

INITIAL STATEMENT OF REASONS

Title 10. Investment
Chapter 13. Governor's Office of Business and Economic Development
Article 2. Made in California Program

Amend Article 2. Made in California Program, Sections 8100, 8110, 8120, 8130, 8140, and 8150.
Adopt Article 2. Made in California Program, Section 8160.

MADE IN CALIFORNIA PROGRAM

OVERVIEW

The Made in California Program was enacted in 2013 and established in Government Code section 12098.10 and 12098.11. On July 10, 2023, AB 127 amended statutes associated with Made in California.

The existing regulations provide a process for applicants to file an application for the Made in California Program. Specifically, the statute provides information on the application and certification process, terms used in the Made in California Program guidelines, review and renewal process, rules regarding the Licensing Agreement and Label usage, and updated Fee information.

The Made in California Program is designed to develop and promote the Made in California label, to encourage consumer product awareness, and to foster purchases of high-quality products in this state. The Program is administered by the California Office of the Small Business Advocate, Governor's Office of Business and Economic Development. The Program supports California-based manufacturers that meet the eligibility requirements across California's diverse range of manufacturing categories.

Examples of products eligible for the "Made in California" label would include but not be limited to: autos and other moving vehicles; aerospace devices and components; ships; chemicals; soap and detergent; dye; pharmaceuticals; cosmetics; paper; computers, consumer electronics and electronics devices; processed food & beverages; food preservation equipment; industrial ceramics and glass; electrical equipment; industrial polymers; transportation equipment; any kind of light or heavy machinery; clothing and footwear; textiles and manmade fiber; floor coverings; furniture and household goods; chemicals; artwork and handmade goods; and any new and emerging relevant sectors in California.

The proposed amendments to the previously adopted Made in California regulations provide further clarity to Applicants on the application and certification process, definitions of terms used in the Made in California Program guidelines, information on the review and renewal process, rules regarding the Licensing Agreement and Label usage, and updated Fee information.

Additionally, the program name is being updated to "Made in California" from the previous "California Made". Made in California is the statutorily given name. The previous version of this program administered through GO-Biz/CalOSBA was informally titled "California Made" due to an existing Made in California program from the organization California Manufacturing Technology Consulting (CMTTC). This re-launch of the state program is reclaiming the official title Made in California.

SPECIFIC PURPOSE FOR EACH REGULATION AND FACTUAL BASIS FOR DETERMINING THAT EACH REGULATION IS NECESSARY

8100

Section 8100, subparagraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (p)(1), (p)(2), (p)(3), (p)(4), (p)(5), (p)(6), (p)(7), (p)(8), (p)(9), (p)(10), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd)

Specific purpose:

The definitions of Section 8100, inclusive, serve to inform the general public and every business in California of the meaning behind language found throughout the Made in California Program. It has been brought to the attention of the department that some current definitions need further clarity and that other terms were left out of the original regulations. CalOSBA is eager to ensure that applicants can apply for the Made in California Program without confusion or obstacles and is therefore pursuing modifications to the prior amendments.

Subparagraph 8100(a) has been amended to include "501(c)(3) non-profit" and "501(c)(4) non-profit" in the list of business entity types. It has also been updated to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Subparagraph 8100(b) has been amended to provide clearer language and to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Subparagraph 8100(c) has been amended to provide clearer language and to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Current subparagraph 8100(d) has been removed. The Label will now go by the name "Made in California Label" which is defined in subparagraph 8100(u). This is a change without regulatory effect.

New subparagraph 8100(d) has been added to clarify the term "Application Portal". This is a change without regulatory effect.

Current subparagraph 8100(e) has been removed because third-party certification was reported by state manufacturers to be a large burden for participating in this program due to the complexities and costs associated with receiving this certification. Under the advisement of industry experts, it was determined that a self-attestation process would significantly reduce the barrier and increase overall participation in the program.

New subparagraph 8100(e) has been added to clarify the term "Attestation". This is a change without regulatory effect.

Current subparagraph 8100(f) has been removed due to the "Certification Form" no longer being a requirement of the Made in California Program.

