

Initial Statement of Reasons

Title 2. Administration

Division 7. Secretary of State

Chapter 9. Business Programs

Amending Section 21903, Title 2 California Code of Regulations (Special Handling Fees)

Adding Section 21903.5, Title 2 California Code of Regulations (Copy Fees)

Specific Purpose of the Regulations

Pursuant to Government Code section 12182, the Secretary of State may by regulation establish fees to be charged and collected for copying and special handling in connection with filing documents, issuing certificates and other services performed by the office. The proposed regulations affect the Secretary of State's fees for issuing copies of Statements of Information online, which are the documents listing directors, officers, managers and other contact information that are filed annually or biennially by corporations and limited liability companies. The purpose of changing Title 2 of the California Code of Regulations related to Special Handling Fees and Copy Fees is as follows:

1. Amending Section 21903 to remove the reference to copy fees, which will then be provided in a separate section, will clarify applicable copy fees. Also, this amendment standardizes terms within the special handling fees section.
2. Adding Section 21903.5 to separately describe fees for getting copies of documents filed with the Secretary of State pursuant to Government Code section 12182 will clarify and highlight applicable copy fees. This section will cover the fees for receiving paper copies in person at the Secretary of State's office and for receiving electronic copies online after using the Secretary of State's website-based filing service.

Necessity

By the end of 2011, the Secretary of State will have expanded the ability of customers to file their Statement of Information documents online and provide the capability for customers to receive an electronic copy of the filed documents at the time of the transaction. The intent of the Secretary of State is for customers to receive an electronic copy of the filed document at the completion of the online filing transaction. Under current regulations, the customers would be charged \$1.00 for the first page and \$.50 for each page thereafter because current regulations do not differentiate between requests for document processing through paper submissions and online submissions.

These regulations are needed to clearly indicate that there will be no charge for an uncertified electronic copy of the filed Statement of Information filed online, which closely estimates the actual cost of providing the electronic copy and is intended to encourage more online filings.

Material

The Secretary of State did not rely on any technical, theoretical or empirical studies or reports in proposing the adoption of these regulations.

Reasonable Alternatives to the Regulations and the Agency's Reasons for Rejecting Those Alternatives

The alternative is to charge a fee for the providing a customer who uses the online filing service with an uncertified copy of their filing. However, it is difficult to estimate the cost of providing the electronic copy, so it would be difficult to decide on an appropriate fee to charge. Also, charging for an electronic copy might be a disincentive for someone to use the online filing service, while providing an electronic copy for free might be an incentive to use the service. Saving time, money, paper and ink with the online filing far outweigh any potential benefit of charging a minimal fee.

Reasonable Alternatives That Would Lessen Adverse Economic Impact on Small Businesses

The Secretary of State is not aware of any significant cost impacts. Rather, there will be savings to business owners because they will have an immediate and free electronic copy of their filing, whereas currently they must pay a fee and wait to receive a copy of a filed document. Business owners will have the option to save the electronic image on their computers for their records. If business owners decide to print the electronic copy of their Statement of Information they receive after filing online, there will be the minor cost associated with printing the document with their own printers. However, the increased convenience of filing online and the increased timeliness of immediately receiving the electronic copy will be more important than the minor cost of printing the document.

No Significant Adverse Economic Impact on Small or Other Businesses

The proposed regulatory action will benefit small businesses by increasing the availability of current public information, providing the speed and convenience of filing online and allowing corporations and limited liability companies to receive an electronic copy of their filed Statements of Information without a fee when filing online. Currently, only certain corporations are allowed to file their Statements of Information online, but cannot receive a copy of the filed document online at the time of filing because the Secretary of State's website does not have the capability to provide such copies. Limited liability companies and all other corporations must submit paper filings and submit a separate mail or in-person request for copies with applicable fees through a separate process.