

**Updated Statement of Reasons for
Proposed Amendments to California Code of Regulations
Title 18, Section 1525.4,
Manufacturing and Research and
Development Equipment**

The California Department of Tax and Fee Administration (Department) proposes to amend California Code of Regulations, title 18, section (Regulation) 1525.4, *Manufacturing and Research and Development Equipment*, to clarify the provisions of Revenue and Taxation Code (RTC) section 6377.1 as amended by Assembly Bill 398 (Stats. 2017, ch. 135) (AB 398) and Assembly Bill 131 (Stats. 2017, ch. 252) (AB 131).

Current Law

Sales and Use Tax

In 2014, RTC section 6377.1 was enacted by Assembly Bill 93 (AB 93) (Stats. 2013, Ch. 69) and amended by Senate Bill 90 (SB 90) (Stats. 2013, Ch. 70) to provide a partial exemption from sales and use tax on certain manufacturing and research and development equipment sales and purchases. As originally enacted, the partial exemption applied to qualifying sales and purchases made on or after July 1, 2014, and before July 1, 2022. Subsequently, the Department's predecessor, the Board of Equalization (BOE) adopted Regulation 1525.4, *Manufacturing and Research and Development Equipment*, which became effective on September 25, 2014, and interprets the provisions of RTC section 6377.1.

RTC section 6377.1 exempted qualifying sales and purchases from the state general fund taxes and the State of California's Education Protection Account tax. Accordingly, from July 1, 2014, to December 31, 2016, the partial exemption was 4.1875%. On December 31, 2016, the Education Protection Tax expired and the statewide tax rate was reduced to 7.25%. As a result, the partial exemption rate was reduced to 3.9375%. Despite the reduction in the partial exemption rate, qualifying sales and purchases were and continue to be subject to a tax rate of 3.3125%, plus applicable district taxes.

In general, this partial exemption allows a qualified person, who purchases qualified tangible personal property and uses that property in a qualifying manner, to purchase the property subject to a reduced tax rate. In addition, a construction contractor who purchases tangible personal property to be used in the construction of a special purpose building for a qualified person can also purchase the property at the reduced tax rate.

AB 398 and AB 131, both chaptered into law in 2017, amended RTC section 6377.1 to expand the definitions of a qualified person and qualified tangible personal property; expand the partial exemption to qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution of electric power; define "generation or production" and "storage and distribution;" extend the sunset date for the exemption; and amend the definition of useful life.

Qualified Person

Pursuant to RTC section 6377.1, subdivision (b)(8)(A), a "qualified person" is defined in Regulation 1525.4, subdivision (b)(8)(A), and includes businesses primarily engaged in:

- Manufacturing described in North American Industry Classification System (NAICS) (2012 edition) codes 3111 to 3399.
- Biotechnology Research & Development (R&D) described in NAICS code 541711: businesses primarily engaged in conducting biotechnology research and experimental development.
- Physical, Engineering, and Life Sciences R&D described in NAICS code 541712: businesses primarily engaged in conducting research and experimental development (except biotechnology research and experimental development) in the physical, engineering, and life sciences.

AB 398 expanded the definition of a “qualified person” in RTC section 6377.1, subdivision (b)(8)(A), to include, on and after January 1, 2018, persons primarily engaged in a line of business described in NAICS code 221111 to 221118, inclusive, and 221122. NAICS codes 221111 to 221118 include establishments engaged in hydroelectric, fossil fuel, nuclear, solar, wind, geothermal, and biomass electric power generation. NAICS code 221122 is comprised of electric power distribution establishments including those primarily engaged in either (1) operating electric power distribution systems (i.e., consisting of lines, poles, meters, and wiring) or (2) operating as electric power brokers or agents that arrange the sale of electricity via power distribution systems operated by others.

In accordance with RTC section 6377.1, subdivision (b)(8)(B), Regulation 1525.4, subdivision (b)(8)(B), provides that a “qualified person” does not include an apportioning trade or business that is required to apportion its business income pursuant to subsection (b) of RTC section 25128 or a trade or business conducted wholly within California that would be required to apportion its business income pursuant to subsection (b) of RTC section 25128 if it were subject to apportionment pursuant to RTC section 25101. This generally includes apportioning trades or businesses that derive more than 50-percent of their gross business receipts from an agricultural business activity, an extractive business activity, a savings and loan activity, or a banking or financial business activity.

