

**Department of
Alcoholic Beverage Control**

INITIAL STATEMENT OF REASONS

**PROPOSED ADOPTION OF REGULATIONS FOR
PRIORITY APPLICATION DRAWINGS**

PROPOSED ADOPTIONS TO TITLE 4:

SECTION 69-69.4.

PROBLEM STATEMENT AND PURPOSE

The Business and Professions Code provides that the Department of Alcoholic Beverage Control (“Department”) shall determine annually the number of on-sale general and off-sale general licenses that are available in each county based upon population. Business and Professions Code section 23961 provides that the Department shall conduct a drawing to establish the priority of applicants seeking available licenses. This statute also establishes requirements to determine if a potential licensee is eligible to participate in the priority drawing. As written, the current law is informative, but requires additional explanation to clarify the Department’s intent and to establish procedures.

The Department seeks to clarify various terms commonly used and understood by the industry, and to establish processes and procedures for the Department to conduct yearly priority drawings. This action also seeks to modernize the priority drawing process by eliminating the manual analog process and implementing a digital randomized process. This will create a more transparent and uniform selection process for potential licensees.

BENEFITS

By establishing a uniform process for priority drawings and application standards, the Department will establish clear parameters for a more transparent and timely selection method for participating potential licensees. The anticipated benefit of this action will not only clarify commonly used terms but will also ensure a uniform process through all county priority drawings conducted by the Department.

AUTHORITY

Authority: Sections 23816, 23817, 23820, 23821, 23959, 23961, 23962, 24070, and 24079 Business and Professions Code.

Reference: Sections 494.5, 23394, 23396, 23396.1, 23396.2, 23396.3, 23691, 23816, 23817, 23818, 23820, 23821, 23826, 23826.5, 23826.7, 23826.9, 23826.10, 23826.11, 23826.12, 23826.13, 23826.14, 23827, 23950, 23951, 23952, 23953, 23954, 23954.6, 23956, 23957, 23958, 23958.4, 23959, 23961, 23962, and 24070 Business and Professions Code.

NECESSITY

The specific purpose for each proposed section is as follows:

§ 69 (a)

The proposed language is needed to cite the legal authority and the intent of the Department concerning the processes and procedures of the annual priority drawings throughout the state. The statutory requirement for these drawings is not specific as to how they are to be conducted to ensure the fairness and equality for all applicants seeking to obtain the limited number of general alcohol licenses available on a yearly basis. The proposed regulations will ensure fairness and uniform processes through all county priority drawings conducted by the Department.

§ 69 (b)

The proposed subsection is necessary to define various terms used throughout the proposed regulations. These consist of terms commonly used by the industry and the Department when discussing the various elements of the priority drawing process and will ensure the intent of these regulations do not shift upon a change in word usage over time.

§ 69 (b)(1)

The proposed subparagraph establishes the definition for “count” as used in the proposed regulations. This is necessary to provide clarity to the term when discussing the number of available licenses by county and by each specific general alcohol license type throughout the proposed regulations.

§ 69 (b)(2)

The proposed subparagraph establishes the definition for “Department” as used in the proposed regulations. This is necessary to trim language from the proposed regulations without a possibility of confusion.

§ 69 (b)(3)

The proposed subparagraph establishes a definition for “formal application” as used in the proposed regulations. This is necessary to avoid confusion with the multiple application types referenced within the proposed regulations and ensure that when “formal application” is referenced it is known by the public that this refers to the usual application process for any alcoholic beverage license, subject to the same laws and regulations applicable to those applications outside the priority process.

§ 69 (b)(4)

The proposed subparagraph establishes a definition for “intercounty transfer” as used in the proposed regulations. This is necessary to inform the public of the complete definition of “intercounty transfer” within the proposed regulations.

§ 69 (b)(5)

The proposed subparagraph establishes a definition for “off-sale general license” as used in the proposed regulations. This is necessary to inform the public of which licenses are off-sale general licenses and the sections of law that grant the Department the authority to grant those licenses.

§ 69 (b)(6)

The proposed subparagraph establishes a definition for “on-sale general license” as used in the proposed regulations. This is necessary to inform the public of which licenses are on-sale general licenses and the sections of law that grant the Department the authority to grant those licenses.

