

REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-07-0130-07	REGULATORY ACTION NUMBER 2008-0130-0.4S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			2008 FEB 25 PM 3:36
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY OFFICE OF ADMINISTRATIVE LAW			AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ()	FAX NUMBER (Optional) ()
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 07-#6	PUBLICATION DATE 2-9-2007

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Procedures for Adopting Emergency Regulations	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
SECTION(S) AFFECTED (List all section number(s) individually)	ADOPT 48, 50 and 52 AMEND 55 REPEAL
TITLE(S) 1	

3. TYPE OF FILING

Regular Rulemaking (Gov. Code, § 11346) Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) Emergency (Gov. Code, § 11346.1(b)) Emergency Readopt (Gov. Code, § 11346.1(h)) Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)

Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.

Print Only Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) Other (specify) _____

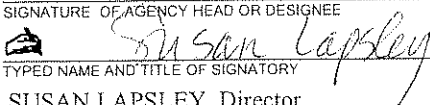
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)
October 30, 2007 - November 16, 2007 and November 27, 2007 - December 12, 2007

5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))
 Effective 30th day after filing with Secretary of State Effective on filing with Secretary of State Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
 Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal
 Other (Specify) _____

7. CONTACT PERSON George Shaw	TELEPHONE NUMBER (916) 323-4217	FAX NUMBER (Optional) (916) 323-6826	E-MAIL ADDRESS (Optional) gshaw@oal.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 1/30/08
TYPED NAME AND TITLE OF SIGNATORY SUSAN LAPSLEY, Director	

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW
300 CAPITOL MALL, SUITE 1250
SACRAMENTO, CA 95814

TITLE 1, CALIFORNIA CODE OF REGULATIONS
ADOPT SECTIONS 48, 50 AND 52, AND AMEND SECTION 55,
REGARDING EMERGENCY REGULATIONS

FINAL TEXT

Section 48. Notice of Proposed Emergency Action

Unless the emergency situation clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest, the notice required by Government Code section 11346.1(a) shall contain the following or substantially similar statement:

“Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.”

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 50. Proposed Emergency Action Submission

(a) State agencies submitting emergency regulations to OAL pursuant to Government Code section 11346.1 shall include:

- (1) Seven copies of the specific language of the proposed emergency regulation as set forth in section 6;
- (2) A completed Form 400, with at least one Form 400 bearing an original signature, attached to each copy of the proposed text as set forth in section 6;
- (3) The finding of emergency required by Government Code section 11346.1(b);
- (4) An estimate prepared in accordance with instructions adopted by the Department of Finance as required by Government Code section 11346.5(a)(6); and
- (5)(A) A statement by the submitting agency confirming that it has complied with the requirement to provide notice of proposed rulemaking action pursuant to Government Code section 11346.1(a)(2); or
(B) A statement by the submitting agency confirming that the emergency situation addressed by the regulations clearly poses such an immediate, serious harm that delaying action to allow notice and public comment would be inconsistent with the public interest. The statement shall include:

1. Specific facts demonstrating by substantial evidence that failure of the rulemaking agency to adopt the regulation within the time periods required for notice pursuant to Government Code section 11346.1(a)(2) and for public comment pursuant to Government Code section 11349.6(b) will likely result in serious harm to the public peace, health, safety, or general welfare; and
2. Specific facts demonstrating by substantial evidence that the immediate adoption of the proposed regulation by the rulemaking agency can be reasonably expected to prevent or significantly alleviate that serious harm.

(b) OAL shall not approve any emergency regulation submitted with a subsection (a)(5)(B) statement that does not satisfy the requirements of subsection (a)(5)(B)1. and 2.

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 52. Readoption of Emergency Regulations

(a) Readoption of an emergency regulation pursuant to Government Code section 11346.1(h) requires sending a notice of the proposed regulatory action pursuant to Government Code section 11346.1(a)(2).

