

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME <u>Justice, Office of the Attorney General</u>	CONTACT PERSON <u>Barry Alves</u>	EMAIL ADDRESS <u>Barry.Alves@doj.ca.gov</u>	TELEPHONE NUMBER <u>916-210-7838</u>
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 <u>Fire Standard Compliant ("FSC") Cigarettes and Revised Tobacco Escrow Agreement</u>			NOTICE FILE NUMBER <u>Z</u>

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts business and/or employees e. Imposes reporting requirements
 b. Impacts small businesses f. Imposes prescriptive instead of performance
 c. Impacts jobs or occupations g. Impacts individuals
 d. Impacts California competitiveness h. None of the above (Explain below):

Moves existing reporting requirements to Justice from Cal Fire***If any box in Items 1 a through g is checked, complete this Economic Impact Statement.******If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.***2. The Justice, Office of the Attorney General estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

- Below \$10 million
 Between \$10 and \$25 million
 Between \$25 and \$50 million
 Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: Approx. 85Describe the types of businesses (Include nonprofits): 75 cigarettes manufacturers and 10 banks; only 30 manufacturers for FSCEnter the number or percentage of total businesses impacted that are small businesses: Approx. 30%4. Enter the number of businesses that will be created: 0 eliminated: 0Explain: No businesses should be eliminated by FSC program moving to Justice or cost of a revised escrow agreement.5. Indicate the geographic extent of impacts: Statewide
 Local or regional (List areas): _____6. Enter the number of jobs created: 0 and eliminated: 0Describe the types of jobs or occupations impacted: N/A7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? YES NOIf YES, explain briefly: _____

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ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 100,000
- a. Initial costs for a small business: \$ Approx. \$1,000 Annual ongoing costs: \$ 0 Years: Unknown
- b. Initial costs for a typical business: \$ Approx. \$1,000 Annual ongoing costs: \$ 0 Years: Unknown
- c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: _____
- d. Describe other economic costs that may occur: None

2. If multiple industries are impacted, enter the share of total costs for each industry: 30 manufacturers confirm FSC compliance to Justice, review new form, and recertify every 3 years. 72 manufacturers and banks review and execute revised escrow agreement.

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ \$1,500

4. Will this regulation directly impact housing costs? YES NO
If YES, enter the annual dollar cost per housing unit: \$ _____
Number of units: _____

5. Are there comparable Federal regulations? YES NO

Explain the need for State regulation given the existence or absence of Federal regulations: All 50 states have FSC cigarette laws. California and 45 other states have laws that require tobacco manufacturers to execute tobacco escrow agreements.

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: FSC cigarettes are designed and tested to extinguish when they are not being actively smoked, which reduces the risk of serious fires. In 2022, Assembly Bill 1742 modified Health and Safety Code sections 14950-14959 to move the FSC program to Justice.

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?

Explain: See Health and Saf. Code section 14953 and Rev. & Tax Code section 301.65.1, subd. (c)(2)(a)

3. What are the total statewide benefits from this regulation over its lifetime? \$ Unquantifiable

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: After considerable review, there is no reasonable alternative to adopting these regulations, and they are the least burdensome and most fair and equitable way to transition the FSC program to Justice and ensure that tobacco escrow funds remain on deposit.

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ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ See below Cost: \$ 0

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: The precise amount if unquantifiable, but the regulation protects against fires and the premature release of tobacco escrow.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? YES NO

Explain: Since 2007, California law has mandated the same FSC testing performance standard used by all 50 states. This rulemaking does not set or alter the existing standard. Instead, the rule making directs FSC submissions to Justice for processing.

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.*

California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? YES NO

***If YES, complete E2. and E3
If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million 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?

YES NO

If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.

5. Briefly describe the following:

The increase or decrease of investment in the State: This regulation will not impact whether businesses invest in the State.

The incentive for innovation in products, materials or processes: This regulation neither incentives or disincentives any innovation in California, products, materials, or processes.

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: The regulation implements the Legislature's requirement that FSC certifications be submitted to Justice and revises an escrow agreement.

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FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

a. Funding provided in _____

Budget Act of _____ or Chapter _____, Statutes of _____

b. Funding will be requested in the Governor's Budget Act of _____

Fiscal Year: _____

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

a. Implements the Federal mandate contained in _____

b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

3. Annual Savings. (approximate)

\$ _____

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain _____

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FISCAL IMPACT STATEMENT (CONTINUED)

B. FISCAL EFFECT ON STATE GOVERNMENT *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the _____ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain _____

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain _____

FISCAL OFFICER SIGNATURE

 **Michael Fong**

Digitally signed by Michael Fong
Date: 2023.05.12 12:55:31 -07'00'

DATE

May 12, 2023

The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

AGENCY SECRETARY

 **Jonathan Lloyd Wolff**

Digitally signed by Jonathan Lloyd Wolff
Date: 2023.05.26 11:09:20 -07'00'

DATE

Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE