

**OFFICE OF ADMINISTRATIVE LAW**

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**DEBRA M. CORNEZ**  
Director



November 1, 2015

The Honorable Isadore Hall, III  
Chair  
Senate Committee on Governmental Organization  
1020 N Street, Suite 584  
Sacramento, CA 95814

The Honorable Adam Gray  
Chair  
Assembly Committee on Governmental Organization  
1020 N Street, Suite 156  
Sacramento, CA 95814

Dear Committee Members:

On or before November 1, 2015, the Office of Administrative Law (OAL) is required to submit to the Senate and Assembly Committees on Governmental Organization a report describing the extent to which standardized regulatory impact analyses for proposed major regulations comply with Department of Finance (Finance) regulations that were adopted to implement Senate Bill 617 (Stats. 2011, c. 496). Because Finance enforces and administers the regulations, and thus, plays a main role ensuring major regulations comply with requirements established in the regulations and the Administrative Procedure Act, along with OAL, this report is jointly prepared and submitted by OAL and Finance.

Government Code section 11342.548 defines “major regulation” as meaning “any proposed adoption, amendment, or repeal of a regulation subject to review by the Office of Administrative Law pursuant to Article 6 (commencing with Section 11349) that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000), as estimated by the agency.”

**Summary**

Senate Bill 617 (Stats. of 2011, c. 496; hereafter referred to as SB 617) established additional regulatory impact assessment standards for major regulations proposed by state agencies, revised the duties of OAL with respect to such regulations, and directed Finance to promulgate regulations to implement the requirements in SB 617. A state agency must conduct a Standardized Regulatory Impact Assessment (SRIA) and submit it to Finance when it estimates that a proposed regulation

has an economic impact exceeding \$50 million. Finance is required to review the SRIA and provide comment(s) to the agency on the extent the agency's assessment adheres to the regulations adopted by Finance.

The agency prepares a summary of Finance's comments, and any response to Finance's comments. The summary and any response must be included as part of the agency's notice of proposed action submitted to OAL for the purpose of publishing the agency's notice in the California Regulatory Notice Register (Notice Register). The SRIA is included as part of the agency's initial statement of reasons (ISOR). The ISOR with the SRIA is also required to be submitted to OAL at the same time the agency's notice is submitted to OAL.

On October 29, 2013, Finance's regulations concerning major regulations and Standardized Regulatory Impact Assessments were approved by OAL and filed with the Secretary of State. (Cal. Code Regs., tit. 1, secs. 2000-2004.) The regulations became effective on November 1, 2013. Some minor modifications to the regulations were approved by OAL and filed with the Secretary of State on November 21, 2013. The effective date of these regulations was December 1, 2013.

As of October 1, 2015, 16 SRIAs have been reviewed by Finance, and submitted along with notices of proposed action to OAL. Of those 16 SRIAs, two SRIAs were resubmitted and two of the regulatory proposals for which SRIAs were submitted turned out not to be major regulations. Of the remaining 12 SRIAs, nine followed the timeline and procedures established in Finance's regulations, and three required alternate compliance arrangements. The 12 "major regulation" actions identified since November 1, 2013 represent 1.6 percent of the 770 proposed regulatory actions reviewed by OAL, and 5.1 percent of the 240 proposed regulatory actions submitted to Finance for review and signature because they had fiscal impacts.

This report describes how Finance regulations implement SB 617, discusses the SRIAs submitted for comment and how well they adhered to Finance requirements, and explains how the SRIAs fit into the existing OAL review process. This report concludes with a short section on areas where agencies can improve, as well as some additional support activities by OAL and Finance. As the program is working well under the current statutory requirements, OAL and Finance do not suggest any changes to the underlying laws.

### **An Overview of Finance Regulations**

As required by SB 617, Finance (in consultation with OAL and other state agencies) adopted regulations on methodologies to be used by a state agency for assessing the economic impact of proposed major regulations. The regulations specify the requirements an agency is to use to assess:

- 1) The creation or elimination of jobs within the state,
- 2) The creation of new businesses or the elimination of existing businesses within the state,
- 3) The competitive advantages or disadvantages for businesses currently doing business within the state,
- 4) The increase or decrease of investment in the state,
- 5) The incentives for innovation in products, materials, or processes, and
- 6) The benefits of the regulations, including, but not limited to, benefits to the health, safety and

welfare of California residents, worker safety, and the state environment and quality of life among any other benefits identified by the agency.

Finance was authorized to prescribe the manner in which an agency would prepare a SRIA, and was specifically directed to assist an agency in specifying the methodologies for:

- 1) Assessing and determining benefits and costs, including nonmonetary benefits,
- 2) Comparing proposed regulatory alternatives with an established baseline,
- 3) Determining the regulatory impact on the state economy, businesses, and public welfare,
- 4) Assessing fiscal effects on the General Fund and special funds and affected local government,
- 5) Determining cost of enforcement and compliance to the agency and affected businesses and individuals, and
- 6) Determining whether a proposed regulation meets the definition of “major regulation” in accordance with Government Code section 11342.548.

When developing its regulations, Finance had to make several key decisions. First, Finance had to define economic impact. Since the statute referenced both costs and benefits, the overall goal was to provide an even-handed overview of the economic impact as a result of the regulations. Finance’s regulation defines “economic impact” to be total economic costs or total economic benefits. Finance structured its definition to avoid understating the economic impact (using a net of costs minus benefits) or double-counting by adding costs to benefits (since many costs to one party are a benefit to another). One interesting consequence of this definition is that agencies now must explain benefits of proposed regulations, whereas before they may have taken a narrower perspective and concentrated primarily on the costs.

Second, Finance had to determine how the \$50 million threshold should be calculated. In particular, over what time period should the impact be calculated? If the time period was over the lifetime of the regulation, then given the size of the California economy, almost all regulations would qualify. Thus, a \$50 million impact in one year was chosen. Finance also chose to limit the timeframe for analysis to the phase-in period and one year of full implementation of the proposed regulation, thereby covering both situations where the main effect of a regulation is to impose large up-front impacts and situations where there are ongoing impacts.

Third, Finance defined technical methodologies for baselines, standards for statistical packages, and requirements for assessing alternatives. Most of these are written as broadly as possible because they will be used in widely disparate situations. For example, the issues to be discussed with respect to compost regulations will be very different from those the public should be informed about with respect to healthcare network adequacy.

Fourth, Finance specified timelines for submission of SRIAs, as well as logistics for notification. As Finance is required to respond within 30 days, and agencies need time to respond and revise SRIAs, the default timeline for submission was set at 90 days before a Notice of Proposed Action is filed with OAL. Much like the required yearly Rulemaking Calendar containing proposed regulatory actions is to be submitted to OAL, departments are required to submit to Finance a calendar of anticipated major regulations in February for that calendar year, and to submit updates as new information becomes available. This serves both to inform the public about what to expect,

and help manage Finance's workload. If a major regulation is listed in the calendar, the agency is required to submit the SRIA to Finance 60 days before filing a Notice of Proposed Action with OAL, or within 90 days if the major regulation is not listed in the calendar.

Finally, Finance also committed to several steps to increase transparency. A summary of the SRIA must also be submitted, which Finance is required to post on its website within 10 days of receipt of the SRIA. Finance must share the SRIA with the Governor's Office on Business and Economic Development (GO-Biz) within the same timeframe. In practice, Finance has published not just the summary SRIA form on its website, but also the full SRIA, Finance comments, and any response by the agency (including revised SRIAs). Finance's comments are also sent to GO-Biz and OAL when issued to the agency.

### **Educational Efforts Undertaken by OAL and Finance**

Because the SRIA regulations represented a change from standard practice in some instances, OAL and Finance conducted extensive outreach to agencies. A new module in OAL's three-day training course on the rulemaking process was added to cover major regulations and explain how to calculate economic impacts of regulations. Finance issued budget letters outlining the new procedures on December 26, 2013, and informally reached out to agencies through budget contacts.

