

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

NOTICE OF PROPOSED RULEMAKING ACTION:

**ELECTRONIC SUBMISSION OF NOTICES OF PROPOSED ACTION,
REGULATORY ACTIONS, AND CHANGES WITHOUT REGULATORY EFFECT**

The Office of Administrative Law (OAL) proposes to adopt the amended regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

OAL will hold a virtual public hearing on January 7, 2022, beginning at 9:00 a.m.

Attendees may participate via Microsoft Teams online meeting platform or telephone conferencing. To participate via Microsoft Teams online meeting platform please email Eric Partington at eric.partington@oal.ca.gov or (916) 323-6225 by 4:30 p.m. on January 6, 2022, to request a link to the meeting. A link to the meeting will also be posted under the "Announcements" heading on the homepage of the OAL website no later than 8:00 a.m. the day of the hearing. To participate by telephone, call 1-916-282-3524 and enter Conference ID: 439 922 79#.

As a reasonable ADA accommodation, limited in-person seating may be available at the hearing in the OAL Training Room, 300 Capitol Mall, Suite 1210, Sacramento, CA 95814. Attendees must comply with all COVID-19 safety protocols. Please contact Eric Partington at eric.partington@oal.ca.gov or (916) 323-6225 by 4:30 p.m. on January 6, 2022, if an accommodation is necessary.

Participants will be given instructions on how to provide oral comment once they have accessed the hearing. The hearing will proceed on the date noted above until all testimony is submitted or 12:00 p.m., whichever is later. At the hearing, any person may present oral or written statements or arguments relevant to the proposed action described in the Informative Digest. OAL requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Office of Administrative Law
Attn: Eric Partington
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 323-6826 or by e-mail to eric.partington@oal.ca.gov. The written comment period closes on January 7, 2022. To ensure OAL will consider your comment it must be received by January 7, 2022. When commenting, please indicate the proposed rulemaking action to which your comment refers.

AUTHORITY

Government Code section 11342.4.

REFERENCE

Government Code sections 11343, 11343.1, 11343.8, 11346.1, 11347.3, and 11349.6.

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Action

Government Code section 11340.5 requires agencies to adopt regulations pursuant to the APA unless there is an express statutory exemption. Government Code section 11343 requires agencies to deliver notices of proposed regulatory action and transmit certified copies of proposed regulation text to OAL and requires certification of proposed regulation text to be made by the agency head or their delegate in writing. Existing regulations in chapter 1, division 1, title 1 of the California Code of Regulations (CCR) establish requirements and procedures for submitting these and other related documents to OAL.

The Uniform Electronic Transactions Act (UETA) (Civ. Code, secs. 1633.1-1633.17) provides that laws requiring records in writing or handwritten signatures may be satisfied by electronic records or electronic signatures, respectively. Government Code section 16.5 defines a “digital signature” as a type of electronic signature under the UETA and sets forth a list of attributes that digital signatures must embody in order to be used or accepted by public entities in California, including all state agencies. Existing regulations promulgated by the California Secretary of State in chapter 10, division 7, title 2 of the CCR further implement Government Code section 16.5.

The changes proposed in this rulemaking action would reduce the number of hard-copy documents required for submission of notices of proposed action. The proposed changes would establish new procedures for electronic submission of notices of

proposed action, certified regulation text, rulemaking files, and other APA-related documents to OAL. The proposed changes would establish detailed requirements for electronic submissions, including file format types, file size limits, email addresses, and daily cutoff times. The proposed changes would allow agency heads and their delegates to certify regulation text using digital signatures created in compliance with existing law.

Anticipated Benefits of the Proposed Regulations

The objective of these regulations is to provide state agencies with a straightforward, efficient, paperless process for submitting all but the largest notices of proposed action, regulatory actions, and changes without regulatory effect to OAL.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The only existing state regulations concerning submission of the APA-related documents described above to OAL are in division 1, title 1 of the CCR. After careful evaluation, OAL has determined that the proposed changes are not inconsistent or incompatible with existing regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

OAL has made the following initial determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: OAL anticipates that the proposed changes will lead to a reduction in printing materials (e.g., paper, toner) used for purposes of submitting APA-related documents to OAL, which should result in a small savings to state agencies.

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

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

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

Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None.

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

Results of the Economic Impact Analysis/Assessment

OAL concludes that it is unlikely that the proposal will (1) eliminate any jobs, (2) create any jobs, (3) create any new businesses, or (4) eliminate any existing businesses or result in the expansion of businesses currently doing business within the state. OAL believes allowing electronic submission of documents will reduce paper usage by state agencies, which may be beneficial to the environment. OAL believes allowing electronic submission of documents will reduce interpersonal contact and handling of paper documents, which may lessen exposure and transmission of diseases and increase worker safety.

Small Business Determination

The proposed regulations will not affect small businesses. These regulations establish procedures that only state agencies must follow.

CONSIDERATION OF ALTERNATIVES

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

OAL invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action may be directed to:

Eric Partington
Office of Administrative Law
300 Capitol Mall, Suite 1250, Sacramento, CA 95814
Phone: (916) 323-6225
Email: eric.partington@oal.ca.gov

The backup contact person for these inquiries is:

Lindsey McNeill
Office of Administrative Law
300 Capitol Mall, Suite 1250, Sacramento, CA 95814
Phone: (916) 323-6225
Email: lindsey.mcneill@oal.ca.gov

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

OAL will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, and the STD. 399. Please direct requests to inspect or copy the rulemaking file to the contact person(s) listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, OAL may adopt the proposed regulations substantially as described in this notice. If OAL makes modifications that 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 adopting the regulations as revised. Please direct requests for copies of any modified regulations to the contact person(s) listed above. If substantive modifications are made, OAL will accept written comments on the modified regulations for the duration of the period of public availability.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, OAL will make copies of the Final Statement of Reasons available. Please direct requests for copies to the contact person(s) listed above.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications highlighted, as well as the Final Statement of Reasons, when completed, and modified text, if any, may be accessed via OAL's website at www.oal.ca.gov.