§ 69 (b)(7)

The proposed subparagraph establishes a definition for “population” as used in the proposed regulations. The Department is statutorily required to compute the population of counties pursuant to Business and Professions Code section 23818.

§ 69 (b)(8)

The proposed subparagraph establishes a definition for “priority application” as used in the proposed regulations. This is necessary to clarify the distinction between the application to participate in the priority drawing and the application for an alcoholic beverage license.

§ 69 (b)(9)

The proposed subparagraph establishes a definition for “priority application period” as used in the proposed regulations. This is necessary to define the statutorily mandated period to accept applications to participate in a priority drawing pursuant to Business and Professions Code section 23821.

§ 69 (b)(10)

The proposed subparagraph establishes a definition for “priority drawing” as used in the proposed regulations. This is necessary to define the statutorily mandated drawing to determine which applicants can thereafter apply for available licenses under Business and Professions Code section 23961.

§ 69 (b)(11)

The proposed subparagraph establishes a definition for “priority winner” as used in the proposed regulations. This is necessary to provide a term for applicants for available licenses established in Business and Professions Code section 23821 who have the right to apply for a license after a drawing held pursuant to Business and Professions Code section 23961.

§ 69 (b)(12)

The proposed subparagraph establishes a definition for “residency” as used in the proposed regulations. This is necessary to provide an understanding for residency requirements to participate in a priority drawing as established by statute in Business and Professions Code section 23961.

§ 69.1 (a)

The proposed subsection establishes the date when the yearly count pursuant to Business and Professions Code section 23821 is done by the Department for each county to determine how many original and inter-county transfer licenses will be available for the limited license types that are subject to the priority drawing process. This subsection is necessary because the number of alcohol licenses can fluctuate in any given area daily due to licenses issuing, being surrendered, sold, and transferred. By setting a specific date for the count to be established, it will create an objective and measurable number of licenses available for the priority application period and drawing if necessary.

§ 69.1 (b)

The proposed subsection establishes a deadline for the yearly notice of the number of licenses available to be issued by the Department. The statute requires the Department to issue this notice on an annual basis pursuant to Business and Professions Code section 23821, but no specific date is provided. This subsection is necessary to ensure that those who desire to obtain a license in any particular county will have notice as to how many licenses, if any at all, will be available that year.

§ 69.1 (b)(1)

The proposed subparagraph establishes a requirement for the yearly notice to be published electronically both on the Department website, and that the electronic notice will be sent directly to persons on the registered electronic mailing list managed by the Department. Business and Professions Code section 23821 requires the Department to issue notice by publishing in newspapers of general circulation in each county pursuant to Government Code section 6061. There have been many technological and social changes to legal notices since this Business and Professions Code section 23821 was last modified in 1969. This subparagraph is necessary to ensure the notice will be given through the modern electronic communication systems set up by the Department.

§ 69.1 (b)(2)

The proposed subparagraph establishes a requirement for the yearly notice to include the dates for the priority application period, a yearly date for the close of a priority application period and a minimum length of the priority application period established by the Department. Business and Professions Code section 23821 requires the Department to issue notice of the number of available licenses, but all other aspects of the notice, as well as the timing of the priority application period are not addressed in statute. This subparagraph is necessary to standardize the priority application periods set by the Department in preparation for priority drawings on an annual basis.

§ 69.1 (b)(3)

The proposed subparagraph establishes a requirement for the yearly notice to include tentative start dates for any priority drawings needed based on the number of priority applications received. Business and Professions Code section 23821 requires the Department to issue notice the number of available licenses and nothing else. Business and Professions Code section 23961 requires participants to establish residency in California 90 days prior to a priority drawing to be eligible to participate. This subparagraph is necessary to inform the public of the potential dates of any priority drawing. This will ensure the public will know if they will be eligible to participate in any priority drawing due to the residency requirement pursuant to Business and Professions Code section 23961 prior to submitting their priority application and submitting their required declaration.

§ 69.2 (a)

The proposed subsection establishes that certain information is required to be submitted by an individual or entity to qualify as a valid priority application. Business and Professions Code section 23961 has specific requirements for individuals and entities who submit priority applications, but there is no requirement in statute for what information is required for the Department to investigate if applicants meet the statutory requirements to be eligible to participate in the priority drawing. This subsection is necessary to inform the public what information is required to submit a valid priority application and participate in a priority drawing for an available license.