AB 398 amended RTC section 6377.1, subdivision (b)(8)(B), to provide that, on and after January 1, 2018, a qualified person shall not include an apportioning trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of RTC section 25128, that is required to apportion its business income pursuant to subdivision (b) of RTC section 25128, or a trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101. Paragraph (1) of subdivision (c) of RTC section 25128 refers to an agricultural business activity.

Qualifying Property

Pursuant to RTC section 6377.1, subdivision (b)(9)(A), Regulation 1525.4, subdivision (b)(9)(A), defines “qualified tangible personal property” as:

- Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

- Equipment or devices used or required to operate, control, regulate or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years.
- Tangible personal property used in pollution control that meets or exceeds standards established by California or any local or regional governmental agency within California.
- Special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. (Buildings used solely for warehousing purposes after completion of those processes are not included.)

AB 398 amended RTC section 6377.1, subdivision (b)(9)(A)(iv), to include in the definition of qualified tangible personal property on and after January 1, 2018, special purpose buildings used as an integral part of the generation or production or storage and distribution of electric power.

Useful Life

Pursuant to RTC section 6377.1, subdivision (b)(9)(B), Regulation 1525.4, subdivision (b)(9)(B), excludes from the definition of “qualified tangible personal property”: consumables with a useful life of less than one year; furniture, inventory and equipment used in the extraction process; equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process; and tangible personal property used primarily in administration, general management, or marketing.

Pursuant to RTC section 6377.1, subdivision (b)(13)(A), Regulation 1525.4, subdivision (b)(13), defines useful life and provides that tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of the regulation. Similarly, it provides that tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year.

AB 398 amended RTC section 6377.1, subdivision (b)(13)(A), to add that tangible personal property that is deducted under RTC sections 17201 and 17255 or RTC section 24356 shall be deemed to have a useful life of one or more years.

Qualifying Use

Pursuant to RTC section 6377.1, subdivision (a), Regulation 1525.4, subdivision (a), explains that qualified tangible property must be used primarily in a qualifying manner. In general, the partial exemption applies to qualified tangible personal property purchased for use by:

- (1) A qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating or recycling of tangible personal property;
- (2) A qualified person to be used primarily in research and development;
- (3) A qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in (1) or (2) above; or
- (4) A contractor purchasing that property for use in the performance of a construction contract for the qualified person, provided that the qualified person will use the resulting improvement on or to real property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or as a research or storage facility for use in connection with those processes.

AB 398 added RTC section 6377.1, subdivision (a)(5), to provide that the partial exemption applies to qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power. In addition, it amended RTC section 6377.1, subdivision (a)(4), to provide that the partial exemption also applies to qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the generation or production, or storage and distribution, of electric power.

Other Definitions

AB 398 added RTC section 6377.1, subdivision (b)(3), which defines “generation or production as “the activity of making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.” AB 398 also added RTC section 6377.1, subdivision (b)(12), which defines “storage and distribution” as “storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.”

Sunset Date

The sunset date for the partial exemption was June 30, 2022. However, AB 398 amended RTC section 6377.1 to extend the sunset date to June 30, 2030.

Interested Parties Process

On March 13, 2018, the Department distributed an initial discussion paper and proposed amendments to Regulation 1525.4 to the public. On April 11, 2018, the Department held a meeting with interested parties to discuss the Department’s proposed amendments to Regulation 1525.4. After the meeting, written comments were received from the California Taxpayers Association (CalTax) on April 27, 2018, to suggest revisions to staff’s proposed amendments.

The Department also met with PG&E and CalTax at PG&E’s Livermore training facility to get a better understanding of the electric power industry and equipment used in transmission and distribution. In addition, the Department met with the California Public Utilities Commission (CPUC) staff to learn about industry regulation.

After additional research and conversation, the Department redrafted the proposed amendments to the regulation. The redrafted proposed amendments and second discussion paper were distributed on February 27, 2020, and an interested parties meeting was held on March 12, 2020. After the second interested parties meeting, the Department received submissions containing additional suggested revisions from Moss Adams on March 26, 2020, and CalTax on May 8, 2020. Their suggestions will be addressed below.