New subparagraph 8100(f) has been added to clarify the term "Brand Guidelines". This is a change without regulatory effect.

New subparagraph 8100(g) has been added to clarify the term “CalOSBA”. This is a change without regulatory effect.

Former subparagraph 8100(g) has been renumbered 8100(h) and amended to update the current “Certification Term” from three years to two years as it has been determined that three years is too long to remain in consistent contact with the applicants.

Current subparagraph 8100(h) has been renumbered 8100(j) and amended to simplify the regulation and clarify “Direct Labor Costs”. This is a change without regulatory effect.

Current subparagraph 8100(i) has been renumbered 8100(k) and amended... to simplify the regulation and clarify Direct Material Costs”. This is a change without regulatory effect.

New subparagraph 8100(i) has been added to clarify the term “Contract Manufacturer/Packer”. This clarifies an alternative way manufacturers may operate.

Current subparagraph 8100(j) has been removed because the definition specifically relates to the use of a Third-party certifier, which is proposed to be removed from the regulations. Without the use of a Third-party certifier, this definition is no longer necessary.

Current subparagraph 8100(k) has been renumbered 8100(l) and been amended to clarify that CalOSBA is the program administrator of the Made in California Program, as well as update the program name from CA Made to Made in California. It also specifies that the Fee mentioned is charged to Licensees by CalOSBA every two (2) years. This is a change without regulatory effect.

Current subparagraph 8100(l) has been renumbered 8100(n); this is a change without regulatory effect.

Current subparagraph 8100(m) and 8100(n) have been consolidated into new subparagraph 8100(o) and amended to simplify the regulation and clarify “Indirect Costs”.

New subparagraph 8100(m) has been added to clarify the definition of “Full Time Equivalent”. This definition further clarifies the way fees will be calculated for applicants.

New subparagraphs 8100(p), (p)(1), (p)(2), (p)(3), (p)(4), (p)(5), (p)(6), (p)(7), (p)(8), (p)(9), and (p)(10) have been added to clarify the term “Ineligibility Conditions” and what would qualify a business as ineligible.

Current subparagraph 8100(o) has been renumbered 8100(q) and amended to update the program name from CA Made to Made in California. This is a change without regulatory effect.

Current subparagraph 8100(p) has been renumbered 8100(r) and amended to use updated definitions, update the program name from CA Made to Made in California, and to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Current subparagraph 8100(q) has been renumbered 8100(s) and amended to use updated definitions, update the program name from CA Made to Made in California, and to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Current subparagraph 8100(r) has been renumbered 8100(v) and been amended to provide clearer language; this is a change without regulatory effect.

Current subparagraph 8100(s) has been renumbered 8100(y) and amended to update the program name from CA Made to Made in California.

Current subparagraph 8100(t) has been renumbered 8100(z). This is a change without regulatory effect.

New subparagraph 8100(t) has been added to clarify the definition of “Made in California Fund”. This definition is incorporated as written in statute and is included for reference. This is a change without regulatory effect.

New subparagraph 8100(u) has been added to clarify the definition of “Made in California Label”. This change renames the Label from CA Made Label to Made in California Label. This is a change without regulatory effect.

Current subparagraph 8100(u) has been removed. This definition was specifically in reference to the costs associated with the labor that goes into the manufacturing of a product. The redefining of “Direct Labor Cost” and removal of “Indirect Labor Cost” eliminates the need for this definition.

Current subparagraph 8100(v) has been removed. This was removed because the definition specifically relates to the use of a “Familiar” Third-party certifier, which is proposed to be removed from the regulations. Without the use of the terms “Familiar” or “Third-party certifier”, this definition is no longer necessary.

New subparagraph 8100(w) has been added to clarify the definition of “Product Database”. This change is required to provide context on one of the benefits of participating in the Program, which is online promotion of the company and product as being Made in California.

Current subparagraph 8100(w) has been renumbered 8100(bb) and amended to define “Third-party Reviewer” rather than “Third-party certifier”. This regulation change proposes removing the use of a “Third-party certifier” as it was found to be a primary barrier to participation by California’s manufacturers and industry experts. A “Third-party Reviewer” will act as an industry expert to review application submissions for accuracy, eligibility, validation, and verification of the information submitted. This will reduce the administrative burden on CalOSBA and ensure that all Applicants have complied with the regulatory requirements before receiving final review and approval from CalOSBA.

