

TITLE 19. CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES

[Notice published December 20, 2019]

NOTICE OF PROPOSED RULEMAKING

The California Governor's Office of Emergency Services (Cal OES) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

Cal OES will hold a public hearing starting at 9:00 a.m. on Tuesday, February 4, 2020, at the Cal OES, Public Safety Communications, located at 601 Sequoia Pacific Boulevard, Sacramento, California, 95811. The location is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. Cal OES requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to Cal OES. The written comment period closes at **5:00 p.m. on February 4, 2020**. Cal OES will consider only comments received at the Cal OES office by that time.

IMPORTANT: All submitted comments will become part of the rulemaking file and will be subject to disclosure pursuant to the California Public Records Act (Gov. Code, § 6250 et seq.) Cal OES will not redact or withhold any portion of your submitted comments, including any personal information you include with your comment. Submit only information that you wish to make available publicly.

Submitting Written Comments Via Email - Preferred

Send written comments to the following address: Regulations@CalOES.ca.gov.

The subject line of the message must be "Community Isolation Outage Regulations," or "SB 670 Regulations," or a similar subject that clearly identifies the subject matter of the regulations.

If you attach a document, indicate the format or software used to create the attachment. Do not submit attachments as HTML, GIF, PIF, ZIP, or EXE.

Submitting Paper Comments:

Send copies of paper comments to:

Michael Elder, Next Generation 9-1-1- Manager
Governor's Office of Emergency Services
CA 9-1-1 Emergency Communications Branch
601 Sequoia Pacific Blvd.
Sacramento, CA 9581

Paper comments must include the subject "Community Isolation Outage Regulations," or "SB 670 Regulations," or a similar subject that clearly identifies the subject matter of the regulations.

AUTHORITY AND REFERENCE

Government Code sections 8585 and 53122 authorize Cal OES to adopt the proposed regulations. The proposed regulations implement, interpret, and make specific Government Code section 53122.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action implements, interprets, and makes specific thresholds for determining whether a telecommunications service outage constitutes a community isolation outage, and the medium providers of telecommunications service must report community isolation outages to Cal OES.

Recent legislation added Government Code section 53122 to take effect immediately as an urgency statute. (Sen. Bill. No. 670 (2019 – 2020), enacted as Stats. 2019, c. 412, § 1, approved by the Governor and eff. Oct. 2, 2019.) Government Code section 53122 requires providers of telecommunication services to notify Cal OES of community isolation outages within specified timeframes, and to include specific information with the notices, among other requirements. Government Code section 53122 requires Cal OES to adopt appropriate thresholds for determining when an outage constitutes a community isolation outage, and the medium for reporting outages to Cal OES.

The regulations proposed in this rulemaking action would specify outage thresholds that would trigger the reporting requirements of the statute, specify the medium required to report notifications, and implement a form used for reporting community isolation outages.

Anticipated Benefits of the Proposed Regulation:

The objective of the proposed regulations is to further the purpose of SB 670 and to ensure community isolation outages are deemed to exist at a reasonable

threshold so that state and appropriate local agencies receive timely notification whenever a community's public health and safety is at risk because of an outage impacting the ability access 9-1-1 or emergency notifications. The regulations are specifically anticipated to increase public health and safety in California by increasing the sharing of timely information critical to the protection of lives and property when access to 9-1-1 and the ability to receive emergency notifications is limited by an outage.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

Cal OES conducted a review of existing regulations and determined the proposed regulations are not inconsistent or incompatible with existing regulations. SB 670 was enacted in part to address needs that are not met by any regulations potentially governing reporting outage requirements.

In particular, the California Public Utilities Commission (CPUC) requires certain outage reports, as specified in its General Order 133-D. In its order, the CPUC adopted portions of the Federal Communication Commissions (FCC) rules in Code of Federal Regulations, title 47, part 4, for reporting major service interruptions. FCC rules establish criteria for major service disruptions with respect to total user minutes impacted by an outage, and outages that affect certain offices and facilities. (See 47 C.F.R. §§ 4.3 – 4.15.) Because SB 670 requires establishing thresholds specifically tailored to the impact outages have on customers' ability to access 9-1-1 or receive emergency notifications and the risks to public health and safety caused by those outages, the proposed regulations adopt a threshold criteria that deems an inability of a specified number of customers in a given ZIP Code lasting at least 30 minutes to constitute a community isolation outage. The proposed thresholds are compatible with existing regulations because they do not create conflicting obligations, and are not anticipated to require the utilization of any new technology, or to impose any additional duties that are not already mandated by existing regulations and the provisions of law added by SB 670.

The proposed regulations are also consistent with existing requirements, and to the extent possible establish common definitions of terms relating to telecommunications services. For example, the proposed regulations adopt the duration of a reportable outage as one that last at least 30 minutes, which is the same duration of time reportable outages under FCC and CPUC thresholds. In proposing to adopt the same duration of time for community isolation outages, the proposed regulations avoid potential conflict with existing state and federal regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

Cal OES has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

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

Other nondiscretionary cost or savings imposed on local agencies: None.

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

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Effect on small business: The proposed action will not affect small businesses because the authorizing statute establishes compliance requirements that may apply to any business, and Cal OES is unaware of any business constituting a small business that may be affected by the proposed regulations.

Significant effect on housing costs: None.

Results of the Economic Impact Analysis/Assessment

Cal OES concludes that it is (1) unlikely that the proposal will eliminate any jobs for telecommunications service providers, (2) unlikely the proposal will create jobs, (3) unlikely that the proposal will create new businesses, (4) unlikely that the proposal will eliminate any existing businesses, and (5) unlikely the proposed regulations will result in the expansions of business currently doing business within the state.

Benefits of the proposed action: Cal OES anticipates the proposed regulations will further the purpose and goals of SB 670 and increase the protection of lives and property in California, including in the following ways:

- Contribute to increased, timely sharing of information about community isolation outages with Cal OES, county offices of emergency services, county sheriffs, and public safety answering points.
- Make actionable data available about communities impacted by outages, which can be used by state and local agencies to assess whether communities are in potential risk of being unable to access 9-1-1 services or receive emergency notification.
- Increase situational awareness at the state and local level during disasters, and further inform when alternate forms of communication and notification are needed due to a communication outage.
- Facilitate trend and gap analysis of telecommunications systems, and may assist state and local agencies identify and establish alternate methods of communication between residents and emergency responders to mitigate risks caused by community isolation outages.
- Increase emergency mitigating actions necessary to protecting lives and property.

CONSIDERATION OF ALTERNATIVES

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

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Michael Elder, Next Generation 9-1-1- Manager
Governor's Office of Emergency Services
CA 9-1-1 Emergency Communications Branch
601 Sequoia Pacific Blvd.
Sacramento, CA 95811
(916) 657-9882
Regulations@CalOES.ca.gov

The backup contact person for these inquiries is:

Jim Thompson, Wireless E9-1-1, NG 9-1-1 and Emerging Technologies
Program Manager
Governor's Office of Emergency Services
CA 9-1-1 Emergency Communications Branch
601 Sequoia Pacific Blvd.
Sacramento, CA 95811
(916) 657-9236
Regulations@CalOES.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Michael Elder at the above address.

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

Cal OES will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address, including the proposed text of the regulations, the initial statement of reasons, and documents relied on in creating the proposed regulations. Copies may be obtained by contacting Michael Elder at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, Cal OES may adopt the proposed regulations substantially as described in this notice. If Cal OES makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before Cal OES adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Michael Elder at the address indicated above. Cal OES will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Michael Elder at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at www.caloes.ca.gov.

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