

AMENDED IN ASSEMBLY MARCH 17, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1949

Introduced by Assembly Member Logue

February 17, 2010

An act to add Section 11349.95 to the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1949, as amended, Logue. Regulations: five-year review and report.

The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies.

This bill would additionally require the California Environmental Protection Agency, the Division of Occupational Safety and Health in the Department of Industrial Relations, and the State Air Resources Board to review and report on regulations that it adopts or amends on and after January 1, 2011, five years after adoption, as specified. ~~If an agency fails to complete and submit the review and report, the bill would require that regulation be inoperative immediately and would not become operative again until the agency satisfies the requirements for the adoption of a new regulation.~~ The bill would require that the review and report include 10 specified factors, including a summary of the written criticisms of the regulation received by the agency within the immediately preceding five years and the estimated economic, small business, and consumer impact of the regulation. The bill would require the Office of Administrative Law to make the review and report available on the ~~agency's~~ *office's* Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 11349.95 is added to the Government
- 2 Code, to read:
- 3 11349.95. (a) The applicability of this section is limited to the
- 4 California Environmental Protection Agency, the Division of
- 5 Occupational Safety and Health in the Department of Industrial
- 6 Relations, or the State Air Resources Board.
- 7 (b) (1) A state agency included in subdivision (a) shall review
- 8 and report on all regulations that it adopts or amends on and after
- 9 January 1, 2011, as required by this section. The review and report
- 10 shall be completed and submitted to the office on or before May
- 11 1 immediately following five years after the date the regulation
- 12 was adopted or amended.
- 13 ~~(2) If an agency fails to complete and submit the review and~~
- 14 ~~report to the office as required in paragraph (1) for any regulation,~~
- 15 ~~then that regulation shall be inoperative immediately. A regulation~~
- 16 ~~that has become inoperative pursuant to this paragraph shall not~~
- 17 ~~become operative again until the agency has satisfied the~~
- 18 ~~requirements of this chapter for the adoption of a new regulation.~~
- 19 ~~(3)~~
- 20 (2) The office shall make the report required by paragraph (1)
- 21 available on the agency's office's Internet Web site.
- 22 (c) The review and report required by this section shall include
- 23 all of the following factors:
- 24 (1) The general and specific statutes authorizing the regulation.
- 25 (2) The objective of the regulation.
- 26 (3) The effectiveness of the regulation in achieving the objective.
- 27 (4) The consistency of the regulation with state and federal
- 28 statutes and regulations and a listing of the statutes or regulations
- 29 used in determining the consistency.
- 30 (5) The agency enforcement policy, including whether the
- 31 regulation is currently being enforced and, if so, whether there are
- 32 any problems with enforcement.
- 33 (6) The agency view regarding current wisdom of the regulation.
- 34 (7) The clarity, conciseness, and understandability of the
- 35 regulation.

1 (8) A summary of the written criticisms of the regulation
2 received by the agency within the five years immediately preceding
3 the five-year review report, including letters, memoranda, reports,
4 and written allegations made in litigation or administrative
5 proceedings, to which the agency was a party, that the regulation
6 is discriminatory, unfair, unclear, inconsistent with statute, or
7 beyond the authority of the agency to enact, and the result of the
8 litigation or administrative proceedings.

9 (9) The estimated economic, small business, and consumer
10 impact of the regulation as compared to the economic, small
11 business, and consumer impact statement prepared on the last
12 making of the regulation, or, if no economic, small business, and
13 consumer impact statement was prepared on the last making of
14 the rule, an assessment of the actual economic, small business,
15 and consumer impact of the regulation.

16 (10) Course of action the agency proposes to take regarding
17 each regulation, including the month and year in which the agency
18 anticipates submitting the rules to the office if the agency
19 determines it is necessary to amend or repeal an existing rule, or
20 to make a new rule.