While the identification of a regulation as major is made by an agency, Finance monitors the Notice Register published every Friday for potentially misidentified regulations. This proved valuable in several instances, as it has permitted Finance to identify potential major regulations from agencies such as the California Department of Insurance, the Department of Industrial Relations, and the California Department of Transportation, as described below. When this occurs, Finance, OAL and the agency agree on how to make the SRIA available to the public for comment.

Finance has also offered extensive pre-consultation meetings to agencies to discuss the impacts of proposed regulations. With the new definitions, technical staff in agencies must take a different perspective when documenting their decision-making processes, and they have appreciated walking through the details for preparing an economic impact analysis. For example, it appears that many agencies have more practice in quantifying costs than in quantifying benefits. Many agencies also consult with stakeholders to get a sense of how difficult changes may be, or whether there are more efficient ways of setting standards. Oftentimes the regulated entities are relatively few in number, while the beneficiaries encompass all Californians. It is much easier to survey and consult with five businesses than it is with more than 38 million individuals. When this is the case, Finance encourages agencies to use what publicly available information there is, such as health or environmental impacts, and to at least offer calculations that can inform the public. This allows the public to comment and offer specific information where there may be gaps in the available data.

These pre-consultations have also allowed a number of agencies to determine that their proposed regulations would not have impacts exceeding \$50 million in one year. However, by discussing the various impacts that would arise, it allows the agency to have a better understanding for writing the Economic Impact Assessment required of all regulations.

Finally, Finance has also stepped up monitoring of STD. 399s. Previously, the focus was on the fiscal impact of proposed regulations. Now that the Economic Research Unit is tracking all STD.

399s submitted, it is possible to catch forms where the economic impacts may have been incorrectly identified. When this happens, the agency is contacted so that the final STD. 399 can accurately reflect the economic impacts.

### **Standardized Regulatory Impact Assessments Reviewed by Finance**

While the quality of analysis performed by agencies still has room for improvement, the SRIAs generally meet the standards established by Finance. Most of Finance's comments centered on areas that would have benefited from additional discussion, but there were some instances where required elements were omitted. The SRIAs are discussed in the order they were received.

1. Mental Health Parity Regulations, California Department of Insurance, January 2014. These proposed regulations were aimed at implementing the requirement under the Affordable Care Act that mental health coverage be comparable to physical health coverage, specifically with respect to autism treatments. This additional coverage would slightly raise costs for insurance companies, passed through to consumers in the form of higher premiums, but would greatly benefit autistic children receiving treatment, their families, and affected public agencies. The proposed regulations and associated materials were already made available for public comment when Finance became aware that the total economic benefits exceeded \$50 million, and notified both the Department of Insurance and OAL. The Department of Insurance had included a relatively robust Economic Impact Assessment in the associated materials; therefore, the department's economists prepared an addendum. This was completed in time for Finance's comment letter to be submitted during the public comment period. The resulting SRIA fulfilled the requirements, although Finance made a number of suggested improvements. The public was given the opportunity to comment on the SRIA, a summary of Finance's comments, and the department's response (the required elements for submitting the proposed action to OAL) in a subsequent public comment period.
2. Amendments to Truck and Bus Regulations, Air Resources Board (ARB), February 2014. The proposed regulations were very close to being submitted to OAL when ARB realized the amendments would save regulated trucking businesses an estimated \$621 million in 2015 by extending the phase-in period for new equipment, and thus, would require a SRIA. To prevent delays, Finance and GO-Biz expedited their reviews, and ARB was able to include the required elements in its submission to OAL. While the SRIA had included all the requirements, Finance had suggested including more information on health benefits and some presentational changes. ARB incorporated those suggestions into the version made available for public comment.
3. Compostable Materials Regulations, CalRecycle, July 2014. This was the first SRIA handled on a regular timeline, and CalRecycle consulted with Finance on modeling issues before submission to OAL. The proposed regulations set new standards for composting, and would impose costs to commercial composters potentially exceeding \$50 million starting in 2015. The benefits to the environment and individuals were not able to be quantified, but the proposed regulations would allow California to divert more solid waste from landfills, in line with existing goals for 2020. The SRIA did cover the requirements, but Finance commented that the creation of jobs seems counterintuitive given the additional regulatory costs. CalRecycle included a revised SRIA, and a summary of Finance's comments in their submission to OAL.

4. California Competes Tax Credit, GO-Biz, August 2014. The proposed regulations set the methodology for choosing the recipients of tax credit funds allocated by statute. The discretion given to GO-Biz to set criteria to determine who would receive the \$750 million in tax credits over several years triggered economic impacts. Finance consulted extensively with GO-Biz about how to model the impacts, and the resulting SRIA fulfilled the requirements. The only suggestion by Finance was to check whether the impacts from the first round of funding matched the SRIA assumptions.
5. Return-to-Work Program Regulations, Department of Industrial Relations, October 2014. Much like the proposed California Competes regulations, the proposed Return-to-Work regulations set the criteria for allocating a pre-determined \$120 million per year to permanently injured workers. DIR had done extensive studies to determine the best design of the regulations, focusing on the tradeoff between more stringent checks that would result in fewer beneficiaries for more money, or a more streamlined process that would quickly help qualifying workers. As there are already existing checks in place that DIR could leverage, the proposed regulations opted for a more streamlined process. While the resulting SRIA met the requirements, Finance provided extensive consultations with agency staff, as there were no agency economists. The process also started a closer engagement with respect to pending regulations, and this has been very helpful to both Finance and DIR. The eventual rulemaking package included the required SRIA elements in the submission to OAL.
6. Used Mattress Recovery and Recycling, CalRecycle, October 2014. After analyzing the economic impacts of the proposed regulation, CalRecycle and Finance agreed that there were no impacts exceeding \$50 million during the time period prescribed by Finance's regulations. However, as the SRIA was almost complete, it was made available for public comment. Finance suggested that more narrative be included about how the mattress recycling organizations would work, in addition to some modifications to the modeling strategy.
7. Low-Carbon Fuel Standards and Alternative Diesel Fuel, ARB, October 2014. Although these are two separate proposed regulatory actions, the issues are very similar. As an aid to the public, Finance and ARB agreed that one SRIA would be submitted, with one background section and the required elements for both sets of regulations. The proposed low-carbon fuel regulations set out standards that manufacturers of transportation fuels must meet by 2020, and the proposed alternative diesel fuel regulations set standards to allow for a greater supply of conventional diesel substitutes. The alternative diesel fuel proposed regulations were later determined not to have impacts exceeding \$50 million in one year. The SRIA met the requirements, but Finance suggested including how the impacts would change if there were credit price volatility, and additional information on fiscal impacts. ARB revised the SRIA, and included that in its submission to OAL.
8. Non-lead Hunting Ammunition, Fish and Game Commission, November 2014. After analyzing the economic impacts of the proposed regulation, the Fish and Game Commission and Finance agreed that there were no impacts to the hunting industry or hunters exceeding \$50 million during the time period prescribed by Finance's regulations. As the SRIA was already complete, it was submitted and Finance suggested some modifications to modeling choices and including information about shortages of non-lead ammunition. The information from the SRIA was later

included in the submission to OAL as the required Economic Impact Analysis.

