

Regulation Process Overview

July 12, 2024



What is a regulation?

- A standard or procedure of general application.
- That implements, interprets or makes specific the law.

Preliminary/Informal Rulemaking Activities

Once a state agency decides to conduct a rulemaking action, it engages in preliminary rulemaking activities where the agency typically researches and gathers materials and information necessary to develop the documents required to conduct a formal rulemaking proceeding. Generally, the rulemaking agency has discretion whether to include the public during this stage of the rulemaking process.

Beginning Formal Rulemaking

To initiate a formal rulemaking action, an agency publishes a notice of proposed action in the California Regulatory Notice Register. The agency must also mail the notice of proposed action to those persons who have requested notice of regulatory actions and post the notice and accompanying materials on the agency's website. After publishing the notice in the Register, the agency has one year to complete the rulemaking process and submit the completed rulemaking file to the Office of Administrative Law (OAL).

Documents Needed to Begin Rulemaking

- The Text of the Proposed Regulation.
- Notice of Proposed Action: contains a variety of information about the nature of the proposed regulatory changes (e.g., statutory authority and the law(s) being implemented), and contains procedural information (e.g., deadlines for submitting comments and scheduling hearings).
- Initial Statement of Reasons: document that explains the reasons why the agency is making the proposed regulatory changes.
- Economic and Fiscal Impact: includes information on the estimated private and governmental monetary impacts of the proposed regulation.

Public Comment and Hearing

The APA requires a minimum 45-day period for the public to comment to the agency in writing on the proposed regulation.

In addition, a rulemaking agency has the option whether to hold a public hearing on a proposed rulemaking action. If an agency does not schedule a public hearing, any interested person can submit a written request for a hearing to be held. At the public hearing, both written and oral comments are accepted.

Response to Public Comments

A rulemaking agency must summarize and respond to timely comments that are directed at the proposal or at the procedures followed by the agency during the rulemaking action. For each comment, the agency must include either an explanation of how the proposed action has been changed to accommodate the comment or state the reasons for rejecting the comment.

The summary and response to comments is included as part of the rulemaking file in a document called a Final Statement of Reasons.

Changes to the Regulation Text

After the initial public comment period, a rulemaking agency will often decide to change its initial proposal either in response to public comments or on its own.

Nonsubstantial changes (those that do not alter the regulatory effect of the proposed provisions) do not require further public notice.

Substantial changes (those that alter the meaning of the regulatory provisions) require further public notice and opportunity to comment.

Office of Administrative Law (OAL) Review

A rulemaking agency must transmit a rulemaking action to OAL for review within one year from the date that the notice was published in the California Regulatory Notice Register. Once submitted, OAL has 30 working days to conduct a review of the rulemaking record to ensure that the agency satisfied the requirements of the APA and OAL's regulations. OAL will then either approve the rulemaking action and file the proposed regulation with the Secretary of State or disapprove the rulemaking action.