§ 69.2 (a)(1)

The proposed subparagraph establishes that the names of all individuals or entities that will appear on the formal application submitted by the applicant must appear on the priority application. This will ensure that individuals or entities do not apply under one name for the priority license and then attempt to submit their formal application under a different individual name or entity. This subparagraph is necessary to aid the Department in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (a)(2)

The proposed subparagraph establishes that priority applications must include identifying information for all individuals and entities listed in the priority application. This subparagraph is necessary to aid the Department in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (a)(2)(i)

The proposed subparagraph establishes that individuals listed in priority applications must submit their date of birth, and either a social security number or tax identification number. This subparagraph is necessary to aid the Department both in identifying priority applicants and in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (a)(2)(ii)

The proposed subparagraph establishes that entities listed in priority applications must submit either a California Secretary of State business identification number or tax identification number. This subparagraph is necessary to aid the Department both in identifying priority applicants and in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (a)(3)

The proposed subparagraph establishes that priority applications must include a declaration that they meet the residency requirement pursuant to Business and Professions Code section 23961. Due to the Department's limited resources, it is unable to investigate each priority application during the application period to ensure each meets the requirements to participate. This requirement aids applicants in understanding that the requirement exists, that they acknowledge they comply, and can be used as justification for the disqualification of a priority winner if they did not comply with the requirement after the Department investigates their eligibility. This subparagraph is necessary to aid the Department in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (a)(4)

The proposed subparagraph establishes that priority applications must include a declaration that they have no interest in any other priority application for the same priority drawing pursuant to Business and Professions Code section 23961. Due to the Department's limited resources, it is unable to investigate each priority application during the application period to ensure each meets the requirements to participate. This requirement aids applicants in understanding that the requirement exists, that they acknowledge they comply, and can be used as justification for the disqualification of a priority winner if

they did not comply with the requirement after the Department investigates their eligibility. This subparagraph is necessary to aid the Department in enforcing the statutory requirements for priority applicants pursuant to Business and Professions Code section 23961.

§ 69.2 (b)

The proposed subsection establishes that priority applicants bear the burden to ensure their priority application is both complete and received by the Department within the priority application period. This subsection is necessary to inform the public that the Department is not responsible for delayed, lost, or misplaced priority applications, even if it was mailed prior to the close of the priority application period. In addition, an incomplete application submitted by a priority applicant is not the responsibility of the Department to remedy.

§ 69.2 (c)

The proposed subsection establishes that any priority application that the Department receives that is either incomplete or untimely, regardless of reason, shall be disqualified by the Department. This subsection is necessary to inform the public that the Department will treat every priority application received in an equal and fair manner regardless of where or when it is submitted.

§ 69.2 (d)

The proposed subsection prohibits the Department from contacting priority applicants to inform them of the need to amend their application to avoid disqualification. This subsection is necessary because it ensures priority applicants who complete a priority application and submit timely will not miss an opportunity of receiving a license due to actions of the Department in aiding another applicant on their own. It further ensures that all applicants are treated the same. This subsection does not preclude the Department from assisting the public in filling out a priority application prior to submission or from being available for questions when contacted by the public about the priority application process. This subsection does not change the Department's mission in providing service to potential licensees and assisting them to navigate the priority application process.

§ 69.2 (e)

The proposed subsection establishes that if the number of valid priority applications received by the Department during the priority application period is equal to, or less than, the number of licenses available in the count, since no drawing would be required, each of the priority applications will be deemed eligible to apply for a license. This subsection is necessary to describe the process outlined pursuant to Business and Professions Code section 23961 in determining whether a priority drawing is necessary.

§ 69.2 (f)

The proposed subsection establishes that if the number of valid priority applications and disqualified applications received by the Department during the priority application period is equal to, or less than, the number of licenses available in the count, since no drawing would be required, each of the priority applications, including those that would otherwise be disqualified to participate in a draw, will be deemed eligible to apply for a license. However, in order to treat all applicants equally and fairly, either all otherwise disqualified applicants must be included in making this determination, or none. This subsection is necessary to describe the process outlined pursuant to Business and Professions Code section 23961 in determining whether a priority drawing is necessary and ensuring all available licenses are assigned to all applicants, even if they would be disqualified were a priority draw required.