9. Appliance Efficiency, California Energy Commission, December 2014. The Energy Commission periodically updates appliance efficiency standards based on consultations with stakeholders about what would be technically feasible and have the greatest benefit. These proposed regulations set standards for toilets, urinals, faucets, dimming ballasts, air filters, heat pumps, and water-chilling packages, and the increased costs of fixtures would be more than offset by savings of water and energy. For example, it was estimated that savings to commercial and residential users in 2016 would total \$106 million. Finance commented that the SRIA did not meet several requirements, such as a description of the baseline, separate modeling of costs and benefits (which were presented as net numbers), and a discussion of alternatives. The Energy Commission revised the SRIA incorporating these comments in its submission to OAL.
10. Affordable Sales Program, Caltrans, December 2014, resubmitted March 2015. The proposed regulations set out procedures for selling properties purchased decades ago for the construction of the 710 connector freeway in Southern California. The proposed regulations had already been made available for public comment when Finance saw them and notified Caltrans the economic impacts would exceed \$50 million in one year given the fair market value of over \$300 million of the properties to be sold and the discretion Caltrans would have to exercise in the conditions for sale. As the agency would need some time to complete the SRIA, Finance sent a letter during the public comment period noting that it would review the SRIA once it was submitted to Finance. After Finance reviewed and commented upon the SRIA, Caltrans provided an additional comment period to allow the public to review and comment upon the SRIA, a summary of Finance's comments, and Caltrans' response, as these materials should have been available during the initial public comment period. The regulatory file was later withdrawn. Caltrans subsequently revised the proposed regulations and submitted a new Notice of Proposed Action to OAL with the old SRIA, the summary of Finance's comments, and Caltrans' response. Unfortunately, Caltrans did not realize that the new proposed regulations would require a new SRIA, despite making significant changes to the proposed regulations that would change the economic impacts. After Finance notified Caltrans, a new SRIA was sent to Finance for comment, and that SRIA, a summary of Finance's comments, and Caltrans' response were made available during an additional comment period.
11. Oil and Gas Regulation, ARB, February 2015, resubmitted April 2015. The proposed regulations established new standards for oil and gas wells to minimize emissions during production that resulted in additional costs to industry while reducing greenhouse gas emissions. After submitting a SRIA to Finance for comment, ARB notified Finance that it was withdrawing the SRIA, as the proposed regulations (and their impacts) were expected to change. A subsequent SRIA covered the required elements, and Finance only suggested including additional information about geographic distribution of impacts if available. The SRIA, a summary of Finance's comments, and ARB's response were included in the submission to OAL.
12. ZEV Credit Amendment, ARB, June 2015. The proposed amendment clarified the terms under which manufacturers of cars could generate incentive credits under the zero-emission vehicle program. Given the prevailing credit price and the potential number of credits affected, the impact on the market for credits would have exceeded \$50 million in the year under

consideration. The resulting SRIA covered all the required elements. Finance additionally suggested discussing the impact on the market if more credits than assumed were affected. The SRIA, a summary of Finance comments, and ARB response were included in the submission to OAL.

13. Network Adequacy, California Department of Insurance, July 2015. The proposed regulation sets standards for health insurers to show that their coverage networks are adequate to serve their customers. The central tradeoff is that if there are too few providers in an area, a customer faces a choice between paying a higher cost for out-of-network service, or waiting or traveling for in-network service. Increasing the number of providers in an area raises costs for the insurer, but these costs will be passed on to consumers in higher premiums. All consumers will pay higher premiums, healthcare providers will gain from participating in more networks (a cost to insurers that would yield total economic costs exceeding \$50 million), and consumers that would have faced out-of-network prices will pay lower out-of-pocket costs. The SRIA submitted was missing the impact on healthcare providers, and Finance additionally suggested including geographic impacts where available (such as where networks are known to have too few providers). The SRIA, a summary of Finance comments, and the department’s response were included in the department’s submission to OAL.
  
14. LED Efficiency, California Energy Commission, August 2015. The proposed regulations established standards for certain types of lightbulbs used in residential and commercial settings, to be phased in through 2017. While this will raise initial costs, the energy savings are expected to be substantial, and total more than \$300 million in 2018. The SRIA omitted the required discussion of impacts on the creation or destruction of businesses in California, as well as the fiscal impact. Finance additionally suggested including discussion of the health benefits of the new regulations. The SRIA, a summary of Finance's comments, and the Energy Commission's response were included in the commission’s submission to OAL.

For each SRIA that met the major regulation threshold, Table 1 shows when a SRIA was submitted, and whether a SRIA had all the required elements in Finance regulations.

**Table 1: SRIA Submissions for Major Regulation**

SRIA	SRIA Submission			Required SRIA Elements	
	On Time	Expedited	During Public Comment Period	Complete	Incomplete
Mental Health Parity, Department of Insurance			✓	✓	
Truck and Bus, Air Resources Board		✓		✓	
Compostable Materials, CalRecycle	✓			✓	
CA Competes Tax Credit, GO-Biz	✓			✓	
Return to Work Program, Dept. of Industrial Relations	✓			✓	
LCFS and ADF, Air Resources Board	✓			✓*	
Appliance Efficiency, Energy Commission	✓			✓*	
Affordable Sales Program, CalTrans			✓		✓
Oil and Gas, Air Resources Board	✓			✓	
ZEV Credit Amendment, Air Resources Board	✓			✓	
Network Adequacy, Department of Insurance	✓			✓*	
LED Efficiency, Energy Commission	✓				✓

LCFS = Low Carbon Fuel Standards; ADF = Alternative Diesel Fuel

✓\* = SRIA did not include fiscal costs

## **Recommendations**

As part of the preparation for this report, OAL and Finance sought stakeholders' feedback on the program to date through an informal discussion with stakeholders and an online survey. Around 40 people commented. Although there was not consensus on any specific changes needed, most parties agreed that the program is still in the preliminary stages in terms of how agencies and stakeholders use the SRIA process. However, most parties were also optimistic that the program would continue to develop, and would be a useful part of the rulemaking process. After consideration of all the feedback received, OAL and Finance have no recommended statutory changes to the program. OAL and Finance expect the next few years will see continued improvements in the quality and usefulness of preparing an economic analysis.

To date, there were only a couple of instances where public comments referenced a SRIA. However, as stakeholders become more aware of the process, the additional transparency provided by SRIAs could well be a benefit as the reviews continue. The program can only work if stakeholders use the information in SRIAs as a starting point to communicate concerns regarding proposed regulations to agencies.

Currently, many departments do not have economists to prepare SRIAs. Translating technical knowledge of the regulated community and likely impacts into an economic model can be challenging. For those departments that only occasionally prepare SRIAs, consultations with and support from Finance or contracting with economic consultants can bridge the technical gap. For those departments that prepare many SRIAs, dedicated economists have been valuable.

OAL and Finance plan to continue outreach efforts to agencies, along with scheduled training opportunities. While it is at the discretion of an agency whether to request assistance before submitting a SRIA, past experience has shown that prior consultation with Finance can limit the number of issues to be addressed during review. This can also speed up the review process, as Finance will be aware of the main tradeoffs in the proposed regulations and the agency will be more aware of the requirements.

Sincerely,



Debra M. Cornez  
Director of the Office of Administrative Law



Michael Cohen  
Director of the Department of Finance

## **Appendices**

SB 617

Finance Regulations

cc: Senator Tom Berryhill, Vice-Chair, Senate Committee on Governmental Organization  
Assembly Member Eric Linder, Vice-Chair, Assembly Committee on Governmental Organization  
Arthur Terzakis, Staff Director, Senate Committee on Governmental Organization  
Eric Johnson, Chief Consultant, Assembly Committee on Governmental Organization  
Richard Paul, Policy Consultant, Senate Republican Caucus  
Jared Yoshiki, Policy Consultant, Assembly Republican Caucus  
Irena Asmundson, Chief Economist, Department of Finance  
Panorea Avdis, Chief Deputy Director, Governor's Office of Business and Economic Development

**Senate Bill No. 617**

**CHAPTER 496**

An act to amend Sections 11346.2, 11346.3, 11346.5, 11346.9, 11347.3, 11349.1, 13401, 13402, 13403, 13404, 13405, 13406, and 13407 of, and to add Sections 11342.548, 11346.36, and 11349.1.5 to, the Government Code, relating to state government.

[Approved by Governor October 5, 2011. Filed with  
Secretary of State October 6, 2011.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 617, Calderon. State government: financial and administrative accountability.

(1) The Administrative Procedure Act governs the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law establishes procedures for notifying interested persons of the proposed adoption, amendment, or repeal of a regulation. Existing law establishes procedures a state agency is required to use to make a determination of whether a proposed administrative regulation or proposed amendment to an administrative regulation has the potential for significant, statewide adverse economic impact directly affecting California business enterprises.