Proposed Amendments

Below is a description of the amendments the Department proposes to incorporate the amendments to RTC section 6377.1 caused by AB 398 and AB 131 and to make non-substantive changes to Regulation 1525.4. The Department also discusses below the amendments that it is proposing to clarify certain provisions of RTC section 6377.1.

Proposed Amendments incorporating amendments to RTC section 6377.1 and making non-substantive or clarifying changes

Title

The Department amended the title of the regulation to reflect its application to the electric power industry. The current regulation title, *Manufacturing and Research and Development Equipment*, refers to industries that were qualified to purchase goods subject to the partial exemption at the time the original law went into effect. With the addition of qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution of electric power, the Department amended the name of the regulation to *Manufacturing, Research and Development, and Electric Power Equipment*.

Subdivision (a)

The subtitle in subdivision (a) was amended to *Partial Exemption for Property Purchased for Use in Manufacturing, Research and Development, and Electric Power Generation or Production, Storage, or Distribution*. Subdivision (a) was amended to reflect the change in the sunset date by removing 2022 and replacing it with 2030 in the first and third paragraphs. This amendment was also made in other areas of the regulation where the sunset date is referenced. References to the RTC were amended to be consistent with similar references throughout the Regulation, and capitalization of references to the California Constitution was corrected.

Subdivision (a)(4) was added to the list of qualifying transactions, to conform with the statutory change to RTC section 6377.1, subdivision (a) discussed above. The specific language incorporated into subdivision (a) includes a clarification and is discussed below.

Due to the addition of new subdivision (a)(4), former subdivision (a)(4) was renumbered as (a)(5).

Subdivision (b)

Subdivision (b) provides the definition of terms used in the regulation. The Office of Administrative Law (OAL) requires that definitions be listed in alphabetical order. The addition of definitions for “distribution” as subdivision (b)(1), “generation or production” as subdivision (b)(3), “storage” as subdivision (b)(15), and “transmission” as subdivision (b)(16), as discussed below, caused the existing definitions to be renumbered as follows: subdivisions (b)(1) was renumbered as (b)(2), subdivisions (b)(2) through (b)(12) were renumbered as (b)(4) through (b)(14), and subdivision (b)(13) was renumbered as (b)(17).

Generation or Production

In order to incorporate the statutory changes to RTC section 6377.1, subdivision (b)(3), discussed above new subdivision (b)(3) was added to define “generation or production.” RTC section 6377.1, subdivision (b)(3), references a conventional power source, as defined in section 2805 of the Public Utilities Code.” The Department included the definition of conventional power source, as defined in section 2805 of the Public Utilities Code (PUC), so that a reader would not have to refer to the PUC to determine what a conventional power source is.

In their April 27, 2018, submission, CalTax suggested changing the word “power” to “energy” in the definition. Although the terms are often used interchangeably in the industry, the Department believes it is more appropriate to use the term provided in the statute. The Department also did not incorporate CalTax’s suggested language that attempted to define a beginning point and ending point of generation and production as the Department did not deem it necessary to add language to define those points. Also, the Department believes that CalTax’s suggested language expanded the definition to activities that occurred prior to the actual activity of generation or production of electric power.

As a result of renumbering, the reference to subdivision (b)(3) was changed to (b)(5) in renumbered subdivision (b)(8).

Qualified Person

The definition of “qualified person” in renumbered subdivision (b)(10)(A) was amended to incorporate the amendments to RTC section 6377.1, subdivision (b)(8)(A) described above.

In their May 8, 2020, submission, CalTax sought to add additional language to the definition of a qualified person by adding in subdivision (b)(10)(A): “As an additional example, a business may be regarded as a qualified person when the activities of the establishment are reasonably described in a phase of the Process.” The Department did not include this suggested language as it believes this goes beyond the scope of the statute. In order for a business or an establishment within the business to be a “qualified person” the business or the establishment must be *primarily* engaged in a qualified activity. In the Department’s opinion, CalTax’s suggestion inadvertently may allow establishments to qualify that are not primarily engaged in a qualifying activity. Furthermore, the language of this subdivision already reflects the concept of establishments being qualified persons even if the entire business is not qualifying.