New subparagraph 8100(x) has been added to clarify the definition of “Production Costs”. This change is required to clarify the calculation of “Substantially Made” for applicants who utilize a Contract Manufacturer/Packer as described in subparagraph 8120(c)(2).

Current subparagraph 8100(x) has been renumbered 8100(dd) and amended to clarify that CalOSBA is the program administrator of the Made in California Program and to provide clarity to Applicants regarding what is meant by the term Website. This is a change without regulatory effect.

Current subparagraph 8100(y) has been removed. This definition was removed as the method to calculate “Substantially Made” is proposed to be changed from “Wholesale Value” to “Total Operating Costs”.

New subparagraph 8100(aa) has been added to clarify the definition of “Substantially Made”. This aligns with the definition provided in Government Code section 12098.10(b)(2) and further clarifies that the use of the term Total Operating Costs and Wholesale Value are to be used interchangeably.

New subparagraph 8100(cc) has been added because the calculation of “Substantially Made” is proposed to be changed to “Total Operating Costs” rather than “Wholesale Value” to simplify the regulatory language as well as the process for applying to Program to increase participation.

Factual basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify details and terms of the Program. Because the statute does not include specifics regarding how an applicant is required to complete the application and certification process, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8100 subparagraphs (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (p)(1), (p)(2), (p)(3), (p)(4), (p)(5), (p)(6), (p)(7), (p)(8), (p)(9), (p)(10), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (bb), (cc), and (dd) are necessary to ensure that the definitions put forth in the Made in California Program language are clear and concise for Applicants.

The amended regulations meet the "necessity," "clarity," and “consistency” standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8110

Section 8110, subparagraphs (a), (b), (c), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (c)(6), (c)(7), (c)(8), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (e), (f), (g), (h)

Specific purpose:

The requirements of Section 8110, serve to inform the general public and California businesses of the Made in California application process. The revisions serve the purpose of providing further clarification about the Program Administrator, CalOSBA, and the required application information. Due to the regulatory revisions put forth for Section 8100, Section 8110 now requires revisions to definitions as well as updating of the Program name. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior regulations.

Current subparagraph 8110(a) has been added to clarify that CalOSBA is the program administrator of the Made in California Program.

Former subparagraph 8110(a) has been removed. This removal is to clarify that the application process will be no longer be directly managed by GO-Biz. This is a change without regulatory effect.

Former subparagraphs 8110(b) and 8110(c) have been combined as new subparagraph 8110(b). They have been amended to clarify where applicants should submit their application and create an account profile. This is a change without regulatory effect.

Current subparagraph 8110(d) has been renumbered 8110(c). This is a change without regulatory effect.

New subparagraph 8110(c)(1) has been amended to include “title” as required in the Contact Information portion of the Application, as it has been determined to be helpful when contacting applicants. Phone number and email address were previously included in regulations and have been reordered in the listing of required Contact Information; this is a change without regulatory effect.

New subparagraph 8110(c)(2) has been added to further clarify the requirement of including a logo and description of the company in the Application. This is a change without regulatory effect.

New subparagraph 8110(c)(3) has been added to further clarify the requirement of providing a retail store address in the Application, if one is applicable to the Applicant. This is a change without regulatory effect.

New subparagraph 8110(c)(4) has been added to further clarify the requirement of indicating the manufacturing industry applicable to the Applicant. This is a change without regulatory effect.

Current subparagraph 8110(c)(2) has been renumbered 8110(c)(5) amended to include “501(c)(3) non-profit or 501(c)(4) non-profit)” which are also acceptable responses and were not previously included. This is a change without regulatory effect.

Current subparagraph 8110(c)(3) has been renumbered 8110(c)(6) and amended to clarify which documents are accepted for the Applicant to upload as proof that they are legally authorized to do business in California. Proof of legal authorization has always been required; this is a change without regulatory effect.