§ 69.3 (a)

The proposed subsection establishes a limit on when the Department must publish notice of the number of priority applications received during the priority application period and the notice of the scheduling of any priority drawings. The ten-business day period was chosen to ensure the Department has time to correctly consolidate all priority applications, schedule priority drawings, and construct an ADA compliant notice to publish on the Department website and send to the mailing list maintained by the Department. This subsection requires that the Department not schedule any priority drawing prior to the tentative date noticed pursuant to Title 4 California Code of Regulations section 69.1(b)(3). This subsection is necessary to ensure the Department provides notice to priority applicants and the public of the need for any priority drawings and when the drawing will be held in a timely manner after the close of the priority application period. In addition, it ensures the tentative date for priority drawings that priority applicants relied upon for their 90-day residency declaration will not thereafter be disqualified by holding the priority draw earlier than the initial tentative date.

§ 69.3 (a)(1)

The proposed subparagraph establishes a requirement of notice upon the Department for the scheduling of priority drawings and informing the public of the number of priority applications received during the priority application period. This subparagraph mandates that the Department publish this notice on the Department's website and send a copy to the electronic mailing list maintained by the Department. This subparagraph is necessary to ensure those in the industry and who have submitted priority applications are aware of the outcomes of the priority application period and any scheduled priority drawings.

§ 69.3 (b)

The proposed subsection establishes the procedure for the Department to conduct a priority drawing pursuant to Business and Professions Code section 23961. This subsection is necessary to establish the rules, policies, and procedures the Department will follow to ensure that all priority applicants are treated equally and fairly. This subsection will require all drawings to follow the same procedure

throughout the state and ensure Department employees cannot affect any outcomes of the priority drawing.

§ 69.3 (b)(1)

The proposed subparagraph requires the Department to assign a randomized number to each priority applicant in a drawing prior to a priority drawing taking place. This subparagraph is necessary to ensure that no one Department employee can affect a priority drawing's equality and fairness for any priority applicant. Although the Department has never had any evidence of tampering in a priority drawing, the proposed regulation is being put in place to ensure all future priority drawings proceed in a fair and equitable manner.

§ 69.3 (b)(2)

The proposed subparagraph requires the Department to randomly select the order of the randomized numbers assigned pursuant to Title 4 California Code of Regulations section 69.3(b)(1). This subparagraph is necessary to ensure that no one Department employee can affect a priority drawing's equality and fairness for any priority applicant. Although the Department has never had any evidence of tampering in a priority drawing, the proposed regulation is being put in place to ensure all future priority drawings proceed in a fair and equitable manner.

§ 69.3 (b)(3)

The proposed subparagraph establishes how the Department will use the order of randomized numbers to choose priority winners in a priority drawing. This subparagraph is necessary to notify the public how priority winners are chosen and to ensure equality and fairness for all priority applicants. Although the Department has never had any evidence of tampering in a priority drawing, the proposed regulation is being put in place to ensure all future priority drawings proceed in a fair and equitable manner.

§ 69.3 (b)(4)

The proposed subparagraph requires the Department to publish all results of all priority drawings on the Department's website within 10 business days and send a copy to all persons upon the electronic mailing list maintained by the Department. The ten-business day period was chosen to ensure the Department has time to correctly consolidate all priority winners and construct an ADA compliant notice to publish on the Department website and send to the mailing list maintained by the Department. It also requires the Department to post the 90-day deadline for priority winners to submit their formal application pursuant to Title 4 California Code of Regulations section 69.4 (b). This subparagraph is necessary to notify of the priority winners chosen and to ensure equality and fairness for all priority applicants. Although the Department has never had any evidence of tampering in a priority drawing, the proposed regulation is being put in place to ensure all future priority drawings proceed in a fair and equitable

manner. This subparagraph is also necessary to ensure all priority winners know of the deadline and have equal and reasonable time to submit their formal application within the time limits set pursuant to Title 4 California Code of Regulations section 69.4 (b).

§ 69.3 (c)

The proposed subsection establishes how long the Department will retain the ordered list of randomized priority applicants to replace any priority winners who are subsequently disqualified or withdraw their application. The Department will hold all randomized lists generated in a priority drawing and published to its website until the notice of the next priority application period the following year. At this point the previous year's priority list is discarded, and the process of starting a new list begins. This subsection is necessary to ensure any available licenses that would remain open due to withdrawals or disqualifications of priority winners will be available to be assigned a new priority winner until the next years priority application process begins. Priority applicants who are next on the randomized list will not lose their spot until the next randomized priority drawing process begins, when a new randomized order of priority applicants will be generated.