In addition, renumbered subdivision (b)(10)(A) was amended to refer to a person primarily engaged in a qualifying line or qualifying lines of business to reflect that a person may be primarily engaged in a combination of activities in qualifying lines of business. This amendment was also made in renumbered subdivisions (b)(10)(A)2, (b)(10)(A)4, and other parts of the regulation.

In order to incorporate the statutory changes to RTC section 6377.1, subdivision (b)(8)(B), discussed above the Department amended renumbered subdivision (b)(10)(B) into two subparagraphs to clarify that agricultural businesses are not excluded from the definition of a “qualified person” on or after January 1, 2018.

Non-substantive grammatical and formatting amendments were made to renumbered subdivisions (b)(10)(A)2.

Qualified Tangible Personal Property

In order to incorporate the statutory changes to RTC section 6377.1, subdivision (b)(9)(A), discussed above, the definition of “qualified tangible personal property” in subparagraph 4 of renumbered subdivision (b)(11)(A) was amended.

In CalTax’s April 27, 2018, submission, they suggested that the Department add three new subparagraphs to include descriptions and examples of qualified tangible personal property used in the generation or production, distribution, or storage of electric energy. However, the language in the revised statute did not amend the definition of qualified tangible personal property with respect to the electric power industry except as it relates to special purpose buildings. For this reason, and because the regulation applies to a variety of industries, the Department deemed it unnecessary to list specific equipment that is qualifying property in the regulation. Since qualification also depends on how property is used by a qualified person, CalTax’s suggested revisions were not incorporated. In their second submission, CalTax suggested that the Department include additional language in renumbered subdivision (b)(11)(A)4.a. to provide an example of a special purpose building or foundation. The Department has elected to not include the language CalTax suggested as it would be better suited for possible inclusion in the Department’s online industry guide.

In CalTax’s May 8, 2020, submission, they suggested the Department add additional appendices

that would include examples of specific property that could qualify. They suggested separate appendices for the manufacturing, electric generation or production, and electrical storage industry. The Department has elected to not incorporate their suggestion as the Department believes that specific lists of qualifying property are better suited for consideration in the online industry guide.

Non-substantive grammatical and formatting amendments were made to renumbered subdivisions (b)(11)(A)1, (b)(11)(A)4.c, (b)(11)(A)4.e, and (b)(11)(B)2.

Storage, Transmission, and Distribution

The Department added definitions as they relate to electric power for “distribution” in (b)(1), “storage” in (b)(15), and “transmission” in (b)(16). For “storage” the Department incorporated the statutory definition from RTC section 6377.1, subdivision (b)(12), discussed above. For “distribution” and “transmission” the Department clarified the terms, as discussed below.

Useful Life

In order to incorporate the statutory changes from RTC section 6377.1, subdivision (b)(13)(A), discussed above the Department amended renumbered subdivision (b)(17). Both CalTax and Moss Adams provided alternative suggested language to define “useful life.” Moss Adams suggested that the Department replace the word “deducted” with “expensed.” CalTax suggested that the Department use language to state “*if the qualified person treats it as having a useful life of one or more years, including but not limited to, deducting or expensing the tangible personal property under sections 17201 and 17255 or section 24356 of the Revenue and Taxation Code.*” The Department has elected not to incorporate either of their suggestions as the Department believes the suggested language extends beyond the scope of the statute.

Subdivision (c)

Amendments were made to subdivision (c) to clarify the existing provisions, to make the language more consistent with the language of Regulations 1667 and 1668, and to make other grammatical changes.

In the fifth paragraph of subdivision (c)(1), the reference to subdivision (a)(4) was changed to (a)(5) as a result of renumbering. In subdivision (c)(3)(D), reference to subdivision (a)(3) and (a)(4), were changed to (a)(4) and (a)(5), respectively, for the same reason. In subparagraphs 1 and 2 of subdivision (c)(3)(E), language was amended to include the new qualifying persons and applicable NAICS codes on the form of an exemption certificate. Subdivision (c)(3)(F) also includes a revision that changes the reference from subdivision (b)(7)(A) to newly renumbered subdivision (b)(11)(A).

Subdivision (d)

The proposed amendments in subdivision (d)(1) incorporate the changed sunset date of the exemption from the year 2022 to 2030 and make other clarifying changes

Subdivisions (e) and (f)

There are no changes in subdivision (e) and (f).

