

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 5. DEPARTMENT OF JUSTICE TOBACCO GRANT PROGRAM

NOTICE OF PROPOSED RULEMAKING

Notice published January 7, 2022

The Department of Justice (Department) proposes to adopt sections 500, 501, 510, 520, 521, 522, 523, 530, 531, 532, 533, 540, 541, 542, 543, 544, 555, and 546 of Title 11, Division 1, Chapter 5 of the California Code of Regulations concerning grants funded by the Department from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed regulatory action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on February 22, 2022 at 5:00 p.m. Only written comments received by that time will be considered. Please submit written comments to:

Stacy Heinsen
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7006
TGPRregs@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Section 30130.57, Revenue and Taxation Code.
Reference: Section 30130.57, Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

The Department's Tobacco Grant Program provides annual funds to local law enforcement agencies throughout California. To date, the Tobacco Grant Program has distributed approximately \$124 million dollars in grant funding to approximately 260 grantees through a competitive process.

Funding for the Tobacco Grant Program was a result of the passage of the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56) increasing taxes on cigarettes and other tobacco products by \$2.00 starting in April 2017. The initiative allocates a portion of annual revenue to the Department, which in turn reimburses local law enforcement programs designed to prevent or reduce illegal sales or marketing of cigarettes and tobacco products to minors and youth.

Effect of the Proposed Rulemaking:

This rulemaking package is initiated to implement the grant program created by section 30130.57 of the Revenue and Taxation Code. The proposed regulations establish general grant provisions, grant project types, specific application requirements, grant evaluation criteria, and necessary administrative procedures for the effective implementation of the program.

Anticipated Benefits of the Proposed Regulations:

The purpose and intent of Proposition 56 included saving the lives of Californians and saving state and local government money in the future by reducing smoking and tobacco use among all Californians, but particularly youth; and funding efforts to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors. (Initiative Measure (Prop. 56, § 2, approved Nov. 8, 2016.)

This proposed regulatory action will ensure the Tobacco Grant Program has uniform standards, internal controls, and guidelines to ensure consistent and effective administration of the program. In addition, the regulations will ensure the program funds law enforcement programs designed to prevent or reduce illegal sales or marketing of cigarettes and tobacco products to minors and youth.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that

would relate to or affect this area, the Department has concluded that these are the only regulations that concern the Department's Tobacco Grant Program.

Forms and Documents Incorporated by Reference:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department's Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: Local law enforcement agencies are not required to apply for funding from the Department's Tobacco Grant Program. These regulations could result in additional savings to local law enforcement agencies if they choose to participate in the program and are awarded a grant.

The Department is authorized to award up to \$30 million annually pursuant to Revenue and Taxation Code section 30130.57, subdivision (e)(1). Grants are awarded each calendar year, provided funding is available. The grant funding duration is 24 or 36 months, depending on the preference of the applicant. Historically, grant awards have ranged from \$10,000 to \$5.5 million, approximately.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: The Department is not aware of any costs impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses, including ability to compete: The Department has made an initial determination that that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

The Department also concludes that:

(1) The proposal would benefit the health and welfare of California residents by funding programs that reduce cigarette and tobacco smoking. According to Proposition 57:

Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use. (Initiative Measure (Prop. 56, § 1(a), approved Nov. 8, 2016)

(2) The proposal would not benefit worker safety because it does not regulate worker safety standards.

(3) Vast quantities of cigarette butts, foil wrappers, battery, plastic and electronic components of electronic cigarettes, lighters, and cigarette packs, are improperly discarded. This tobacco product waste contaminates waterways, poisons aquatic life, blocks drains, chokes birds, creates unsightly litter, and requires public entities to spend large sums on ongoing clean-up operations. The proposed regulations, to the extent they result in reduced use of tobacco products, will reduce environmental degradation.

Business report requirement: None.

Small business determination: The Department has determined that this proposed action does not affect small businesses because funding is only available for local law enforcement agencies.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way to administer the Tobacco Grant Program. The regulations will protect public health and save state and local government money by providing financial assistance to eligible local law enforcement agencies to support the goals and objectives set by the California Healthcare, Research and

Prevention Tobacco Tax Act of 2016. The regulations do not create any burden because the Tobacco Grant Program is a voluntary program intended to supplement an eligible entity's existing budget.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Stacy Heinsen
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7006
[TGPREgs@doj.ca.gov](mailto:TGPRegs@doj.ca.gov)

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Kevin Sabo
Department of Justice
1300 I Street, Suite 1270
Sacramento, CA 95814
(916) 210-7639
regulations@doj.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the "express terms" of the regulations), the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/tobaccogrants/regulations>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days

before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/tobaccogrants/regulations>. Please refer to the contact information listed above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of this Notice, the express terms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/tobaccogrants/regulations>.