§ 69.3 (d)

The proposed subsection requires the Department to notify the next priority applicant in the event a priority winner is disqualified or withdraws from the license application process. The Department will hold all randomized lists generated in a priority drawing and published to its website until the notice of the next priority application period the following year. This will allow the Department to notify the next person on the list if a priority license becomes available during the formal application process. This subsection also requires the Department to include within this notice the deadline for submission of the formal application pursuant to Title 4 California Code of Regulations section 69.4 (c). This subsection is necessary to ensure any available licenses that would remain open due to withdrawals or disqualifications of priority winners will be able to be assigned a new priority winner and to allow that replacement priority winner to know the deadline to submit a formal application pursuant to Title 4 California Code of Regulations section 69.4 (c).

§ 69.3 (e)

The proposed subsection requires the Department to investigate each priority winner to ensure the validity of their declarations of meeting both the 90-day residency requirement at the time of the priority drawing and having no direct or indirect interest in any other priority application submitted for the same priority drawing. The Department must investigate each priority winner prior to their accepting and acting upon a formal application. This subsection is necessary to ensure that all priority winners meet the statutory standards pursuant to Business and Professions Code section 23961 (a)(1), and that the Department investigates and finalizes its determination that the priority winner meets the statutory standards prior to any action by the Department upon any formal application submitted by the priority winner.

§ 69.3 (e)(1)

The proposed subparagraph establishes how the Department will determine if a priority winner has established residency within the state prior to the 90-day requirement pursuant to Business and Professions Code section 23961 (a)(1). Proof of residency may be established by the priority winner pursuant to Business and Professions Code section 23961 (c) by providing the Department with a valid California identification, a utility bill for a California address in the name of the priority applicant, a filing with the California Secretary of State, or a filing for a California tax identification number. This subparagraph is necessary to inform the public and priority winners how the Department will seek to establish proof of the priority winner meeting the 90-day residency requirement.

§ 69.3 (f)

The proposed subsection requires the Department to disqualify any priority winner who the Department determines does not comply with either the 90-day residency requirement or the additional interest requirement at the conclusion of the Department's investigation pursuant to Title 4 California Code of Regulations section 69.3 (e). This subsection is necessary because the Department cannot legally accept a formal application from a priority winner that does not meet the requirements of Business and Professions Code section 23961 (a)(1). This subsection notifies the public that the Department will not disqualify a priority winner until after a priority drawing takes place, but that through investigating the priority winners, the Department will exclude priority winners who did not comply with the statutory requirements.

§ 69.4 (a)

The proposed subsection requires the Department to subject the formal applications submitted by priority winners to the same laws and regulations as all other license applications submitted to the Department, other than the rules laid out in the proposed section on formal applications. This subsection is necessary to ensure priority winners and the public are aware that the same standards and processes established by the Department for all license applications will apply to the formal applications submitted following the priority drawing process. This makes clear that license applications submitted to the Department by a priority winner after a priority drawing must comply with the normal licensing procedures in addition to the timing and limitations pursuant to Title 4 California Code of Regulations section 69.4.

§ 69.4 (b)

The proposed subsection requires priority winners to submit their formal application for their general alcoholic beverage license by the close of business the 90th day after a priority drawing is conducted. If a priority winner fails to submit a formal application by this deadline, it is the same as the priority winner withdrawing their participation in the priority drawing and they are removed from being a priority

winner. This subsection is necessary to inform the public and priority winners of the deadline to submit a formal application after the priority drawing. It is also necessary to ensure the Department can act pursuant to Title 4 California Code of Regulations section 69.3 (d) and move to the next-in-order priority winner to ensure available licenses are fairly and equitably offered to priority applicants when a priority winner fails to submit their formal application for the available license.

§ 69.4 (c)

The proposed subsection establishes a 90-day deadline upon replacement priority winners who have been notified pursuant to Title 4 California Code of Regulations section 69.3 (d). The 90-day period begins upon the date the Department provides notice to the new priority winner pursuant to Title 4 California Code of Regulations section 69.3 (d). This subsection is necessary to provide notice to the public and priority winners of the deadline for a replacement priority winner informed pursuant to Title 4 California Code of Regulations section 69.3 (d) to submit their formal application. The rules for submission by a replacement priority winner are the same as those found in Title 4 California Code of Regulations section 69.4 (d).