Subdivision (g)

In the second paragraph of subdivision (g)(1) the proposed amendments change a reference from subdivision (b)(9)(A)4 to renumbered subdivision (b)(11)(A)4. The subtitle in subdivision (g)(2)

was reworded. In subdivision (g)(2), the proposed amendments change the reference from subdivision (b)(8) to renumbered subdivision (b)(10)(A). Other clarifying amendments were made to subdivisions (g)(2) and (g)(3).

Subdivision (h)

In this subdivision, the word “Board” was changed to “Department” to reflect the Department replacing the Board of Equalization as the administering tax agency on and after July 1, 2017, and other clarifying changes were made.

Appendix A

This appendix provides the exemption certificate designed for qualified persons to provide to retailers as support of a valid partially exempt transaction. The title was amended to include electric power equipment. In addition, the sunset date of the partial exemption period was amended from 2022 to 2030, and “to” was replaced with “for” in that same paragraph. In the list of qualified uses, the Department revised the fourth item to include generation or production, storage, or distribution of electric power as a qualifying use. The word “personal” was added so that it reads “tangible personal property,” and the reference to a “specific” partial exemption certificate was changed to a certificate “for a specific purchase.” The new qualified persons provisions that allow a person primarily engaged in activities described in NAICS codes 221111 to 221118 and 221122 were also added to the certifying statement, and the statement was amended to reflect that a person may be primarily engaged in a combination of activities in qualifying lines of business. Under the bulleted list, a new second bullet item was added and the second through fourth items were changed to sub-items under it, to reflect that all three of those items are subject to the one-year limitation period. The words “the property is” were added to the second and third sub-bullet items. Finally, reference to subdivision (b)(9) was changed to (b)(11) in the first footnote.

Appendix B

Appendix B is the exemption certificate designed for use by a construction contractor who purchases tangible personal property for the performance of a construction contract of a special purpose building or foundation used by a qualified person. The title was amended similarly to Appendix A. The sunset date was changed to 2030. Under the description of uses, language was added to include “the generation or production, storage, or distribution of electric power.” The word “personal” was added so that it reads “tangible personal property,” and the reference to a “specific” partial exemption certificate was changed to a certificate “for a specific purchase.” The new qualified persons provisions that allow a person primarily engaged in activities described in NAICS codes 221111 to 221118 and 221122 were also added to the certifying statement, and the statement was amended to add “contractor” and to reflect that a person may be primarily engaged in a combination of activities in qualifying lines of business. Finally, reference to subdivision (b)(9) was changed to (b)(11) in the first footnote.

Proposed Amendments clarifying RTC 6377.1

Subdivision (a)

Subdivision (a)(4) was added to the list of qualifying transactions to include the sale or use of qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, storage, or distribution of electric power.

It was discussed at the first interested parties meeting and in CalTax’s April 27, 2018, submission

that RTC section 6377.1, subdivision (b)(12), states that “storage and distribution” means “storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.” Thus, a qualified person may store electric power, or a qualified person may distribute electric power through the electric grid to satisfy the qualifying activity requirement. The Department agrees with this interpretation, and the proposed amendments replace “and” with “or” where “storage and distribution” are referred to throughout the regulation.

Subdivision (b)

Distribution and Transmission

The Department added definitions as they relate to electric power for “distribution” in (b)(1), and “transmission” in (b)(16). Transmission and distribution both refer to the carrying of electricity through power lines over distance. The most notable differences between transmission and distribution are the level of voltage at which electricity is carried over the lines and the distance which it travels. Based on the Department’s research, transmission generally refers to the carrying of electricity at high voltages, over long distances, to demand areas. Distribution generally refers to the carrying of electricity over shorter distances at lower voltage, which is suitable for being furnished to customers.