This bill would revise various provisions of the act with respect to the duties of the Office of Administrative Law and state agencies in the adoption, amendment, or repeal of regulations. The bill would also require each state agency to prepare a standardized regulatory impact analysis, as specified, with respect to the adoption, amendment, or repeal of a major regulation, as defined, that is proposed on or after November 1, 2013. The bill would require that the agency submit the analysis to the Department of Finance for review and comments, as specified, which would be required to be included with the notice of proposed action.

This bill would require the Department of Finance, in consultation with other state entities, to adopt regulations for conducting the standardized regulatory impact analyses, as specified, to be utilized by state agencies when promulgating major regulations pursuant to the act, and, in particular, in developing the standardized regulatory impact analysis. The bill would require, on or before November 1, 2013, the department to submit these adopted regulations to the Senate and Assembly Committees on Governmental Organization and publish the adopted regulations in the State Administrative Manual.

(2) The Financial Integrity and State Manager's Accountability Act of 1983 provides that state agency heads are responsible for the establishment

and maintenance of a system or systems of internal accounting and administrative control within their agencies, as specified.

This bill would require that effective, independent, and ongoing monitoring of the internal accounting and administrative controls of state agencies be included within that system or systems.

(3) The act requires that the Director of Finance establish a general framework to guide state agencies in conducting internal reviews of their systems of internal accounting and administrative controls.

This bill would require that the Director of Finance also establish a general framework of recommended practices to guide state agencies in conducting active ongoing monitoring of processes for internal accounting and administrative control.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11342.548 is added to the Government Code, to read:

11342.548. "Major regulation" means any proposed adoption, amendment, or repeal of a regulation subject to review by the Office of Administrative Law pursuant to Article 6 (commencing with Section 11349) that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty million dollars (\$50,000,000), as estimated by the agency.

SEC. 2. Section 11346.2 of the Government Code, as added by Section 2 of Chapter 398 of the Statutes of 2010, is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for

the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. The benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

(2) For a major regulation proposed on or after January 1, 2013, the standardized regulatory impact analysis required by Section 11346.3.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(4) Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(5) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. Reasonable alternatives to be considered include, but are not limited to, alternatives that are proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

(B) A description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives.

(C) Notwithstanding subparagraph (A) or (B), an agency is not required to artificially construct alternatives or describe unreasonable alternatives.

(6) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

(7) A department, board, or commission within the Environmental Protection Agency, the Natural Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall become operative on January 1, 2012.

(e) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. Section 11346.2 of the Government Code, as amended by Section 1 of Chapter 398 of the Statutes of 2010, is amended to read:

11346.2. Every agency subject to this chapter shall prepare, submit to the office with the notice of the proposed action as described in Section 11346.5, and make available to the public upon request, all of the following:

(a) A copy of the express terms of the proposed regulation.

(1) The agency shall draft the regulation in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style. The agency shall draft the regulation in plain English.

(2) The agency shall include a notation following the express terms of each California Code of Regulations section, listing the specific statutes or other provisions of law authorizing the adoption of the regulation and listing the specific statutes or other provisions of law being implemented, interpreted, or made specific by that section in the California Code of Regulations.

(3) The agency shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations.

(b) An initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation. This statement of reasons shall include, but not be limited to, all of the following:

(1) A statement of the specific purpose of each adoption, amendment, or repeal, the problem the agency intends to address, and the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. The statement shall enumerate the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. These benefits may include, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other

things. Where the adoption or amendment of a regulation would mandate the use of specific technologies or equipment, a statement of the reasons why the agency believes these mandates or prescriptive standards are required.

(2) For a major regulation proposed on or after November 1, 2013, the standardized regulatory impact analysis required by Section 11346.3.

(3) An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation.

(4) (A) A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. Reasonable alternatives to be considered include, but are not limited to, alternatives that are proposed as less burdensome and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific actions or procedures, the imposition of performance standards shall be considered as an alternative.

(B) A description of reasonable alternatives to the regulation that would lessen any adverse impact on small business and the agency's reasons for rejecting those alternatives.

(C) Notwithstanding subparagraph (A) or (B), an agency is not required to artificially construct alternatives or describe unreasonable alternatives.

(5) Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business.

(6) A department, board, or commission within the Environmental Protection Agency, the Natural Resources Agency, or the Office of the State Fire Marshal shall describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from federal regulations contained in the Code of Federal Regulations addressing the same issues upon a finding of one or more of the following justifications:

(A) The differing state regulations are authorized by law.

(B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with subdivision (b) if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation that the agency

proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) This section shall be inoperative from January 1, 2012, until January 1, 2014.

SEC. 4. Section 11346.3 of the Government Code is amended to read:

11346.3. (a) State agencies proposing to adopt, amend, or repeal any administrative regulation shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(1) The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.

(2) The state agency, prior to submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties.

(3) An economic analysis prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall be prepared in accordance with subdivision (b). An economic analysis prepared pursuant to this subdivision for a major regulation proposed on or after November 1, 2013, shall be prepared in accordance with subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) All state agencies proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall prepare an economic impact analysis that assesses whether and to what extent it will affect the following:

(A) The creation or elimination of jobs within the State of California.

(B) The creation of new businesses or the elimination of existing businesses within the State of California.

(C) The expansion of businesses currently doing business within the State of California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision does not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the assessment may come from existing state publications.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact assessment in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

(D) The increase or decrease of investment in the state.

(E) The incentives for innovation in products, materials, or processes.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(2) This subdivision shall not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the assessment may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

(f) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, and that has prepared a standardized regulatory impact assessment pursuant to subdivision (c), shall submit that assessment to the Department of Finance upon completion. The department shall comment, within 30 days of receiving such assessment, on the extent to which the assessment adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated

analysis for the statement required by paragraph (10) of subdivision (a) of Section 11346.5.

SEC. 5. Section 11346.36 is added to the Government Code, to read:

11346.36. (a) Prior to November 1, 2013, the Department of Finance, in consultation with the office and other state agencies, shall adopt regulations for conducting the standardized regulatory impact analyses required by subdivision (c) of Section 11346.3.

(b) The regulations, at a minimum, shall assist the agencies in specifying the methodologies for:

(1) Assessing and determining the benefits and costs of the proposed regulation, expressed in monetary terms to the extent feasible and appropriate. Assessing the value of nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, the increase in the openness and transparency of business and government and other nonmonetary benefits consistent with the statutory policy or other provisions of law.

(2) Comparing proposed regulatory alternatives with an established baseline so agencies can make analytical decisions for the adoption, amendment, or repeal of regulations necessary to determine that the proposed action is the most effective, or equally effective and less burdensome, alternative in carrying out the purpose for which the action is proposed, or the most cost-effective alternative to the economy and to affected private persons that would be equally effective in implementing the statutory policy or other provision of law.

(3) Determining the impact of a regulatory proposal on the state economy, businesses, and the public welfare, as described in subdivision (c) of Section 11346.3.

(4) Assessing the effects of a regulatory proposal on the General Fund and special funds of the state and affected local government agencies attributable to the proposed regulation.

(5) Determining the cost of enforcement and compliance to the agency and to affected business enterprises and individuals.

(6) Making the estimation described in Section 11342.548.

(c) To the extent required by this chapter, the department shall convene a public hearing or hearings and take public comment on any draft regulation. Representatives from state agencies and the public at large shall be afforded the opportunity to review and comment on the draft regulation before the regulation is adopted in final form.

(d) State agencies shall provide the Director of Finance and the office ready access to their records and full information and reasonable assistance in any matter requested for purposes of developing the regulations required by this section. This subdivision shall not be construed to authorize an agency to provide access to records required by statute to be kept confidential.

(e) The standardized regulatory impact analysis prepared by the proposing agency shall be included in the initial statement of reasons for the regulation as provided in subdivision (b) of Section 11346.2.

(f) On or before November 1, 2013, the department shall submit the adopted regulations to the Senate and Assembly Committees on Governmental Organization and shall publish the adopted regulations in the State Administrative Manual.

