Digital signatures are therefore distinct from the broader category of electronic signatures in that a digital signature requires that specific technology be used to verify the signature. The Secretary of State regulations implementing Government Code section 16.5 provide that a digital signature used or accepted by a public entity must be created by an acceptable technology.<sup>7</sup> The regulations further specify that an “acceptable technology” is one that is capable of creating signatures in conformity with the requirements of Government Code section 16.5, the technical attributes of which are described in great detail in section 22003.<sup>8</sup>

The Commission has reformatted its forms adding a digital signature block, meaning that government agencies seeking to e-file a test claim, incorrect reduction claim, notice of intent to join a consolidated incorrect reduction claim, or request for mandate redetermination will do so using a digital signature, which better ensures the verifiability of the signor than an electronic signature or a scanned copy of the handwritten signature page. The proposed amendments to subdivision (c)(1) specify that any new filing required to be filed on a form prescribed by the Commission shall be digitally signed using the digital signature technology and authentication process contained within the form.

### *Proposed Changes*

The proposed changes to section 1181.3(c)(1) would require: (1) use of a digital signature on e-filed Commission forms; (2) separately e-filing the digitally-signed Commission form from any accompanying documents; and (3) e-filing the documents accompanying the digitally-signed Commission form together in a single file, unless the file size exceeds 500 megabytes, in which

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<sup>4</sup> Civil Code section 1633.7(d).

<sup>5</sup> Civil Code section 1633.2(h).

<sup>6</sup> Government Code section 16.5(a). See California Code of Regulations, title 2, sections 22000 - 22005.

<sup>7</sup> California Code of Regulations, title 2, sections 22001, 22002, 22005.

<sup>8</sup> California Code of Regulations, title 2, section 22003.

case the accompanying documents shall be filed in multiple volumes, in accordance with the requirements specified in newly-labeled subdivision (c)(1)(D).

The proposed changes to section 1181.3(c)(1) would also clarify that all e-filed documents other than Commission forms shall continue to be filed in unlocked PDF file format, with a black-and-white scanned copy of the signed signature page, rather than a digitally signed document.

The proposed substantive changes to section 1181.3(c) are as follows:

(1) E-Filing. Except as provided in subdivision (c)(2) of this section, all new filings and written materials shall be electronically filed (or e-filed) with the Commission.

~~(A) All new filings and written materials shall be filed by filing the signed original document in an unlocked PDF file via the Commission's e-filing system, available on the Commission's website. Documents e-filed with the Commission shall be in a legible and searchable format using a "true PDF" (i.e., documents digitally created in PDF, converted to PDF or printed to PDF) or optical character recognition (OCR) function, as necessary, that allows Commission staff to electronically date stamp the document and append additional pages for posting on the Commission's web site with a proof of service for e-service by the Commission, in lieu of the filer serving the document to the entire mailing list for the matter.~~

(B) Any new filing required to be filed on a form prescribed by the Commission shall be digitally signed, using the digital signature technology and authentication process contained within the Commission forms. The completed form shall be e-filed separately from any accompanying documents. Accompanying documents shall be e-filed together in a single file in accordance with subdivision (c)(1)(C) of this section, and shall not exceed 500 megabytes. Accompanying documents exceeding 500 megabytes shall also comply with subdivision (c)(1)(D) of this section.

(C) All e-filed documents, other than forms prescribed by the Commission, shall:

(i) be in unlocked PDF file format, to allow Commission staff to electronically date stamp the document and append additional pages for posting on the Commission's website with a proof of service for e-service by the Commission, in lieu of the filer serving the document to the entire mailing list for the matter; and saved, converted, or printed to PDF and filed in their original, searchable form;

(ii) include a scanned copy of but the signed signature page shall be replaced with a scanned copy, rather than a digitally signed document. The scanned copy shall be in black and white (not gray scale or color).

(D) E-filed documents shall not exceed 500 megabytes. Documents larger than 500 megabytes shall be e-filed in multiple volumes and labeled as such (i.e., "Volume I, Volume II" etc.) and shall, in that case, include a table of contents. Filing of color documents is strongly discouraged. However, if a color image(s) is necessary for readability or comprehension, the color image(s) shall be e-filed in a separate and final volume of exhibits. E-filed documents shall include electronic bookmarks to each heading, subheading, and component (including but not limited to the table of contents, declarations, exhibits, proof of service) of the document. Documents not available or obtainable in electronic form may be scanned and OCR'd and e-filed in a separate volume, however it is prohibited to e-file scanned documents that are available or obtainable electronically. E-filed documents that must be scanned, shall be scanned in black and white (not gray scale or color).

