

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 16. MASTER SETTLEMENT AGREEMENT, TOBACCO
CHAPTER 16.5 FIRE STANDARD COMPLIANT CIGARETTES
FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

There is no information to be updated. All of the information and grounds provided in the Initial Statement of Reasons are accurate, current, and unchanged.

CORRECTIONS AND NON-SUBSTANTIAL EDITS

The Department has not made changes since the publication of the Notice of Proposed Rulemaking and Initial Statement of Reasons.

SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES

The Department did not receive any comments during the 45-day notice period, which closed on September 5, 2023.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

ALTERNATIVES DETERMINATIONS

In accordance with Government Code section 11346.9, subdivision (a)(4), the Department has determined that no alternative it considered, or that it otherwise identified, or was brought to its attention, 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.

This determination is based on the fact that all 50 states have passed and continue to administer a FSC program that is substantially the same as California's Fire Safety Act. The 46 states that entered into the MSA all require state-approved tobacco escrow agreements. As such, the regulatory requirements at issue are largely consistent nationwide. The Department is not aware of any alternatives that would be more effective. Industry proposed no alternative options and is implementing the emergency regulations.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The Department finds that no reasonable alternatives were presented to, or considered by, the Department that would lessen any adverse impact on small business. Based upon the companies' significant and ongoing commitments to the California market, the maximum cost of \$2,000 per manufacturer is nominal and should not impact the size or scope of their businesses operations in California.

DOCUMENTS INCORPORATED BY REFERENCE

Form number JUS-TOB6 titled APPROVED TOBACCO ESCROW AGREEMENT was revised in February 2023 and is referenced in sections 999.10, 999.12, and 999.16.

Form number JUS-TOB8 titled BRAND LIST was revised in February 2023 and is referenced in sections 999.10, 999.16, and 999.30, and in JUS-TOB15, the FIRE STANDARD COMPLIANT ("FSC") CERTIFICATION.

Form number JUS-TOB15 was created in February 2023, is titled FIRE STANDARD COMPLIANT ("FSC") CERTIFICATION, and is referenced in section 999.30.

The above forms are incorporated by reference because it would be cumbersome, unduly expensive, or otherwise impractical to publish the forms in the California Code of Regulations. During the rulemaking proceeding, the forms were made available upon request, and were available for viewing on the Department's website.

NON-DUPLICATION

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1, subdivision (a)(3).