(b) In addition to fulfilling the requirements for submission of regulatory actions described in sections 6 and 50, an agency requesting approval for readoption of an emergency regulation shall provide the following:

(1) A statement providing specific facts demonstrating by substantial evidence that the agency has made substantial progress and proceeded with diligence to comply with Government Code section 11346.1(e); and either

(2) A statement that the emergency circumstances are unchanged since the initial adoption or prior readoption; or

(3) An updated finding of emergency required by Government Code section 11346.1(b) to reflect circumstances that have changed since the initial adoption or prior readoption.

(c) An agency requesting approval for readoption of an emergency regulation may incorporate by reference the rulemaking record, identified by OAL file number, for the initial adoption and any prior readoption of the emergency regulation.

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Sections 11342.545, 11346.1, 11349.6, Government Code.

Section 55. OAL Review of Public Comments.

(a) OAL may consider comments submitted directly to OAL by the public in connection with emergency regulation reviews, including the review of an emergency regulation proposed to be readopted. OAL shall not consider comments submitted directly to OAL by the public when OAL is reviewing:

- (1) certificate of compliance regulation filings under Government Code sections 11346.1(e) and 11349.6(d); or
- (2) non-emergency regulation filings under Government Code section 11349.3 and section 100.

(b) Except when the emergency situation addressed by the regulations clearly poses such an immediate, serious harm that delaying action to allow public comment would be inconsistent with the public interest, in reviewing emergency regulations pursuant to Government Code section 11349.6(b), OAL ~~may~~ shall consider comments received from the public concerning the proposed emergency adoption, amendment, or repeal, including comments regarding the finding of emergency, when all of the following conditions are met:

- (1) The comments are submitted to OAL in writing;
- (2) The comments are received by OAL ~~prior to the time OAL makes its decision regarding the approval or disapproval of the regulations and~~ within five calendar days after the ~~receipt~~ notice of the filing of the proposed emergency regulations is posted by OAL on its Internet Website;
- (3) The comments contain a notation that they are submitted to OAL for consideration in connection with an emergency regulation review and identify the topic of the emergency regulations to which they relate; and
- (4) OAL has confirmed that a copy of the comments has been transmitted to the rulemaking agency's contact person for the emergency regulation filing, as designated by the rulemaking agency on the Form 400.

(c) OAL shall not consider comments concerning emergency regulations unless the comments meet all of the conditions specified in subsections (b)(1) through (4).

(d) Any person who submits comments concerning emergency regulations to OAL shall first simultaneously transmit a complete copy of the comments to the rulemaking agency's contact person for the emergency regulation filing as designated by the rulemaking agency on the Form 400.

(e) OAL shall provide any person interested in submitting comments concerning emergency regulations with the name, address, and telephone number of the rulemaking agency's contact person for the emergency regulation filing as designated by the rulemaking agency on the Form 400.

(f) When OAL considers comments concerning emergency regulations which meet the conditions for consideration set forth in subsections (b)(1) through (4), OAL shall contact the rulemaking agency within one working day after the receipt of the comments to confirm that the

comments are being considered by OAL. OAL shall inform the rulemaking agency at that time that the agency has the opportunity to rebut or otherwise respond to the comments pursuant to Government Code section 11349.6(c).

(g) OAL will consider agency rebuttals or responses to be timely as follows:

(1) Except as provided in subsections (2) and (3), OAL shall consider rulemaking agency rebuttals or responses to comments concerning emergency regulations if, and only if, they are submitted to OAL in writing and are received by OAL within eight calendar days after the receipt of the regulations.

(2) If the eighth calendar day falls on a Saturday, then the agency rebuttal or response is due on the seventh calendar day.

(3) If there are one or more state holidays between the fifth calendar day and the eighth calendar day after the regulations were filed with OAL, then the agency rebuttal or response is due on the ninth day. However, if that ninth calendar day falls on a Saturday, Sunday, or a state holiday, the agency's rebuttal or response is due by 10:00 a.m. of the last day the regulation must be reviewed by OAL in accordance with Government Code section 11349.6(b).

(h) For purposes of compliance with this section, OAL may elect to treat multiple substantially similar comments received from different sources as a single comment submission.

Note: Authority cited: Sections 11342.4 and 11349.1, Government Code. Reference: Sections 11342.545, 11346.1, 11349.1, 11349.3 and 11349.6, Government Code.