§ 69.4 (d)

The proposed subsection establishes that a formal application is deemed submitted, pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c), when it is received by the Department. For clarity, it specifically provides that a formal application being sent by mail or that is postmarked prior to the close of business of the 90th day will not meet the requirement for submission pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). This subsection is necessary to inform the public and priority winners when the formal application is considered submitted for the determination of timeliness pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). This subparagraph ensures that there is no confusion about whether mailing or postmarking a formal application prior to the close of business on the 90th day is sufficient to meet this requirement.

§ 69.4 (e)

The proposed subsection establishes that a formal application submitted by a priority winner must only include the individuals and entities that were listed in its priority application. If a priority winner attempts to change the person or persons involved with the priority application the formal application will be rejected by the Department. This subsection is necessary to ensure that priority winners submit a formal application only for the person(s) or entities that won the priority drawing. This subparagraph makes clear that by attempting to submit a formal application for different entities or individuals that did not win the priority drawing will be rejected by the Department.

§ 69.4 (f)

The proposed subsection establishes that a rejected formal application submission does not ensure compliance with the submission requirement pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). If a formal application is submitted that is thereafter rejected due to noncompliance with the various requirements, even if rejected after the 90th day, the priority winner will be deemed to have withdrawn from participating in the priority drawing. The Department will then notify a new priority winner pursuant to Title 4 California Code of Regulations section 69.3 (d). This subsection is necessary to ensure that the public and priority winners know that submitting a formal application that does not comply with the requirement for submission pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) will be subject to rejection, and that if they do not comply with the requirement in Title 4 California Code of Regulations section 69.4 (e), their formal application will be rejected, and if they fail to submit a complete and correct formal application prior to the deadline, the priority winner's participation in the priority drawing will be deemed withdrawn.

§ 69.4 (g)

The proposed subsection establishes that the burden to ensure compliance with Title 4 California Code of Regulations section 69.4 (e) is upon the priority winner, and the Department may not review a submitted formal application prior to the 90th day deadline, even if submitted earlier. If a priority winner's formal application is rejected pursuant to noncompliance with Title 4 California Code of Regulations section 69.4 (e) after the deadline in Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) has passed, the Department will deem the priority winner to have withdrawn their participation and will proceed to inform a new priority winner pursuant to Title 4 California Code of Regulations section 69.3 (d). This subsection is necessary to inform the public and priority winners that the burden is upon priority winners to ensure that they are in compliance with Title 4 California Code of Regulations section 69.4 (e) when submitting their formal application. The Department may not review submitted formal applications prior to the deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c), even if submitted in advance, due to staffing and workload issues. This also ensures that all applicants are treated the same. This subsection does not preclude priority winners from asking for and receiving help on their formal application to ensure compliance with Title 4 California Code of Regulations section 69.4 (e) prior to submission, or for the Department to notify a priority winner if a noncompliant application is discovered prior to the expiration of the deadline in Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). The rejection of the formal application submitted does not preclude a priority winner from submitting a second formal application in compliance with Title 4 California Code of Regulations section 69.4 (e) if done so prior to the expiration of the deadline in Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c).

§ 69.4 (h)

The proposed subsection establishes a procedure for a priority winner to request an additional 30 days to submit their formal application beyond the 90-day limits pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). The priority winner must make its request prior to the expiration pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) at the close of business on

the 90th day. The priority winner must provide good cause as to why there is a need for an additional 30 days to submit its formal application. Once a request for extension has been made, the 90-day period pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) is extended until the Department responds to the priority winner about its decision to grant or deny an additional 30 days to submit a formal application. This subsection is necessary to inform the public and priority winners how a priority winner can request an extension to submit their formal application for good cause prior to the expiration of the 90-day deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c). This subsection is necessary to provide the Department's standard of review to grant or deny a 30-day extension to a priority winner. This subsection is also necessary to allow the 90-day deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) to continue without expiration while the Department examines the request and decides to grant or deny that request. The continuation within this subsection ensures the Department cannot refuse to address a priority winner's request for an extension until the deadline passes pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) and act pursuant to Title 4 California Code of Regulations section 69.3 (d) to pick a new priority winner instead. This subsection is also necessary to provide priority winners with additional time to submit their application if there is a reasonable reason for the delay in submitting their formal application within the regulatory deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c).