Current subparagraph 8110(c)(7) has been added to require applicants to inform if they have been certified in California by the Department of General Services or other similar state agency as a small business, microbusiness, disadvantaged business, disabled veteran-owned, and/or women-owned business; this is a change without regulatory effect.

Current subparagraph 8110(c)(8) has been added to require applicants to provide their Data Universal Numbering System (DUNS) number and all applicable North American Industry Classification System (NAICS) codes; this is a change without regulatory effect.

Former subparagraph 8110(c)(4) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

Former subparagraph 8110(c)(5) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

Former subparagraph 8110(c)(6) has been removed as it has been determined to be unnecessary due to already being covered in Section 8120, Certification Process for CA Made Label. This is a change without regulatory effect.

Former subparagraph 8110(c)(7) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

Former subparagraph 8110(c)(8) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

~~New subparagraph 8110(c)(9) has been added to include the total number of employees employed in California and total number of employees employed outside of California.~~

~~New subparagraph 8110(c)(10) has been added to include the number of products the Applicant anticipates entering into the Product Database.~~

Current subparagraph 8110(d) has been added to request that Applicants provide voluntary information regarding gender, race and/or ethnicity, veteran-status, disabled-status, and sexual orientation, including LGBTQ+. This is a change without regulatory effect.

Former subparagraph 8110(e) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

New subparagraph 8110(e) has been added to require the Applicant be asked if they manufacture their own Products or utilize a Contract Manufacturer/Packer.

Former subparagraph 8110(f) has been removed as this requirement is now included in added section 8160. This is a change without regulatory effect.

Former subparagraph 8110(g) has been renumbered 8110(f) and amended to use updated definitions and to clarify that CalOSBA is the program administrator of the Made in California Program; this is a change without regulatory effect.

New subparagraph 8110(g) has been added to clarify that an Applicant may revise or withdraw an Application at any time on the Website prior to submitting the Application.

Factual basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify the application process for the Made in California Label. Because the statute does not include specifics regarding how an applicant is required to complete the application and certification process, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8110 subparagraphs (a), (b), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (c)(6), (c)(7), (c)(8), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (e), (f), (g), and (h) are necessary to ensure that the Made in California Program application process is clear and concise for Applicants.

The amended regulations meet the "necessity," "clarity," and "consistency" standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8120

Section 8120, subparagraphs (a), (b), (c), (c)(1), (c)(2), (d), (e), (f)

Specific purpose:

The requirements of Section 8120, serve to inform the general public and California businesses of the Made in California certification process. The revisions serve the purpose of amending current

regulations to the updated Certification process. Due to the regulatory revisions put forth for Section 8100, Section 8110 now also requires revisions to definitions as well as updating of the Program name. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior regulations.

Former subparagraphs 8120(a), (b), (c), (d), (e), and (f) have been removed as CalOSBA has revised the previous requirement that applicants be certified by a third-party. This requirement was determined to be largest barrier and burden for small manufactures to participate in the program. The removal of this third-party certification will encourage greater participation rates across the state and especially with smaller manufacturers.

New subparagraph 8120(a) has been added to set forth the requirement that Applicants attest that their Product(s) under the Made in California Program meet the definition of “Substantially Made” in California as defined in subparagraph 8100(aa).

Current subparagraph 8120(b) has been added to clarify that the Applicant is to be held legally responsible for the accuracy of the submitted information. It also clarifies that CalOSBA reserves the right to reject an Application or to terminate a Licensing Agreement upon discovery of incorrect or misleading submissions.

Current subparagraph 8120(c)(1) and 8120(c)(2) have been added to clarify how the determination is made whether the Product(s) is “Substantially Made” in California. It states that the determination shall be made by calculating the Total Operating Costs generated in California which must be equal to or exceed fifty-one percent (51%).

New subparagraph 8120(b)(1) clarifies how Applicants who manufacture their own products shall determine the Total Operating Costs.

New subparagraph 8120(b)(2) clarifies how Applicants who utilize a Contract Manufacturer/Packer shall determine the Total Operating Costs.