SEC. 6. Section 11346.5 of the Government Code is amended to read:

11346.5. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include the following:

(1) A statement of the time, place, and nature of proceedings for adoption, amendment, or repeal of the regulation.

(2) Reference to the authority under which the regulation is proposed and a reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific.

(3) An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills. The informative digest shall include the following:

(A) A concise and clear summary of existing laws and regulations, if any, related directly to the proposed action and of the effect of the proposed action.

(B) If the proposed action differs substantially from an existing comparable federal regulation or statute, a brief description of the significant differences and the full citation of the federal regulations or statutes.

(C) A policy statement overview explaining the broad objectives of the regulation and the specific benefits anticipated by the proposed adoption, amendment, or repeal of a regulation, including, to the extent applicable, nonmonetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in openness and transparency in business and government, among other things.

(D) An evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations.

(4) Any other matters as are prescribed by statute applicable to the specific state agency or to any specific regulation or class of regulations.

(5) A determination as to whether the regulation imposes a mandate on local agencies or school districts and, if so, whether the mandate requires state reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4.

(6) An estimate, prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings imposed on local agencies, and the cost or savings in federal funding to the state.

For purposes of this paragraph, “cost or savings” means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

(7) If a state agency, in proposing to adopt, amend, or repeal any administrative regulation, makes an initial determination that the action may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall include the following information in the notice of proposed action:

(A) Identification of the types of businesses that would be affected.

(B) A description of the projected reporting, recordkeeping, and other compliance requirements that would result from the proposed action.

(C) The following statement: “The (name of agency) has made an initial determination that the (adoption/amendment/repeal) of this regulation may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The (name of agency) (has/has not) considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:

(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.

(ii) Consolidation or simplification of compliance and reporting requirements for businesses.

(iii) The use of performance standards rather than prescriptive standards.

(iv) Exemption or partial exemption from the regulatory requirements for businesses.”

(8) If a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states, it shall make a declaration to that effect in the notice of proposed action. In making this declaration, the agency shall provide in the record facts, evidence, documents, testimony, or other evidence upon which the agency relies to support its initial determination.

An agency’s initial determination and declaration that a proposed adoption, amendment, or repeal of a regulation may have or will not have a significant, adverse impact on businesses, including the ability of California businesses to compete with businesses in other states, shall not be grounds for the office to refuse to publish the notice of proposed action.

(9) A description of all cost impacts, known to the agency at the time the notice of proposed action is submitted to the office, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

If no cost impacts are known to the agency, it shall state the following:

“The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.”

(10) A statement of the results of the economic impact assessment required by subdivision (b) of Section 11346.3 or the standardized regulatory impact analysis if required by subdivision (c) of Section 11346.3, a summary of any comments submitted to the agency pursuant to subdivision (f) of Section 11346.3 and the agency’s response to those comments.

(11) The finding prescribed by subdivision (d) of Section 11346.3, if required.

(12) A statement that the action would have a significant effect on housing costs, if a state agency, in adopting, amending, or repealing any administrative regulation, makes an initial determination that the action would have that effect. In addition, the agency officer designated in paragraph (14), shall make available to the public, upon request, the agency’s evaluation, if any, of the effect of the proposed regulatory action on housing costs.

(13) A statement that the adopting agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, 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. For a major regulation, as defined by Section 11342.548, proposed on or after November 1, 2013, the statement shall be based, in part, upon the standardized regulatory impact analysis of the proposed regulation, as required by Section 11346.3, as well as upon the benefits of the proposed regulation identified pursuant to subparagraph (C) of paragraph (3).

(14) The name and telephone number of the agency representative and designated backup contact person to whom inquiries concerning the proposed administrative action may be directed.

(15) The date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the state agency before it adopts, amends, or repeals a regulation.

(16) Reference to the fact that the agency proposing the action has prepared a statement of the reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action, pursuant to subdivision (b).

(17) A statement that if a public hearing is not scheduled, any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Section 11346.8.

(18) A statement indicating that the full text of a regulation changed pursuant to Section 11346.8 will be available for at least 15 days prior to

the date on which the agency adopts, amends, or repeals the resulting regulation.

(19) A statement explaining how to obtain a copy of the final statement of reasons once it has been prepared pursuant to subdivision (a) of Section 11346.9.

(20) If the agency maintains an Internet Web site or other similar forum for the electronic publication or distribution of written material, a statement explaining how materials published or distributed through that forum can be accessed.

(b) The agency representative designated in paragraph (14) of subdivision (a) shall make available to the public upon request the express terms of the proposed action. The representative shall also make available to the public upon request the location of public records, including reports, documentation, and other materials, related to the proposed action. If the representative receives an inquiry regarding the proposed action that the representative cannot answer, the representative shall refer the inquiry to another person in the agency for a prompt response.

(c) This section shall not be construed in any manner that results in the invalidation of a regulation because of the alleged inadequacy of the notice content or the summary or cost estimates, or the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with those requirements.

SEC. 7. Section 11346.9 of the Government Code is amended to read:

11346.9. Every agency subject to this chapter shall do the following:

(a) Prepare and submit to the office with the adopted regulation a final statement of reasons that shall include all of the following:

(1) An update of the information contained in the initial statement of reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the agency is relying in proposing the adoption, amendment, or repeal of a regulation that was not identified in the initial statement of reasons, or which was otherwise not identified or made available for public review prior to the close of the public comment period, the agency shall comply with Section 11347.1.

(2) A determination as to whether adoption, amendment, or repeal of the regulation imposes a mandate on local agencies or school districts. If the determination is that adoption, amendment, or repeal of the regulation would impose a local mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 (commencing with Section 17500) of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for that finding.

(3) A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action. The agency may aggregate

and summarize repetitive or irrelevant comments as a group, and may respond to repetitive comments or summarily dismiss irrelevant comments as a group. For the purposes of this paragraph, a comment is “irrelevant” if it is not specifically directed at the agency’s proposed action or to the procedures followed by the agency in proposing or adopting the action.

(4) A determination with supporting information that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. For a major regulation, as defined by Section 11342.548 proposed on or after November 1, 2013, the determination shall be based, in part, upon the standardized regulatory impact analysis of the proposed regulation and, in part, upon the statement of benefits identified in subparagraph (C) of paragraph (3) of subdivision (a) of Section 11346.5.

(5) An explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses. The agency shall include, as supporting information, the standardized regulatory impact analysis for a major regulation, if required by subdivision (c) of Section 11346.3, as well as the benefits of the proposed regulation identified pursuant to paragraph (3) of subdivision (a) of Section 11346.5.

(b) Prepare and submit to the office with the adopted regulation an updated informative digest containing a clear and concise summary of the immediately preceding laws and regulations, if any, relating directly to the adopted, amended, or repealed regulation and the effect of the adopted, amended, or repealed regulation. The informative digest shall be drafted in a format similar to the Legislative Counsel’s Digest on legislative bills.

(c) A state agency that adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with this section if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with this chapter with respect to any provisions in the regulation which the agency proposes to adopt or amend that are different from the corresponding provisions of the federal regulation.

(d) If an agency determines that a requirement of this section can be satisfied by reference to an agency statement made pursuant to Sections 11346.2 to 11346.5, inclusive, the agency may satisfy the requirement by incorporating the relevant statement by reference.

SEC. 8. Section 11347.3 of the Government Code is amended to read:  
11347.3. (a) Every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding.

Commencing no later than the date that the notice of the proposed action is published in the California Regulatory Notice Register, and during all subsequent periods of time that the file is in the agency's possession, the agency shall make the file available to the public for inspection and copying during regular business hours.

(b) The rulemaking file shall include:

(1) Copies of any petitions received from interested persons proposing the adoption, amendment, or repeal of the regulation, and a copy of any decision provided for by subdivision (d) of Section 11340.7, which grants a petition in whole or in part.

(2) All published notices of proposed adoption, amendment, or repeal of the regulation, and an updated informative digest, the initial statement of reasons, and the final statement of reasons.

(3) The determination, together with the supporting data required by paragraph (5) of subdivision (a) of Section 11346.5.