(E) The filer is responsible for maintaining the signed original new filing or written material for the duration of the process for the matter, including any period of appeal (this may be an electronic document, depending on how the filer creates and maintains its records). ~~If a new filing or written material is e-filed, no additional copies shall be filed with the Commission. The following shall apply to new filings and written materials e-filed with the Commission:~~

*Necessity and Anticipated Benefit*

Given that California law acknowledges that a digital signature is as verifiable as a handwritten signature, and in light of the ongoing COVID-19 pandemic and its threat to public health and safety, proposed section 1181.3(c)(1) would require that Commission forms be signed using a digital signature, a more secure and dependable method of signing an e-filed document than an electronic signature or scanned copy of a handwritten signature page, particularly for statements made under penalty of perjury.

Under section 1181.3(c)(1) as currently written, the filer must scan the form to submit the original signature, which regularly requires in-office tasks, person-to-person interactions, or the exchange of hard copy documents, all of which increase the risk of COVID-19 exposure and transmission. Considering COVID-19's high person-to-person transmission rate and the ability of the virus to live on a non-organic surface for several days, hard copy transactions place signatories and other local and state government agency staff at unnecessary risk.

The Proposed amendments also clarify that all e-filed documents, other than Commission forms, shall continue to be filed in unlocked PDF file format, with a black-and-white scanned copy of the signed signature page, rather than a digitally signed document. It is anticipated that these changes will streamline and make more efficient the mandate determination process and will enable state and local government agencies to sign and e-file Commission forms in an easier and more secure manner. Furthermore, by enabling state and local agencies to digitally sign Commission forms, the proposed amendments will lessen COVID-19 exposure and transmission by providing a paperless and contactless process for signing and e-filing Commission forms.

**II. Clarify the Process for Submitting Written Comments in the Case of a Teleconference Meeting**

Section 1181.10. Commission Meeting Procedures.

*Specific Purpose of the Regulation*

Section 1181.10 of the regulations outline the procedures that govern Commission meetings, including comments made orally or in writing. Subdivision (b)(1) specifies that comments made in writing may be submitted either before or at a Commission meeting, and provides the procedures for doing so.

The proposed amendments would clarify the procedure for the late filing of comments at a commission meeting held by teleconference. Specifically the amendments require the commenter to file a PDF copy of the written comments via the Commission's dropbox at least 24 hours prior to the meeting, and require Commission staff to provide an electronic copy of the late comments to Commission members and post a copy to the Commission's website. The amendments also provide authority for Commission staff to securely share the document with the meeting attendees through the teleconference software.



### *Proposed Changes*

Language is proposed to be added to section 1181.10(b)(1)(C) to clarify the procedure for submitting written comments to be received less than five days prior to a Commission meeting held by teleconference. The proposed changes add that for teleconference meetings, a PDF copy of the comments shall be filed via the Commission’s dropbox 24 hours prior to the meeting. The proposed changes clarify that in the case of a teleconference meeting, Commission staff shall provide an electronic copy of the late-filed comments to the Commission, shall post a copy on the Commission’s website, and may share the comments with the Commission and the public during the teleconference meeting using the “share screen” function.

### *Necessity and Anticipated Benefit*

The additional language is needed to clarify the Commission’s process for late submission of public comments for Commission meetings held by teleconference.

In response to COVID-19 and its impact on public meetings under the Bagley-Keene Open Meeting Act, Governor Newsom's Executive Order N-29-20 and related executive orders permitted expanded use of teleconferencing during the COVID-19 pandemic. As a result, the Commission has met exclusively by teleconference since May 2020. AB 361, which was enacted in September 2021, amended the Bagley-Keene Open Meeting Act to permit state bodies to hold public meetings through teleconferencing, until January 31, 2022. Due to the surge in COVID-19 cases caused by the Omicron variant, Governor Newsom issued Executive Order N-1-22, to extend the option for state bodies to conduct public meetings by teleconference until April 1, 2022.<sup>9</sup>

Currently pending before the Legislature is AB 1733, which would make permanent the option for state bodies, such as the Commission, to hold meetings by teleconference.<sup>10</sup> Regardless of whether this bill becomes law, it is likely that participation in meetings via teleconference will continue in some form into the future and therefore procedures for remote participation are necessary.

The proposed amendments will provide the public with clear instructions for filing late written comments during the five-day period prior to a Commission meeting when participating via teleconference. These changes will also enable staff to more easily review, post, and share public comments with the Commission and meeting attendees, including members of the public.