Originally CalTax suggested defining “distribution” as the carrying or delivery of electric energy at less than 69 kilovolts or the carrying or delivery of electric energy that is subject to regulation by the CPUC. They also suggested the Department define “transmission” as the carrying or delivery of electric energy that is other than distribution. The Department considered these approaches but determined that finding a conclusive definition for transmission and distribution based on kilovolts was not feasible. According to the Department’s research, transmission voltage can vary for each electric utility company. In addition, while the CPUC regulates distribution of electricity by the larger utility companies, it is the Department’s understanding that other utilities such as Sacramento Municipal Utility District, Los Angeles Department of Water and Power, and utilities operated by government agencies or private entities are self-regulated. While the Federal Energy Regulatory Commission (FERC) regulates interstate transmission, it does not regulate transmission that travels intrastate. Due to the various regulatory authorities in this area, the Department did not find it reasonable to define distribution or transmission based on a specific measure of kilovolts.

Based on the Department’s research, including information from the CPUC website, it is the Department’s understanding that the rate a utility company charges its customer is generally based on costs incurred by the company plus a preapproved rate of return, whether regulated by the CPUC or self-regulated. In other words, it can recover its costs of distributing or transmitting electricity and a reasonable profit from its customers. Since the rate recovery for transmission and the rate recovery for distribution is based on a utility’s transmission and distribution costs separate from each other, it is also the Department’s understanding that accounting of such expenditures is required to be maintained separately. Therefore, the most reasonable and consistent way of defining transmission and distribution is based on how each utility lists the property in its books and records.

The proposed definition of “distribution” includes a rebuttable presumption that qualified tangible personal property is used for distribution if the accounting, or other records, of the qualified person, lists the property as a distribution asset. The Department defines “transmission” as the carrying of electric power at a voltage level that cannot be delivered directly to consumers. The definition further clarifies that transmission begins immediately after electric power has been stepped up to

a voltage level that cannot be delivered directly to consumers and ends immediately before electric power is stepped down to a voltage level that can be delivered to consumers. The Department also added a rebuttable presumption that qualified tangible personal property is used for transmission if the accounting, or other records of the qualified person, lists the qualified tangible personal property as a transmission asset.

After the second interested parties meeting, CalTax submitted comments to suggest that the Department use definitions for transmission and distribution that the industry is familiar with, such as those used by either CPUC or FERC. However, as explained above, the Department believes its proposed language is accurate and can be easily administered as it establishes a rebuttable presumption based on the accounting or recordkeeping related to the asset in question.

Economic Impact Assessment

The proposed amendments to Regulation 1525.4 impacts persons engaged in the electric power industry. There are 81 such business in California. The amendments provide clarification and guidance which will assist in ensuring compliance and accuracy with respect to partially exempt sales and purchases. The regulation does not impact housing costs and there are no comparable Federal regulations. In the absence of Federal regulation, state regulation is needed, and the Department is the state agency responsible for administering state, local, and district sales and use tax. No additional alternatives were considered. These amendments are needed due to the passage of AB 398 and AB 131 and to make the regulation consistent with the amendments to RTC section 6733.1. The benefits of the regulatory change are the result of goals developed by the agency based on broad statutory authority. Although the statewide dollar costs and benefits from this regulatory change are unknown, the amendments provide clarification and guidance to partially exempt transactions. The amendments are also consistent with statutory amendments. As such, the Department anticipates that the proposed amendments will have little to no economic impact on businesses. The Department anticipates:

- The estimated impact is below \$10 million.
- No businesses or jobs will be created or eliminated as a result of the regulatory change.
- The regulatory change will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here.
- The regulatory change will not directly impact housing costs.
- There are no other benefits of the regulatory change, 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, identified by the Department.

Additionally, there is no estimated change of investment in the state; no incentive for innovation in products, materials, or processes; and no fiscal impact. The regulatory change does not mandate specific technologies or equipment. The regulatory change does not affect any local entity or program and does not affect any federally funded state agency or program. The Department will update the version of Regulation 1525.4 on its website and incorporate the amendments into industry guidance. The workload associated with these changes is considered routine. Any corresponding cost would be absorbed within the Department's existing budget.

Update to the Statement of Reasons

The Department mailed, published, and posted its notice for the adoption of the proposed amendments to Regulation 1525.4 on September 24, 2021. The notice explained that November 8, 2021, was the deadline for written comments regarding the adoption of the proposed amendments to Regulation 1525.4. The notice also explained that the Department had not scheduled a public

hearing to discuss the proposed regulatory action, but the Department would hold a public hearing if a written request for a public hearing was received no later than 15 days before the close of the written comment period. No public hearing was requested and no written public comments were received regarding the proposed regulatory action.