Factual Basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify the certification process for the Made in California Label. Because the statute does not include specifics regarding how an applicant is required to complete the certification process, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8120 subparagraphs (a), (b), (c), (c)(1), (c)(2), (d), (e), and (f) are necessary to ensure that the certification process for the Made in California Program is clear and concise.

The amended regulations meet the "necessity," "clarity," and “consistency” standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8130

Section 8130, subparagraphs (a), (b), (c), (d), (e), (f), (g), (h)

Specific purpose:

The requirements of Section 8130, serve to inform the general public and California businesses of the Made in California Application Review, Rejection, Approval, and Renewal Process. Due to the regulatory revisions put forth for Section 8100, Section 8130 now also requires revisions to definitions as well as updating of the Program name. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior amendments.

Subparagraph 8130(a) has been amended to clarify that CalOSBA will not only be reviewing the application for completeness but also verifying that the Applicant has submitted required information regarding the “Substantially Made in California” criteria as well as Ineligibility Conditions. This is a change without regulatory effect.

Current subparagraph 8130(b) has been removed as changes are only allowed to an Application prior to submission due to the fact that any post application submission would need to be reviewed and approved by the Third-Party Reviewer.

Current subparagraph 8130(c) has been renumbered 8130(b) and amended to clarify the process when an Application is rejected.

Former subparagraph 8130(d) has been renumbered 8130(c) and updated to clarify the process when an Application is approved.

Former subparagraph 8130(d)(1) has been renumbered 8130(c)(1) and amended to clarify that CalOSBA is the program administrator of the Made in California Program and update the program name from CA Made to Made in California; this is a change without regulatory effect.

Former subparagraph 8130(d)(2) has been renumbered 8130(c)(2) and amended to use updated definitions as well as clarify that the Fee will cover the Certification Term.

Former subparagraph 8130(e) has been renumbered 8130(c)(3) and amended to use updated definitions as well as to clarify that CalOSBA is the Program Administrator of the Made in California program. Language has been modified for clarification purposes only; this is a change without regulatory effect.

New subparagraph 8130(c)(4) has been added to clarify that the applicant will be permitted to use the Made in California Label and enter qualified Products in the Product Database.

Former subparagraph 8130(f) has been renumbered 8130(d) and amended to clarify that CalOSBA is the program administrator of the Made in California Program, the time period of thirty business days, as well as certain definitions; this is a change without regulatory effect.

Former subparagraph 8130(g) has been renumbered 8130(e) and amended to use updated definitions; this is a change without regulatory effect.

Former subparagraph 8130(h) has been renumbered 8130(f) and amended to use updated definitions and to clarify that the renewal Application must be an updated version. It also clarifies that CalOSBA will fully execute the new Licensing Agreement on condition that the payment of Fee is received.

Factual Basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify Application Review, Rejection, Approval, and Renewal Processes of the Program. Because the statute does not include specifics regarding how an applicant is required to complete these processes, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8130 subparagraphs (a), (b), (c), (d), (e), (f), (g), (h) are necessary to ensure that the definitions put forth in the Made in California Program language are clear and concise for Applicants.

The amended regulations meet the "necessity," "clarity," and "consistency" standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8140

Section 8140, subparagraphs (a), (b), (c), (d), (e), (f)

Specific purpose:

The requirements of Section 8140, serve to inform the general public and California businesses of the Made in California Licensing Agreement and Label Usage. Specifically, language regarding termination and expiration of the Licensing Agreement is included. Due to the regulatory revisions put forth for Section 8100, Section 8140 now requires revisions to definitions as well as updating of the Program name. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior amendments.

Subparagraph 8140(a) has been amended to use updated Definitions, update the program name from CA Made to Made in California, and to clarify that CalOSBA is the program administrator of the Made in California Program. It also provides further information on the Made in California Label parameters that will be provided.

Subparagraph 8140(b) has been amended to include former subparagraph 8140(b)(1), and to use updated definitions and update the program name from CA Made to Made in California. This is a change without regulatory effect.

Former subparagraph 8140(b)(1) has been removed and combined with current Subparagraph 8140(b). This is a change without regulatory effect.

