STATE OF CALIFORNIA
DEPARTMENT OF REHABILITATION
721 Capitol Mall
Sacramento, California 95814

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES

Client-Owned Vehicle Use, Amending Section 7162.

INITIAL STATEMENT OF REASONS

PROBLEM STATEMENT

The Department of Rehabilitation (DOR) is the designated state agency providing individualized vocational rehabilitation to Californians with disabilities (clients or consumers) to assist them in preparing for, securing, retaining, advancing in, or regaining an employment outcome in accordance with the Rehabilitation Act of 1973, as amended (29 U.S.C. section 701 et seq.). Depending on the need of the individual client and vocational rehabilitation services approved by DOR, DOR may provide funding to a client for fuel (mileage rate) when they must use their personally owned vehicle to participate in their vocational rehabilitation programs. (29 U.S.C. section 723, 34 C.F.R. section 361.48.)

Currently, the mileage rate is established in California Code of Regulations, title 9, section 7162 at $0.15 per mile and $0.20 per mile for modified vans. This rate has been in effect since at least 1990, which is when the last substantive change to this regulation was made. This rate is stagnant and does not meet the clients' needs during times of high, fluctuating fuel prices. The current regulation also has a provision for DOR to calculate actual costs of gasoline and oil when it is less than the established mileage rate.

BENEFITS

Allowing the mileage rate to fluctuate with the market is beneficial because it ensures funding to the client that is a more accurate reflection of what is taking place in the economy at the time. Having a more accurate, updated mileage rate established in regulations ensures the support necessary to pay for fuel so clients can drive to jobs, job interviews, appointments, or classes. During times of high gasoline prices, this change in the regulation removes a potential financial barrier to clients achieving employment goals. Furthermore, DOR has selected a rate that would be utilized in all instances because it is equitable to do so, and it saves staff time in having to do a separate calculation to determine if actual costs of gasoline and oil is the lesser amount. Finally, DOR has made changes to the pronouns used in the regulation to be more inclusive and gender neutral.

CONSISTENCY

All changes in this proposed rulemaking package are consistent or compatible with existing laws and regulations.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION AS REQUIRED BY GOVERNMENT CODE SECTION 11346.2(c)

The proposed changes to California Code of Regulations, title 9, section 7162 are necessary to establish an accurate, updated, mileage rate that fluctuates with the market. Such a mileage rate is necessary to adequately meet the clients' needs when they must use their personally owned vehicle to participate in their vocational rehabilitation programs.

SPECIFIC PURPOSE AND NECESSITY OF EACH SECTION AS REQUIRED BY GOVERNMENT CODE SECTION 11346.2(b)(1)

The specific purpose of each adoption, a description of the problem, administrative requirement, or other condition or circumstance that each adoption is intended to address, and the determination that each adoption is reasonably necessary to carry out the purpose for which it is proposed is as follows:

Section 7162. Client-Owned Vehicle Use.
Purpose: Subdivision (c)(3) is amended to remove "the lesser of actual costs or" so that the established rate would be utilized in all instances because it is equitable to do so, and it saves staff time in

having to do a separate calculation to determine if actual costs of gasoline and oil is the lesser amount. Subdivision (c)(3)(A) is amended to change the mileage rate for vehicles other than vans that have been specially adapted to meet the client's needs from 15 cents per mile to a rate used by California Department of Human Resources (CalHR) for state-approved relocation and on its website: https://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx. Subdivision (c)(3)(B) is amended to change the mileage rate for vans specially adapted to meet the client's needs from 20 cents per mile to an additional 5 cents more than the rate specified above for vehicles other than vans that have been specially adapted to meet the client's needs. Subdivisions (b) and (d) are amended to change "his/her" to "their."

Necessity: The amendments are necessary to update the mileage rate that is stagnant and has been in effect since at least 1990. The CalHR website is inserted into the regulation so that the rate can be found by the public and it will be automatically updated for DOR when updated by CalHR. This CalHR rate is the rate "for state approved relocation", according to the website. Utilizing the CalHR mileage rate for state approved relocation is necessary because it includes only variable costs of operating a vehicle (gasoline, oil, lubricant, routine maintenance), as the costs of gasoline and oil is all that is currently provided for in the regulation. Section 2202 of the CalHR Human Resources Manual outlines the use of the current Federal Standard Mileage Reimbursement Rate, which is also referred to as the Internal Revenue Service (IRS) medical/moving rate, as the basis for the CalHR mileage reimbursement rate. It is necessary to keep the rate for vans 5 cents above the rate for vehicles other than vans because the current 20 cents per mile rate for vans is 5 cents above the 15 cents per mile rate currently utilized for cars, in recognition that modified vans are generally less fuel efficient than other vehicles. The change of "his/her" to "their" in subdivisions (b) and (d) is a non-substantive change with no regulatory effect; however, the change results in more inclusive and gender-neutral language.