(4) The determination, together with the supporting data required by paragraph (8) of subdivision (a) of Section 11346.5.

(5) The estimate, together with the supporting data and calculations, required by paragraph (6) of subdivision (a) of Section 11346.5.

(6) All data and other factual information, any studies or reports, and written comments submitted to the agency in connection with the adoption, amendment, or repeal of the regulation.

(7) All data and other factual information, technical, theoretical, and empirical studies or reports, if any, on which the agency is relying in the adoption, amendment, or repeal of a regulation, including any economic impact assessment or standardized regulatory impact analysis as required by Section 11346.3.

(8) A transcript, recording, or minutes of any public hearing connected with the adoption, amendment, or repeal of the regulation.

(9) The date on which the agency made the full text of the proposed regulation available to the public for 15 days prior to the adoption, amendment, or repeal of the regulation, if required to do so by subdivision (c) of Section 11346.8.

(10) The text of regulations as originally proposed and the modified text of regulations, if any, that were made available to the public prior to adoption.

(11) Any other information, statement, report, or data that the agency is required by law to consider or prepare in connection with the adoption, amendment, or repeal of a regulation.

(12) An index or table of contents that identifies each item contained in the rulemaking file. The index or table of contents shall include an affidavit or a declaration under penalty of perjury in the form specified by Section 2015.5 of the Code of Civil Procedure by the agency official who has compiled the rulemaking file, specifying the date upon which the record was closed, and that the file or the copy, if submitted, is complete.

(c) Every agency shall submit to the office with the adopted regulation, the rulemaking file or a complete copy of the rulemaking file.

(d) The rulemaking file shall be made available by the agency to the public, and to the courts in connection with the review of the regulation.

(e) Upon filing a regulation with the Secretary of State pursuant to Section 11349.3, the office shall return the related rulemaking file to the agency, after which no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of. The agency shall maintain the file unless it elects to transmit the file to the State Archives pursuant to subdivision (f).

(f) The agency may transmit the rulemaking file to the State Archives. The file shall include instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. Pursuant to Section 12223.5, the Secretary of State may designate a time for the delivery of the rulemaking file to the State Archives in consideration of document processing or storage limitations.

SEC. 9. Section 11349.1 of the Government Code is amended to read:

11349.1. (a) The office shall review all regulations adopted, amended, or repealed pursuant to the procedure specified in Article 5 (commencing with Section 11346) and submitted to it for publication in the California Code of Regulations Supplement and for transmittal to the Secretary of State and make determinations using all of the following standards:

- (1) Necessity.
- (2) Authority.
- (3) Clarity.
- (4) Consistency.
- (5) Reference.
- (6) Nonduplication.

In reviewing regulations pursuant to this section, the office shall restrict its review to the regulation and the record of the rulemaking proceeding. The office shall approve the regulation or order of repeal if it complies with the standards set forth in this section and with this chapter.

(b) In reviewing proposed regulations for the criteria in subdivision (a), the office may consider the clarity of the proposed regulation in the context of related regulations already in existence.

(c) The office shall adopt regulations governing the procedures it uses in reviewing regulations submitted to it. The regulations shall provide for an orderly review and shall specify the methods, standards, presumptions, and principles the office uses, and the limitations it observes, in reviewing regulations to establish compliance with the standards specified in subdivision (a). The regulations adopted by the office shall ensure that it does not substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations.

(d) The office shall return any regulation subject to this chapter to the adopting agency if any of the following occur:

(1) The adopting agency has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 and has not included the data used and calculations made and the summary report of the estimate in the file of the rulemaking.

(2) The agency has not complied with Section 11346.3. “Noncompliance” means that the agency failed to complete the economic impact assessment or standardized regulatory impact analysis required by Section 11346.3 or failed to include the assessment or analysis in the file of the rulemaking proceeding as required by Section 11347.3.

(3) The adopting agency has prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5, the estimate indicates that the regulation will result in a cost to local agencies or school districts that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, and the adopting agency fails to do any of the following:

(A) Cite an item in the Budget Act for the fiscal year in which the regulation will go into effect as the source from which the Controller may pay the claims of local agencies or school districts.

(B) Cite an accompanying bill appropriating funds as the source from which the Controller may pay the claims of local agencies or school districts.

(C) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has approved a request by the agency that funds be included in the Budget Bill for the next following fiscal year to reimburse local agencies or school districts for the costs mandated by the regulation.

(D) Attach a letter or other documentation from the Department of Finance which states that the Department of Finance has authorized the augmentation of the amount available for expenditure under the agency’s appropriation in the Budget Act which is for reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 to local agencies or school districts from the unencumbered balances of other appropriations in the Budget Act and that this augmentation is sufficient to reimburse local agencies or school districts for their costs mandated by the regulation.

(4) The proposed regulation conflicts with an existing state regulation and the agency has not identified the manner in which the conflict may be resolved.

(5) The agency did not make the alternatives determination as required by paragraph (4) of subdivision (a) of Section 11346.9.

(e) The office shall notify the Department of Finance of all regulations returned pursuant to subdivision (d).

(f) The office shall return a rulemaking file to the submitting agency if the file does not comply with subdivisions (a) and (b) of Section 11347.3. Within three state working days of the receipt of a rulemaking file, the office shall notify the submitting agency of any deficiency identified. If no notice of deficiency is mailed to the adopting agency within that time, a rulemaking file shall be deemed submitted as of the date of its original receipt by the office. A rulemaking file shall not be deemed submitted until each deficiency identified under this subdivision has been corrected.

(g) Notwithstanding any other law, return of the regulation to the adopting agency by the office pursuant to this section is the exclusive remedy for a failure to comply with subdivision (c) of Section 11346.3 or paragraph (10) of subdivision (a) of Section 11346.5.

SEC. 10. Section 11349.1.5 is added to the Government Code, to read:

11349.1.5. (a) The Department of Finance and the office shall, from time to time, review the standardized regulatory impact analyses required by subdivision (c) of Section 11346.3 and submitted to the office pursuant to Section 11347.3, for adherence to the regulations adopted by the department pursuant to Section 11346.36.

(b) On or before November 1, 2015, the office shall submit to the Senate and Assembly Committees on Governmental Organization a report describing the extent to which submitted standardized regulatory impact analyses for proposed major regulations adhere to the regulations adopted pursuant to Section 11346.36. The report shall include a discussion of agency adherence to the regulations as well as a comparison between various state agencies on the question of adherence. The report may also include any recommendations from the office for actions the Legislature might consider for improving state agency performance.

(c) In addition to the report required by subdivision (b), the office may notify the Legislature of noncompliance by a state agency with the regulations adopted pursuant to Section 11346.36, in any manner or form determined by the office.

SEC. 11. Section 13401 of the Government Code is amended to read:

13401. (a) The Legislature hereby finds the following:

(1) Active oversight processes, including regular and ongoing monitoring processes, for the prevention and early detection of fraud and errors in program administration are vital to public confidence and the appropriate and efficient use of public resources.

(2) Fraud and errors in state programs are more likely to occur from a lack of effective systems of internal accounting and administrative control in the state agencies when active monitoring measures are not maintained to ensure that accounting and administrative controls are functioning properly.

(3) Effective systems of internal accounting and administrative control provide the basic foundation upon which a structure of public accountability must be built.

(4) Effective systems of internal accounting and administrative control are necessary to ensure that state assets and funds are adequately safeguarded, as well as to produce reliable financial information for the agency.

(5) Systems of internal accounting and administrative control are necessarily dynamic and must be routinely monitored, continuously evaluated, and, where necessary, improved.

(6) Reports regarding the continuing adequacy of the systems of internal accounting and administrative control of each state agency are necessary to enable the executive branch, the Legislature, and the public to evaluate the agency's performance of its public responsibilities and accountability.

(b) The Legislature declares it to be the policy of the State of California that:

(1) Each state agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices.

(2) The systems of internal accounting and administrative control of each state agency shall be evaluated on an ongoing basis through regular and ongoing monitoring processes and, when detected, weaknesses must be promptly corrected.