Former subparagraph 8140(b)(2) has been renumbered 8140(c)(1) and amended to clarify that it is in regard to the Made in California Label. This is a change without regulatory effect.

Former subparagraph 8140(b)(3) has been renumbered 8140(c)(2) and amended to use updated definitions. This is a change without regulatory effect.

Subparagraph 8140(c) has been renumbered 8140(d) and amended to use updated definitions, update the program name from CA Made to Made in California, and to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

Subparagraph 8140(e) has been added to clarify the process for if the Licensing Agreement is terminated or expires for any reason and how Applicants must proceed.

Subparagraph 8140(f) has been added to clarify the design parameters of the Brand Guidelines.

Factual Basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify the Licensing Agreement and Label Usage for the Program. Because the statute does not include specifics regarding how an applicant is required to complete the application and certification process, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8140 subparagraphs (a), (b), (c), (d), (e), (f) are necessary to ensure that the processes put forth in the Made in California Program are clear and concise for Applicants.

The amended regulations meet the "necessity," "clarity," and "consistency" standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8150

Section 8150, subparagraphs (a), (b), (c), (d), (e), (f)

Specific purpose:

The requirements of Section 8150, serve to inform the general public and California businesses of the Made in California Fee Imposition, Structure, and Management. Due to the regulatory revisions put forth for Section 8100, Section 8150 now requires revisions to definitions as well as updating of the Program name. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior amendments.

Subparagraph 8150(a) has been amended to use updated definitions and to clarify that CalOSBA is the program administrator of the Made in California Program and that the Fee will be collected in total and in advance of the Certification Term.

Subparagraph 8150(b) has been amended to convey that the new Fee amount is based on the number of employees employed by the Applicant, which will be calculated based on Full-Time Equivalent (FTE).

Subparagraph 8150(b)(1) has been added to clarify that the fee shall be seventy-five dollars (\$75.00) for companies with less than (20) employees, two hundred fifty dollars (\$250.00) for companies with twenty (20) to five hundred (500) employees and five hundred dollars (\$500.00) for companies with over five hundred (500) employees.

Subparagraph 8150(b)(2) has been added to clarify that the fee will be imposed every two (2) years commencing on the date when CalOSBA signs this Agreement and on the same date every two (2) years while the Agreement remains valid.

Current subparagraph 8150(c) has been removed due to the new language added to 8150(b). This is a change without regulatory effect.

New subparagraph 8150(c) has been added to clarify that CalOSBA may provide a one-time waiver or discount on the Fee for the first two (2) year term of the License Agreement. It also states that Applicants may become eligible for a waiver or discount in the following ways: (1) Be an existing participant in the Made in California Program administered by California Manufacturing Technology Consulting (CMTc), (2) Participate in the Made in California Advisory Committee convened by CMTc, (3) Make in-kind contributions to the Made in California Program worth at least the value of the highest Fee amount, or (4) Promote the benefits of the License Agreement or associated program to their target audience(s). These groups may include trade associations, business networks, or other entities focused on supporting manufacturers, and their promotion must align with the goals of CalOSBA.

New subparagraph 8150(d) has been added to clarify where Applicants can find Fee information. This is a change without regulatory effect.

Current subparagraph 8150(d) has been removed due to the new language added to 8150(b). This is a change without regulatory effect.

Current subparagraph 8150(e) has been amended to clarify that CalOSBA is the program administrator of the Made in California Program. This is a change without regulatory effect.

New subparagraph 8150(f) has been added to clarify the right of CalOSBA to change the Made in California fee with a sixty (60) day notice. This language has been added to enable CalOSBA to adjust the fee amount if it is determined that the established fee is too high/low. This allows flexibility to ensure long-term stability.

Factual Basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify Fee Imposition, Structure, and Management of the Program. Because the statute does not include specifics regarding Fees, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8150 subparagraphs (a), (b), (c), (d), (e), (f) are necessary to ensure that the Fee Information for the Made in California Program is clear and concise.

