

ITEM 6
PUBLIC HEARING ON PROPOSED REGULATION AMENDMENTS
GENERAL CLEANUP PROVISIONS

PROPOSED AMENDMENTS TO
CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5
ARTICLES 1, 2, 3, 4, 5, 6, 7, 8, AND 10

SECTIONS 1181.2 THROUGH 1181.3; 1182.2; 1182.7; 1182.9; 1182.10; 1182.15;
1183.1 THROUGH 1183.4; 1183.6; 1183.8 THROUGH 1183.13; 1183.15 THROUGH 1183.17;
1184.1; 1185.1 THROUGH 1185.3; 1185.7; 1185.8; 1186.2; 1186.4; 1187.5; 1187.8; 1187.9;
1187.12; 1187.14; 1187.15; 1190.1 THROUGH 1190.3; 1190.5

EXECUTIVE SUMMARY

At its regular meeting on May 26, 2017, the Commission adopted Order No. 17-01 to institute rulemaking proceedings in accordance with Government Code sections 11346.2, 11346.4, 11346.8, and 11346.9. The purpose of this rulemaking is to: (1) clarify and streamline Commission on State Mandates (Commission) regulations; (2) update language for consistency; (3) clarify the definition of interested person; (4) clarify the certification and signature requirements for documents filed with the Commission; (5) clarify the requirements to e-file documents in a searchable PDF format and include an original signature; (6) clarify the period of limitation for filing a test claim consistent with the statutory scheme; (7) clarify the requirement for a single claimant representative for joint test claim filings; (8) clarify the requirements for filing a proposed amendment to parameters and guidelines consistent with changes to the Government Code; (9) clarify evidence submission requirements; (10) clarify that the same certification and filing requirements apply to all new filings and written materials; (11) update authority and reference citations; and (12) update punctuation for consistency throughout the regulations.

The proposed regulatory text was made available to the public for 45 days from June 9, 2017 through the end of the written comment period on July 24, 2017. To date, no written comments have been received on the proposed regulatory action.

In addition, the Administrative Procedures Act (APA) provides that if an agency does not schedule a public hearing on a proposed rulemaking action, any interested person may request a hearing if such request is made in writing within 15 days of the close of the written comment period. If a timely request for hearing is made, the APA requires the agency to conduct a hearing and to provide reasonable notice of the hearing to the public.¹ If a public hearing is held, the agency must accept both written and oral comments at the hearing.² The public hearing for a rulemaking is intended to provide the public with an opportunity to voice opinions on the

¹ Government Code section 11346.5(a)(17).

² Government Code section 11346.8(a).

rulemaking. Agencies, however, are not required to provide a response to comments at the public hearing.³ Instead, all comments must be included in the rulemaking record, and the agency is required to prepare written responses to the comments, including those made at a public hearing, as part of the final statement of reasons.⁴

In addition, when determining how to respond to a comment, the Commission may reject the comment and explain the reason for making no change to accommodate the comment, or accept the comment and modify the proposed regulatory language. If the Commission wants to modify the proposed regulatory language and the modification is substantive, the Commission will be required to issue the full text of the proposed regulation, as modified, to the public for 15 days prior to the adoption, amendment, or repeal of the regulation, and allow for further public comment on the modified text.⁵ Finally, if a comment made at a public hearing raises a new issue concerning a proposed regulation and a member of the public requests additional time to respond to the new issue before the state agency takes final action, it is the intent of the Legislature that rulemaking agencies consider granting the request for additional time if, under the circumstances, granting the request is practical and does not unduly delay action on the regulation.⁶

In this case, the notice of proposed rulemaking indicated that the Commission had not scheduled a public hearing, but if the Commission 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, the Commission will conduct a public hearing on the proposed regulatory action at its regularly scheduled hearing on July 28, 2017. On July 7, 2017, the California State Association of Counties (CSAC) filed a request for a public hearing as follows:

The California State Association of Counties (CSAC) respectfully requests a public hearing on the action to adopt proposed amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Articles 1, 2, 3, 4, 5, 6, 7, 8, and 10. Written comments will be forthcoming.

CSAC has not yet filed any written comments on the proposed regulatory action.

Staff Recommendation

Therefore, staff recommends that the Commission:

- Take public comment on this regulatory package. As indicated above, agencies are not required to provide a response to comments at the public hearing. However, staff will be available to answer any questions the Commission members may have on the proposed regulatory action.
- Direct staff to take the comments submitted and prepare a written response to comments and a recommendation to the Commission on whether to reject the comments or to accept

³ Exhibit E, Excerpt from Guide to Public Participation in the Regulatory Process, Office of Administrative Law: <https://www.oal.ca.gov/wp-content/uploads/sites/28/2017/05/How-2-Participate-102016.pdf> (accessed on July 12, 2017).

⁴ Government Code sections 11346.9(a), 11347.3(b)(6).

⁵ Government Code section 11346.8(c).

⁶ Government Code section 11346.8(e).

the comments, in whole or in part, and propose any changes to the proposed regulatory text.

If staff recommends that the Commission reject the comments and adopt the proposed regulatory text as originally approved, the proposed regulatory action, including written responses to all comments received, will be placed on the Commission's September 22, 2017 agenda for final adoption and the regulation package will retain its January 1, 2018 effective date.

If staff recommends changes to the proposed regulatory text based upon the comments received, staff will prepare the proposed modified text for the Commission's consideration at the September 22, 2017 Commission meeting. If the Commission approves any substantive textual changes, the revised text will be issued for an additional 15-day comment period. The proposed regulatory action, including written responses to all comments received, will then be brought before the Commission for adoption at the December 1, 2017 Commission meeting, and the effective date of the regulatory package will be April 1, 2018.