### **III. Minor, Nonsubstantive Consistency Edits and Corrections**

#### *Specific Purpose of the Regulations*

The following amendments are proposed to improve style and readability and for consistency with the existing regulations.

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<sup>9</sup> Governor’s Executive Order No. N-1-22 (: <https://www.gov.ca.gov/wp-content/uploads/2022/01/1.5.22-Bagley-Keene-waiver-EO.pdf> (accessed February 24, 2022)).

<sup>10</sup> AB 1733 (2021-2022 Reg. Sess.): [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1733](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1733) (accessed February 24, 2022).

### *Proposed Changes*

The proposed amendments make minor, nonsubstantive consistency edits and improve readability in sections 1181.1, 1181.3, 1181.10, 1182.2, 1183.17, 1185.1, 1185.4, 1186.6, and 1187.8 of the regulations.

The proposed amendments add, delete, or update word usage to make all references to the certification, filing, and service requirements under section 1181.3 consistent throughout the regulations (change “shall file and serve” to “shall certify, file, and serve” in 1181.1(c)(2); add “which shall be certified, filed, and served” to 1181.1(c)(5); add “by certifying, filing, and serving them in accordance with 1181.3 of these regulations” to 1181.10(b)(1); remove “with the Commission” from 1182.2(b) and 1183.17(j); change “shall file” to “shall certify, file, and serve” and remove “with the Commission” in 1185.4(b)(4); change “shall be filed with the Commission” to “shall be certified, filed, and served in accordance with section 1183.1 of these regulations” in 1186.6(b); change “filing and serving” to “certifying, filing, and serving” in 1187.8(c); and change “filed and serve” to “certified, filed, and served” in 1187.8(c)).

The proposed amendments add new subparts (A) through (E) to section 1181.3(c)(1), in accordance with the substantive amendments discussed in Section I above, and reletter subparts (A) through (F) to (F) through (K), respectively. New 1181.3(c)(1)(C) is further subdivided into subparts (i) and (ii), to describe the requirements applicable to all e-filed documents other than Commission forms, as discussed in Section I, above.

The proposed amendments eliminate redundancy by consolidating section 1185.1, subdivisions (g) and (h), into subdivision(g) and deleting subdivision (h) as follows:

(g) An incorrect reduction claim, or amendment thereto, and any accompanying documents, shall be certified, filed, and served in accordance with section 1181.3 of these regulations.

~~(h) The claimant shall file the original incorrect reduction claim, or amendment thereto, and accompanying documents with the Commission in accordance with section 1181.3 of these regulations.~~

### *Necessity and Anticipated Benefit*

These changes are clerical or stylistic in nature and are necessary to update usage and improve readability, clarity, and consistency with the Commission’s other regulations.

#### **IV. Update to Reference Citations in Section 1181.3.**

##### Section 1181.3. Certification, Filing, and Service of Written Materials and New Filings.

##### *Specific Purpose of the Regulations*

Section 1181.3(c) provides the procedure for filing and serving new filings and written materials for all Commission matters, both electronically (e-filing) and in hard copy. With limited exceptions, section 1181.3 requires all new filings and written materials to be electronically filed with the Commission via the Commission’s e-filing system, available on the Commission’s website.

The proposed amendments add reference citations for the Uniform Electronic Transactions Act (UETA) (Civ. Code § 1633.1 et seq.) and Government Code section 16.5 to the reference section of section 1181.3. Both UETA and Government Code section 16.5 authorize the use of digital

signatures in written communication with public entities, including state agencies. Civil Code section 1633.2(h) defines “electronic signature” as “an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record,” including a “digital signature” as defined in subdivision (d) of Section 16.5 of the Government Code.” Government Code section 16.5(d) defines “digital signature” as a type of signature under the UETA and “an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.”

The purpose of adding references to the Uniform Electronic Transactions Act and Government Code section 16.5 is to provide the governing statutory authority permitting the use of digital signatures in written communication with state agencies and defining “digital signature” as the term applies to section 1181.3.

#### *Proposed Change*

The proposed amendments to the reference statutes for section 1181.3 add Civil Code sections 1633.1 et seq., which comprise the Uniform Electronic Transactions Act, and Government Code section 16.5.

#### *Necessity and Anticipated Benefit*

In light of the proposed amendments to section 1181.3 (requiring e-filed Commission forms to be digitally signed and clarifying that all other e-filed documents shall include a scanned signature page), the added citations for the Uniform Electronic Transactions Act (Civ. Code § 1633.1 et seq.) and Government Code section 16.5 are necessary to provide a more complete and accurate listing of references.