The amended regulations meet the "necessity," "clarity," and "consistency" standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

8160

Section 8160, subparagraphs (a), (b), (c), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (d), (e)

Specific purpose:

The requirements of Section 8160, serve to inform the general public and California businesses of the Made in California Product Database. The Product Database is a new addition to the CalOSBA website and allows for consumers to easily find and identify Made in California products. CalOSBA is eager to ensure that applicants can participate in the Program without confusion or obstacle and is therefore pursuing modifications to the prior amendments.

New subparagraph 8160(a) has been added to inform the public and Applicants about the creation of a Product Database that shall be available on the Website and shall include information about the Licensee and all Licensee's Products. It also clarifies that licensees are responsible for inputting, maintaining and updating their own Product information.

New subparagraph 8160(b) has been added to clarify that it is the responsibility of each Licensee to ensure all Products listed in the Product Database meet the Program requirements.

New subparagraph 8160(c) has been added to clarify what information may be entered into the Product Database by the Licensee's, including:

- 8160(c)(1): Product(s) eligible to use the Made in California Label, categories the Product(s) fall(s) under, and a brief description of the Product(s)
- 8160(c)(2): Uploaded photo(s) of the Product(s)
- 8160(c)(3): Any other descriptive information about the Product(s) to be used for marketing purposes on the Website
- 8160(c)(4): Company logo
- 8160(c)(5): Company biography

New subparagraph 8160(d) has been added to clarify that the Applicant authorizes CalOSBA and GO-Biz to use all information contained in the Product Database such as Product information, Product photos, and business biographies on the Website and in any other Made in California marketing materials developed or approved by GO-Biz (i.e., CA Grown, Visit California, etc.).

New subparagraph 8160(e) has been added to clarify that the Applicant gives CalOSBA permission to alter the style and format of marketing materials. CalOSBA shall not alter the content of the marketing materials without written permission from the Applicant.

Factual Basis:

To implement the Made in California Program, CalOSBA has put procedures in place consistent with the authority provided in sections 12098.10 and 12098.11 of the California Government Code to clarify the Product Database. Because the statute does not include specifics regarding the Product Database, Title 10, Chapter 13, Article 2, inclusive, includes detailed information that supports implementation of the statutory objectives. The amendments to Section 8160 subparagraphs (a), (b), (c), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (d), (e) are necessary to ensure that the Product Database Information for the Made in California Program is clear and concise.

The amended regulations meet the "necessity," "clarity," and "consistency" standards of the APA, Section 11349 of the Government Code, subsections (a), (c), and (d). The regulation is also consistent with the requirements of style pursuant to Section 11343.1 of the Government Code and the principles of "plain English" rule drafting.

FORMS INCORPORATED BY REFERENCE

None.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON

GO-Biz relied solely upon the Made in California Application to create these regulations.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE OFFICE'S REASON FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by GO-Biz.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Governor's Office of Business and Economic Development has not identified any alternatives that would lessen any adverse impact on small business. The California Office of the Small Business Advocate's Made in California Program provides more opportunities for small business as it allows them to promote their Product(s) as certified high-quality goods that have been made within the state, and the proposed amendments to Program regulations will make the Programs easier to comply with for applicants.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Governor's Office of Business and Economic Development has determined that the proposed regulations would not have a significant adverse economic impact on businesses. The Made in California Program aims to increase revenue on high-quality products made by businesses within the state. The proposed amendments to Program regulations will make the Program easier to navigate for applicants.

SPECIFIC TECHNOLOGY OR EQUIPMENT

These proposed regulations do not mandate the use of specific technologies or equipment.

STATEMENT OF GOOD CAUSE FOR IMMEDIATE EFFECTIVE DATE

The amendments proposed through this rulemaking action are intended to ensure the requirements and processes of the Made in California Program are unambiguous and consistent; they were designed to aid applicants in the Program in complying with the Program requirements and thereby being able to gain access to the benefits this Program offers. These amendments do not place any additional burden on applicants, rather, they will provide further clarity for potential applicants, stakeholders, and entities affected by the regulations. Delaying the effective date of these amendments to the next quarterly date would prevent certain entities from complying fully with Program requirements and may prevent businesses from applying to the Program. The delay would provide no benefit to applicants, rather it would be a barrier to Program participation.