§ 69.4 (h)(1)

The proposed subparagraph establishes a definition for good cause to be used for the purposes of this section. The definition was chosen to reflect the common law meaning of good cause. This subparagraph is necessary to ensure that priority winners seeking an extension know that good cause involves a situation that is not the fault of the priority winner and beyond the priority winner's control and makes it unreasonable for the priority winner to meet the regulatory 90-day deadline.

§ 69.4 (i)

The proposed subsection establishes the start date of a 30-day extension for the deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) once it has been granted by the Department for a priority winner's request pursuant to Title 4 California Code of Regulations section 69.4 (h). The proposed subsection also requires the Department to include the new deadline date for the priority winner pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4(c). This subsection is necessary for the public, priority winners, and the Department how to calculate the new date for a deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) after an extension is granted. This subsection is also necessary to require the Department to notify the priority winner of the deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) to ensure the priority winner is aware of the new deadline.

§ 69.4 (j)

The proposed subsection establishes the procedure for the Department to follow if it is determined the priority winner's request for extension pursuant to Title 4 California Code of Regulations section 69.4 (h) does not show good cause and must be denied. The Department must notify the priority winner of this rejection and then provide 5 additional business days for the priority winner to submit their formal application. The Department must also provide the deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) within its rejection notice. This subsection is necessary to inform the public and priority winners of the process that the Department must follow in rejecting a request for extension pursuant to Title 4 California Code of Regulations section 69.4 (h). The subsection is also necessary to require the Department to notify the priority winner of the deadline pursuant to Title 4 California Code of Regulations section 69.4 (b) or 69.4 (c) to ensure the priority winner is aware of the new deadline of 5 additional business days to comply with submission of a formal application.

§ 69.4 (k)

The proposed subsection requires the Department to reject all requests for extensions from any priority winners who request additional extensions to submit their formal application beyond the 30-day request pursuant to Title 4 California Code of Regulations section 69.4 (h). This subsection is necessary to ensure all priority winners are treated fairly and equally by the Department and to ensure that priority applicants on the randomized list held by the Department pursuant to Title 4 California Code of Regulations section 69.3 (c) shall be given the opportunity to submit a formal application pursuant to Title 4 California Code of Regulations section 69.3 (d) when a priority winner cannot submit a formal application after more than 120 days.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS RELIED UPON.

Articles

There are no articles that pertain to these proposed regulations.

Department and Appeals Board Decisions

There are no Appeals Board decisions that affect these regulations.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Department of Alcoholic Beverage Control has determined that these regulations have a negligible economic impact. Any cost associated with these regulations will be absorbed in the Department's current budget. The formal regulating of this annual process will create a more efficient streamlined priority drawing process, but it will not create or eliminate and jobs at the Department for facilitating the priority drawing for the public. In addition, the formal regulating of the priority drawing process will not create or eliminate any jobs in the alcoholic beverage industry through the standardization of the priority drawing procedure.

The proposed regulation will ensure that priority drawings will be fair and equitable for all priority applicants and ensure alcohol licenses are distributed in a fair and equitable manner throughout the state. In addition, the proposed regulations will facilitate a small cost savings as paper applications will be eliminated in favor of digital submissions. The modernization and centralization of the priority drawing process will over time provide benefits to the health and welfare of California residents by lowering travel, costs, and environmental impact of priority drawings throughout the state.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made the determination that the adoption of these regulations will have negligible economic impact on current and prospective licensees because it merely memorializes a standard process for priority applicants to submit their applications and otherwise describes how the Department will conduct the drawing and determine priority winners.

Based on the above, the Department determined that the proposed regulatory action will not have a significant statewide adverse economic impact to businesses statewide including the ability of California businesses to compete with businesses in other states.

ALTERNATIVES CONSIDERED FOR THE IMPLEMENTATION OF EMERGENCY DECISIONS BY THE DEPARTMENT

There is no economic impact through the proposed regulatory package, and there are no alternatives considered for their implementation.

REGULATORY MANDATES

This regulatory package creates no new duties or regulatory mandates for licensees, local governments, or the Department.