Section 7162. Reference.

Purpose: In this section, title 29 United States Code section 723 was added.

Necessity: The citation was added because it is a reference to the federal law applicable to this section. This is a non-substantive change with no regulatory effect.

Studies, Reports, or Documents Relied Upon – Government Code section 11346.2(b)(3):

California Department of Human Resources: Travel Reimbursements [https://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx]

California Department of Human Resources Human Resources Manual, Section 2202 [https://hrmanual.calhr.ca.gov/Home/ManualItem/1/2202]

Internal Revenue Service IR-2022-234 "IRS issues standard mileage rates for 2023; business use increases 3 cents per mile," dated December 29, 2022 [https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2023-business-use-increases-3-cents-per-mile]

U.S. Energy Information Administration: Table 1.8 Motor Vehicle Mileage, Fuel Consumption, and Fuel Economy [https://www.eia.gov/totalenergy/data/browser/?tbl=T01.08#/?f=A&start=1949&end=2020&charted=3-7-11-15]

U.S. Energy Information Administration: Weekly Retail Gasoline and Diesel Prices [https://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_sca_w.htm]

U.S. Department of Transportation, Federal Highway Administration, Highway Statistics 2020 (Washington, DC: Annual issues), table VM-1 [https://www.fhwa.dot.gov/policyinformation/statistics/2020/vm1.cfm]

REASONABLE ALTERNATIVES CONSIDERED OR AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES (GOVERNMENT CODE SECTION 11346.2(b)(4)(A))

The DOR has considered, and rejected, two alternative methodologies for calculating a mileage rate for individuals when operating their own vehicles to participate in vocational rehabilitation services. The first alternative was to calculate a rate based on the determined price of fuel and average fuel economy for light-duty vehicles: short wheelbase provided by the U.S. Energy Information Administration (EIA). The rate for an adapted van would use the same calculation but add another 5 cents. This rate would cover only the cost of gasoline. The DOR would have needed to recalculate the rate twice a year based on underlying data from the EIA website. The DOR rejected this rate because it only covered the price of gasoline, and the current DOR regulation includes gasoline and oil. It also required a formula to be put in the regulations and staff time to recalculate that formula twice a year.

The second alternative that DOR has considered, and rejected, was to utilize the CalHR mileage rate for state employees traveling on state business. This mileage rate is higher than the CalHR mileage rate for state approved relocation. This is because the mileage rate for state approved relocation includes only variable costs of operating a vehicle (gasoline, oil, lubricant, routine maintenance); whereas the mileage rate for state employees traveling on state business includes both variable and fixed costs (insurance, licensing and registration fees, and depreciation.) The DOR chose the CalHR mileage rate for state approved relocation because it more accurately reflects the costs of gasoline and oil, which is currently provided for in the regulation. Furthermore, in some cases, maintenance and repair of a vehicle can be provided as a vocational rehabilitation service through other regulations. (See California Code of Regulations, title 9, sections 7149, 7162.5, and 7174.)

<u>Reasonable Alternatives That Would Lessen Any Adverse Impact on Small Businesses – Government Code section 11346.2(b)(4)(B):</u> There is no impact on small businesses, so no reasonable alternatives would lessen any impact.

Economic Impact Statement – Government Code section 11346.3(b)(1)(A) through (D)

The proposed amendments to the regulation have no estimated private sector cost impacts. The proposed rulemaking will benefit

California residents who are consumers or clients because an accurate, updated mileage rate ensures funding to the client that is a more accurate reflection of what is taking place in the economy at the time. Furthermore, during times of high gasoline prices, this change in the regulation removes a potential financial barrier to clients achieving employment goals.

The proposed amendments to the regulation will not create or eliminate any jobs or businesses within the state.

The proposed amendments to the regulation will not result in the expansion of businesses currently doing business within the state.

The adoption of this rulemaking will have no impact to the environment. The DOR does not anticipate any benefits to worker safety.

EVIDENCE RELIED UPON TO SUPPORT THE INITIAL DETERMINATION THAT THE REGULATION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS (GOVERNMENT CODE 11346.2(b)(5)(A))

The DOR has determined that the proposed regulations will not have a significant adverse economic impact directly affecting business. As discussed above, the proposed amendments to the regulation involve a change to the calculation for fuel payments to DOR clients when they must use their personal vehicles for vocational rehabilitation purposes. DOR clients are individuals and not businesses. Businesses are not involved in DOR’s process of providing payments to clients when they use their personal vehicles. Therefore, it is reasonable to conclude that the proposed amendments to the regulations will not have a significant adverse economic impact directly affecting business.