(3) All levels of management of the state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds, however, key monitoring processes should be structured to ensure the independence and objectivity of persons tasked with such monitoring.

SEC. 12. Section 13402 of the Government Code is amended to read:

13402. State agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting, administrative control, and effective, independent, and objective ongoing monitoring of the internal accounting and administrative controls within their agencies. This responsibility includes documenting the system, communicating system requirements to employees, and ensuring that the system is functioning as prescribed and is modified, as appropriate, for changes in conditions.

SEC. 13. Section 13403 of the Government Code is amended to read:

13403. (a) Internal accounting and administrative controls, if maintained and reinforced through effective monitoring systems and processes, are the methods through which reasonable assurances can be given that measures adopted by state agency heads to safeguard assets, check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies are being followed. The elements of a satisfactory system of internal accounting and administrative control, shall include, but are not limited to, the following:

(1) A plan of organization that provides segregation of duties appropriate for proper safeguarding of state agency assets.

(2) A plan that limits access to state agency assets to authorized personnel who require these assets in the performance of their assigned duties.

(3) A system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures.

(4) An established system of practices to be followed in performance of duties and functions in each of the state agencies.

(5) Personnel of a quality commensurate with their responsibilities.

(6) An effective system of internal review.

(b) State agency heads shall follow these standards of internal accounting and administrative control in carrying out the requirements of Section 13402.

(c) Monitoring systems and processes are vital to the following:

(1) Ensuring that routine application of internal controls do not diminish their efficacy over time.

(2) Providing timely notice and opportunity for correction of emerging weaknesses with established internal controls.

(3) Facilitating public resources and other decisions by ensuring availability of accurate and reliable information.

(4) Facilitating production of timely and accurate financial reports.

(d) State agency heads shall implement systems and processes to ensure the independence and objectivity of the monitoring of internal accounting and administrative control as an ongoing activity in carrying out the requirements of Section 13402.

SEC. 14. Section 13404 of the Government Code is amended to read:

13404. As used in this chapter:

(a) "Governor" means the Governor of California.

(b) "Controller" means the Controller of California.

(c) "Director" means the Director of Finance.

(d) "Attorney General" means the Attorney General of California.

(e) "Treasurer" means the Treasurer of California.

SEC. 15. Section 13405 of the Government Code is amended to read:

13405. (a) To ensure that the requirements of this chapter are fully complied with, the head of each state agency that the director determines is covered by this section shall, on a biennial basis but no later than December 31 of each odd-numbered year, conduct an internal review and prepare a report on the adequacy of the agency's systems of internal accounting, administrative control, and monitoring practices in accordance with the guide prepared by the director pursuant to subdivision (d).

(b) The report, including the state agency's response to review recommendations, shall be signed by the head of the agency and addressed to the agency secretary, or the director for agencies without a secretary. Copies of the reports shall be submitted to the Legislature, the State Auditor, the Controller, the Treasurer, the Attorney General, the Governor, the director, and to the State Library where they shall be available for public inspection.

(c) The report shall identify any material inadequacy or material weakness in an agency's systems of internal accounting and administrative control that prevents the head of the agency from stating that the agency's systems comply with this chapter. No later than 30 days after the report is submitted, the agency shall provide to the director a plan and schedule for correcting the identified inadequacies and weaknesses, which shall be updated every six months until all corrections are completed.

(d) The director, in consultation with the State Auditor and the Controller, shall establish, and may modify from time to time as necessary, a system of reporting and a general framework to guide state agencies in conducting internal reviews of their systems of internal accounting and administrative control.

(e) The director, in consultation with the State Auditor and the Controller, shall establish, and may modify from time to time as necessary, a general framework of recommended practices to guide state agencies in conducting

active, ongoing monitoring of processes for internal accounting and administrative control.

SEC. 16. Section 13406 of the Government Code is amended to read:

13406. (a) The head of the internal audit staff of a state agency or a division, as specified by the director, or, in the event there is no internal audit function, a professional accountant, if available on the staff, designated as the internal control person by the head of the state agency or a division, shall receive and investigate any allegation that an employee of the agency provided false or misleading information in connection with the review of the agency's systems of internal accounting and administrative control or in connection with the preparation of the biennial report on the systems of internal accounting, administrative control, and monitoring practices.

(b) If, in connection with any investigation under subdivision (a), the head of the internal audit staff or the designated internal control person determines that there is reasonable cause to believe that false or misleading information was provided, he or she shall report in writing that determination to the head of the agency or the division.

(c) The head of the agency or division shall review any matter referred to him or her under subdivision (b), shall take such disciplinary or corrective action as he or she deems necessary, and shall forward a copy of the report, indicating therein the action taken, to the director within 90 days of the date of the report.

SEC. 17. Section 13407 of the Government Code is amended to read:

13407. Because sound internal accounting and administrative controls and the regular and ongoing monitoring of those internal controls significantly inhibits waste of resources and thereby creates savings, the director and agencies and divisions shall carry out the provisions of this chapter by using existing resources.

**DIVISION 3--DEPARTMENT OF FINANCE**  
**Chapter 1. Standardized Regulatory Impact Assessment**  
**For Major Regulations**

**ORDER OF ADOPTION**

Adopt regulations in Title 1, Division 3, Chapter 1, of the California Code of Regulations, to read as follows:

Division 3. Department of Finance

Chapter 1. Standardized Regulatory Impact Assessment for Major Regulations.

2000. Definitions.

For purposes of this chapter:

(a) "Agency" has the meaning given to that term in Section 11342.520 of the code.

(b) "As estimated by the agency" means the agency has estimated the economic impact of a proposed action in the manner prescribed by section 2003.

(c) "Code" means the Government Code.

(d) "Department" means the Department of Finance.

(e) "Economic impact" means all costs or all benefits (direct, indirect and induced) of the proposed major regulation on business enterprises and individuals located in or doing business in California.

(f) "GO-Biz" means the Governor's Office of Business and Economic Development.

(g) "Major regulation" means any proposed rulemaking action adopting, amending or repealing a regulation subject to review by OAL that will have an economic impact on California business enterprises and individuals in an amount exceeding fifty

million dollars (\$50,000,000) in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented (as estimated by the agency), computed without regard to any offsetting benefits or costs that might result directly or indirectly from that adoption, amendment or repeal.

(h) "Notice of proposed action" means the notice required by Section 11346.5 of the code.

(i) "OAL" means the Office of Administrative Law.

(j) "SRIA" means the standardized regulatory impact assessment required by Section 11346.3(c) of the code.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548 and 11346.36, Government Code.

2001. Notification; Public Input.

(a) (1) An agency that anticipates promulgating a major regulation shall provide the department, not later than February 1 of each calendar year, with a list of all major regulations that it anticipates proposing during that entire calendar year. The information shall be provided on a form prescribed by the department. The list shall specifically identify the following for each major regulation that the agency proposes to adopt, amend or repeal: subject matter, title and section of the California Code of Regulations that will be affected, statute or court decision being implemented, interpreted or made specific and the anticipated date on which the agency proposes to publish the notice of proposed action for each major regulation. The list shall also

contain the name of the agency, the responsible unit within the agency, and the name, telephone number, email, and mailing address of a contact person.

(2) In the event an agency determines after February 1 that it anticipates promulgating a major regulation, the agency shall submit to the department the information required in subdivision (a)(1) as soon as possible but in no event later than 60 days prior to filing a notice of proposed action with OAL.

(b) Within 15 days of receipt of a list of proposed major regulations, the department shall provide a copy of that list to GO-Biz and to any other agency that has requested a copy.

(c) Within 15 days of receipt of a list of proposed major regulations, the department shall post that list on its Internet web site.

(d) The agency shall also seek public input regarding alternatives from those who would be subject to or affected by the regulations (including other state agencies and local agencies, where appropriate) prior to filing a notice of proposed action with OAL unless the agency is required to implement federal law and regulations which the agency has little or no discretion to vary. An agency shall document and include in the SRIA the methods by which it sought public input.