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

In developing the proposed changes, the Commission relied upon the following documents:

1. State Administrative Manual Management Memo Number 20-07, California Department of General Services: <https://www.dgs.ca.gov/Resources/ManagementMemos> (accessed January 27, 2022); and
2. State Administrative Manual, Section 1734, California Department of General Services: <https://www.dgs.ca.gov/Resources/SAM/TOC/1700/1734> (accessed February 8, 2022).

The Commission also relied upon the statutes and cases cited in the authority and reference sections for the regulations.

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

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

The regulations are designed to increase clarity for local governments, school districts, state agencies, and other interested parties and persons who participate in the Commission's processes, and to make minor technical corrections. No jobs in California will be created or eliminated as a result of these regulations.

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 nor will existing businesses be 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 regulations are designed to increase clarity and accessibility for local governments, school districts, state agencies, and other interested parties and persons who participate in the Commission's processes, and to make minor technical corrections. These regulations may indirectly benefit the health and welfare of California residents by clarifying participation in the Commission's processes, which increases openness and transparency in government.

**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.

**MANAGEMENT MEMO**

NUMBER:

20 - 07

EFFECTIVE DATE:

December 24, 2020

## SUBJECT:

ELECTRONIC SIGNATURES, ELECTRONIC TRANSACTIONS AND ELECTRONIC RECORD MANAGEMENT FOR STATE FORMS

## ISSUING AGENCY:

DEPARTMENT OF GENERAL SERVICES

## REFERENCES:

State Contracting Manual (SCM); California State Records and Information Management (CalRIM); State Administrative Manual (SAM) 1600 et seq; Uniform Electronic Transactions Act (California Civil Code (CIV) § 1633.1-1633.17); AB 2296; California Code of Regulations, Title 2, § 22003(a)(6)(B); Government Code § 16.5(b)

## SUPERCEDES:

Intended Audience State Forms Management Representatives, Deputy Directors, Department Directors

## Purpose

This policy requires all forms that are designed to be completed by internal or external customers (public or private sector entities) conducting business with the State of California, whether standard (STD) or agency forms, are available in an electronic format. Agencies shall use electronic signatures (hereafter “e-Signatures” or “e-Sign”) in place of a wet signature unless prohibited by law.

This policy identifies the permissible types of e-Signatures, electronic transactions, and electronic records (hereafter “e-Records”) when utilizing forms for state business.

## Scope

This policy applies to all business processes conducted using forms managed by Forms Management Center (FMC) including STD forms and agency business-use forms. This policy enables state agency staff to conduct transactions electronically, to accept e-Signatures by other parties, and to sign agreements on the agency’s behalf by using an e-Signature. This policy does not waive or modify any requirement or limitation as to which officers and employees are authorized to bind their agency to a contract.

This policy does not affect a state agency’s right or obligation to have forms be provided or made available in alternate formats when required by applicable policies, laws, or regulations.

# MANAGEMENT MEMO

NUMBER:

20 - 07

EFFECTIVE DATE:

December 24, 2020

**Background** California adopted the Uniform Electronic Transactions Act (California Civil Code § 1633.1-1633.17), which establishes the legal validity of e-Signatures and contracts in a manner similar to the federal law, Electronic Signatures in Global and National Commerce Act. Please refer to SAM 1734 for additional e-Signature background.

**Policy** State agencies shall ensure all forms are digitally available and can accept e-Signatures. When an electronic form is transmitted to a state agency, the chain of approval of all those required to sign that document must be clear and unambiguous. All parties required to sign must have unequivocally approved the same document.

**Agency Responsibilities** When implementing the use of e-Signatures, agencies shall:

- Implement an e-Signature policy by June 1, 2021;
- Implement confidentiality procedures to address accurate identification, authentication, authorization, and accountability by June 1, 2021;
- Implement integrity procedures to address non-repudiation by June 1, 2021;
- Maintain an e-Record management procedure to ensure electronic form storage and availability by June 1, 2021;
- Ensure processes and technologies are in place to accept the use of e-Signatures on state standard (STD) forms by September 1, 2021;
- Format agency forms requiring signatures to accept e-Signatures by January 1, 2022.

**Contact** Forms Management Center  
Administration Division  
FormsManagement@dgs.ca.gov

**Signature** *Brent J. Jamison*  
[Brent J. Jamison \(Dec 24, 2020 10:14 PST\)](#)  
Brent Jamison, Deputy Director  
Department of General Services

1. [SAM](#)
2. [TOC](#)
3. [1700](#)
4. [1734](#)

# ELECTRONIC SIGNATURES, ELECTRONIC TRANSACTIONS AND ELECTRONIC RECORD MANAGEMENT FOR STATE FORMS - 1734

Print Section

(Revised: 03/2021)

## Purpose

This policy requires all forms that are designed to be completed by internal or external customers (public or private sector entities) conducting business with the State of California, whether standard (STD) or agency forms, are available in an electronic format. Agencies shall use electronic signatures (hereafter “e-Signatures” or “e-Sign”) in place of a wet signature unless prohibited by law.

This policy identifies the permissible types of e-Signatures, electronic transactions, and electronic records (hereafter “e-Records”) when utilizing forms for state business.

## Scope

This policy applies to all business processes conducted using forms managed by Forms Management Center (FMC) including STD forms and agency business-use forms. This policy enables state agency staff to conduct transactions electronically, to accept e-Signatures by other parties, and to sign agreements on the agency’s behalf by using an e-Signature. This policy does not waive or modify any requirement or limitation as to which officers and employees are authorized to bind their agency to a contract.

This policy does not affect a state agency’s right or obligation to have forms be provided or made available in alternate formats when required by applicable policies, laws, or regulations.

## Background

Federal legislation known as the Electronic Signatures in Global and National Commerce Act made both electronic contracts and e-Signatures as legal and enforceable, with some exceptions, as traditional paper contracts and forms signed in person.

Following the federal government’s lead, California adopted the Uniform Electronic Transactions Act (California Civil Code § 1633.1-1633.17), which establishes the legal validity of e-Signatures and contracts in a manner similar to the federal law.

California law was revised to make clear that the state is authorized to use any type of e-Signature. See AB 2296 (Chapter 144, Statutes of 2016), effective 1/1/17.

## Policy

State agencies shall ensure all forms are digitally available and can accept e-Signatures. When an electronic form is transmitted to a state agency, the chain of approval of all those required to sign that document must be clear and unambiguous. All parties required to sign must have unequivocally approved the same document.

## Agency Responsibilities

When implementing the use of e-Signatures, agencies shall:

- Implement an e-Signature policy;
- Implement confidentiality procedures to address accurate identification, authentication, authorization, and accountability;
- Implement integrity procedures to address non-repudiation;
- Maintain an e-Record management procedure to ensure electronic form storage and availability;
- Ensure processes and technologies are in place to accept and enable the use of e-Signatures;
- Format forms requiring signatures to accept e-Signatures.

The Department of General Services (DGS) and FMC permit the use of the following e-Signatures, transactions and record management activities in conducting state business with STD or Agency forms:

- **Electronic Signatures:** State agencies may accept permissible types of e-Signatures from all parties as legally binding and equivalent to handwritten signatures to signify an agreement. Each type of e-Signature will include the date the document was signed. Where state or federal laws, regulations, or rules require a handwritten signature, that requirement is met if the document contains an e-Signature unless otherwise prohibited by policies, laws, or regulations. Electronic forms must clearly and unambiguously show the chain of approval of all parties required to sign that document.
- **Electronic Transactions:** State business operations utilizing forms can now be completed electronically. In some cases, state agencies may have a legal obligation to collect a wet signature. In such cases, some forms will still need to be submitted to the agency in paper format. These

requirements may change over time as technology adoption is implemented into policy.

- **Record Management:** An e-Record may serve as the official copy of a business-related document. All relevant records, including e-Records, shall be maintained in a reliable recordkeeping system. Business conducted by electronic means shall be fully documented to meet recordkeeping requirements. Records shall be retained or disposed of in accordance with the approved records retention schedules stated in California State Records and Information Management (CalRIM) as supported by the State Contracting Manual (SCM) and the State Administrative Manual (SAM) 1600 *et seq.*

### **Types of E-Signatures Permitted for Use on State and Agency Forms by State Agencies**

Only the following types of e-Signatures (further defined in SAM 1710) can be used on forms by state agencies.

- Name Typed or Stamped
- Recorded Voice
- Personal Identification Number (PIN) or Password
- Digitized Image of Handwritten Signature
- Digital Signature

A form needs to include a statement confirming agreement (for example: “I confirm”, “I agree”, or “I accept”) that is tied to the e-Signature to create a binding electronic record. Most state and agency forms already include this language above the signature block.

## **Revisions**

- [ELECTRONIC SIGNATURES, ELECTRONIC TRANSACTIONS AND ELECTRONIC RECORD MANAGEMENT FOR STATE FORMS - 12/2020](#)