NOTE: Authority cited: Sections 11346.3 and 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

## 2002. Standardized Regulatory Impact Assessment.

(a) An agency that anticipates promulgating a major regulation as defined in section 2000 shall, pursuant to Section 11346.3(f) of the code, submit its completed SRIA to the department within the following time frame:

3.

(1) Not less than 60 days prior to filing a notice of proposed action with OAL if the agency has notified the department of the proposed regulation within the time prescribed by 2001(a); or

(2) Not less than 90 days prior to filing a notice of proposed action with OAL if the agency has not notified the department of the proposed major regulation within the time prescribed by section 2001(a);

(b) (1) The SRIA shall contain all of the information required by Section 11346.3(c) of the code, which shall have been prepared in compliance with section 2003.

(2) The SRIA shall also include a description and explanation of each of the following:

(A) The economic impact method and approach, including the underlying assumptions the agency used and the rationale and basis for those assumptions;

(B) The specific categories of individuals and business enterprises who would be affected by the proposed major regulation;

(C) The inputs into the assessment of the economic impact;

(D) The outputs from the assessment of the economic impact;

(E) The agency's interpretation of the results of the assessment of the economic impact.

(3) The SRIA shall also include documentation sufficient to substantiate compliance with the requirements of this section and section 2003.

(c) The SRIA shall be accompanied by a form prescribed by the department that includes all of the following:

(1) Name of the agency.

(2) The name, telephone number, email and mailing address of the contact person.

(3) Statement of the need for the proposed major regulation.

(4) A summary of the categories of individuals and business enterprises who will be impacted by the proposed major regulation and the amount of the economic impact on each such category.

(5) An identification and description of all costs and all benefits due to the proposed regulatory change, calculated on an annual basis from estimated date of filing with the Secretary of State through 12 months after the estimated date the proposed major regulation will be fully implemented as estimated by the agency.

(6) Description of the 12-month period in which the agency estimates the economic impact of the proposed major regulation will exceed \$50 million.

(7) Description of the baseline that the agency used to compare proposed regulatory alternatives.

(8) Identification of each regulatory alternative for addressing the stated need for the proposed major regulation, including each alternative that was provided by the public or another governmental agency and each alternative that the agency considered; all costs and all benefits of each regulatory alternative considered; and the reasons for rejecting each alternative.

(9) Description of the methods by which the agency sought public input as required by section 2001, accompanied by documentation of that public outreach.

(10) A description of the economic impact method and approach, including the underlying assumptions the agency used and the rationale and basis for those assumptions.

(11) Date, printed name, and signature of the head of the agency.

(d) Within 10 days of receiving an SRIA, the department shall post a copy of the form required by subdivision (c) on its Internet web site.

(e) Within 10 days of receiving an SRIA, the department shall provide a copy of the form required by subdivision (c) to Go-Biz and any other agency that requests it. GO-Biz and any other agency may provide comment to the department within 10 days thereafter.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

### 2003. Methodology for Making Estimates.

(a) In conducting the SRIA required by Section 11346.3(c) of the code, an agency shall use an economic impact method and approach that has all of the following capabilities:

(1) Can estimate the total economic effects of changes due to regulatory policies over a multi-year time period.

(2) Can generate California economic variable estimates such as personal income, employment by economic sector, exports and imports, and gross state product, based on inter-industry relationships that are equivalent in structure to the Regional Industry Modeling System published by the Bureau of Economic Analysis.

(3) Can produce (to the extent possible) quantitative estimates of economic variables that address or facilitate the quantitative or qualitative estimation of the following:

(A) The creation or elimination of jobs within the state;

(B) The creation of new businesses or the elimination of existing businesses within the state;

(C) The competitive advantages or disadvantages for businesses currently doing business within the state;

(D) The increase or decrease of investment in the state;

(E) The incentives for innovation in products, materials, or processes; and

(F) The benefits of the regulations, including but not limited to benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(b) The department's most current publicly available economic and demographic projections, which may be found on the department's website, shall be used unless the department approves the agency's written request to use a different projection for a specific proposed major regulation. Such approval shall be made on a case-by-case basis. An agency that anticipates that it will take more than one year to develop a major regulation is encouraged to work with the department in determining the most appropriate projections to use.

(c) Costs and benefits shall be separately identified for different groups of agencies, businesses and individuals if the impact of the regulation will differ significantly among identifiable groups.

(d) The agency shall compare regulatory alternatives with a baseline that reflects the anticipated behavior of individuals and businesses in the absence of the proposed major regulation and shall identify the baseline it used.

(e) In comparing proposed regulatory alternatives with an established baseline, an agency should consider including the following in its analysis:

(1) A description of feasible alternatives to the proposed major regulation and the rationale for choosing the proposed major regulation over the other alternatives considered. This description should also include:

(A) An explanation of how the need for the proposed major regulation affects the selection of regulatory alternatives;

(B) An evaluation of the legal and statutory constraints that limit the selection of regulatory alternatives.

(2) Whenever possible, at least two alternatives should be compared to the proposed major regulation, including:

(A) An alternative that could achieve additional benefits beyond those associated with the proposed major regulation; and

(B) A next-best alternative that would not yield the same level of benefits associated with the proposed major regulation, or is less likely to yield the same level of benefits.

(3) A comparison of the cost-effectiveness of different alternatives.

(A) Both total and incremental benefits and costs should be estimated. Incremental benefits and costs are the differences between the estimates associated with the alternatives considered.

(B) Whenever possible, final rather than intermediate outcomes should be used as measures of effectiveness.

(C) In cases where the proposed major regulation addresses more than one measure of effectiveness, weights should be applied to different categories of effects.

(D) The uncertainties associated with the estimates should be discussed.

(4) If there are significant differences between the incidence or timing of costs and benefits of a regulation, distributional effects should be addressed, including how the effects of the regulation are distributed, for example, by industry, income, race, sex, or geography, and how the effects are distributed over time.

(5) The assumptions, analytical methods, and data used in the analysis should be documented.

(A) To the extent possible, the analysis should rely on peer-reviewed literature.

(B) The source for all original information should be documented.

(f) An analysis of estimated changes in behavior by businesses and/or individuals in response to the proposed major regulation shall be conducted and, if feasible, an estimate made of the extent to which costs or benefits are retained within the business and/or by individuals or passed on to others, including customers, employees, suppliers and owners.

(g) For each assessment of the value of benefits of the proposed major regulation required by section 11346.3(c)(1)(F) of the code, the agency shall describe the applied analytical methods and data sources used and the results of that analysis.

(1) The agency's assessment may rely on current and (if applicable) projected market transaction data where a market exists that can directly reveal the quantity or monetary value of a projected benefit of the proposed major regulation.

(2) The agency may use an indirect approach (e.g., use values derived from related markets) in cases where the value of the benefits can be inferred from actual choices made by individuals in related markets. The assessment should rely on current and (if applicable) projected market transaction data.

(3) The agency may use a direct approach (e.g. use values from surveys), estimating the value of the benefits based on hypothetical choices made by individuals responding to a survey.

(4) The agency may estimate the value of the benefits based upon an existing study of another regulatory policy with similar subject or physical characteristics. This estimate should describe how the agency took into account the differences in the characteristics (such as time span, specific benefits to value, population, and other socio-economic factors) between the study and the proposed major regulation.

(h) In assessing the effects of a regulatory proposal on the General Fund and special funds of the state and affected local government agencies attributable to the proposed major regulation, including the cost of enforcement and compliance to the agency, an agency shall follow the Department of Finance instructions in the State Administrative Manual sections 6601, 6602, and 6604 through 6616.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3 and 11346.36, Government Code.

2004. Failure to Comply with Requirements of this Chapter.

When an agency fails to comply in whole or in part with this chapter, the department shall identify in its comments the area(s) where the agency is out of compliance.

NOTE: Authority cited: Section 11346.36, Government Code. Reference: Sections 11342.548, 11346.3, 11346.36 and 11349.1.5, Government Code.