

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

TITLE 1, CALIFORNIA CODE OF REGULATIONS

**ADOPTION OF SECTION 4; AMENDMENT OF SECTIONS 4
[renumbered to 3], 5, 6, 6.5, 20, 50, AND 100**

FINAL STATEMENT OF REASONS

UPDATE TO THE INITIAL STATEMENT OF REASONS

Following the close of the 45-day comment period and public hearing on June 10, 2025, OAL modified the following proposed regulations, as detailed below, and made them available for public comment from November 4, 2025, to November 24, 2025.

Section 4, subsection (b). Subsection (b) is further amended to clarify that agencies are not required to submit multiple requests for access to the Portal for the same individuals. Once an agency staff member has access to the Portal, they will retain that access until it is revoked by the agency. This change is necessary because agencies regularly use the same staff members to submit actions to OAL and requiring those staff members to re-request access to the Portal each time they need to submit an action would be time-consuming without creating additional security for the portal. Moreover, retaining access to the portal is necessary because the agency staff members who submit the original action to OAL are also often responsible for handling the submission of additional documents to OAL and for downloading the returned documents at the end of OAL's review; if access were revoked after the original submission then agencies would need to re-request access after each step. This section is also amended to clarify that requests to add additional staff to the Portal or remove existing staff's access to the Portal can be submitted via email to ElectronicSubmissions@oal.ca.gov. This is necessary to funnel all such requests to the same place so that OAL may efficiently process them. Finally, this section is amended to permit OAL to remove an agency staff member's access to the Portal when that agency staff member is no longer employed by that agency. This is necessary to prevent agencies' prior staff members from accessing portions of the Portal which are reserved for current staff members of that agency.

Section 4, subsection (d). This subsection is further amended to state that a Microsoft account is required to access the Portal. This is necessary because OAL's systems, and the IT systems at the Department of General Services which underly OAL's systems, are all based on Microsoft's platform. No other type of provider account would be compatible with the Portal. Moreover, creating an account is necessary to protect the security of the Portal and to ensure that only authorized

users are submitting documents through the Portal. For users of the Portal with existing Microsoft accounts which already require multifactor authentication, no change will be needed; this applies to substantially all agency staff in the State of California. The vast majority of California state workers already have Microsoft accounts which require the use of multifactor authentication. For the rare agencies which have Microsoft accounts but don't already use multifactor authentication, they may use any of the multifactor authentication methods permitted by their Microsoft account. For the very rare state agencies which do not already have a Microsoft account, creating one is free.

Section 5, subsection (b)(2)(A). Subsection (b)(2)(A) is further amended so that agencies may submit the documents accompanying their NOPA submissions in .docx format. OAL's commenters state that this is necessary because it allows agencies to more easily post their materials to the internet in compliance with the ADA without sacrificing OAL's ability to process the documents. The Form 400 is still required to be submitted in .pdf format so that OAL can maintain the formatting, accuracy, and signature requirements of the Form 400.

Section 5, subsection (b)(2)(C)1. This subsection is further amended to provide that OAL will email the time stamped Form 400 to the agency contact listed on the Form 400 in addition to the email address of the agency staff member who uploaded the documents to the Portal. This is necessary so that agency staff are made aware of when documents are submitted to OAL in the event that the agency contact on the Form 400 is a different individual than the agency staff who uploaded the documents. This change was made in response to comments from OAL's regulated public.

Section 5, subsection (d)(4). This subsection is further amended to increase the timeframe for agencies to download documents returned to them from 15 working days to 45 calendar days. This is necessary to provide agencies with additional time to download the documents in case the agency staff member responsible is unavailable. Forty-five calendar days were selected per commenter request and because this provides agencies several additional weeks in case multiple agency staff members are unavailable to download the documents.

Section 6, subsections (a)(3)(C). Subsection (a)(3)(C) is further amended to replace the phrase, "the adoption or revision of state policy for water quality control plans, or the adoption or revision of water quality control plans and guidelines," with the phrase "actions subject to Government Code section 11353". This is necessary to alleviate potential misalignment of the regulations with the statutory language from Government Code section 11353(a) which reads, "Except as provided in subdivision (b), this chapter does not apply to the adoption or revision of state policy for water quality control and the adoption or revision of water quality control plans and guidelines pursuant to Division 7 (commencing with Section 13000) of the Water Code."

Section 6.5, subsections (a)(1), (a)(1)(A), and (a)(1)(B). These subsections are further amended to allow agencies the option to submit regulatory text to OAL for review in .docx format while retaining the requirement that agencies must submit the Form 400 in .pdf format. Commenters state that this additional flexibility is necessary to allow agencies greater ease in posting the regulatory text to the internet in compliance with the ADA while still maintaining the formatting, accuracy, and signature requirements of the Form 400.

Section 6.5, subsections (a)(1)(C)1. and 2. These subsections are moved within the paragraph hierarchy to better reflect that the requirements of these paragraphs are not part of the documents required by paragraph (a).

Section 6.5, subsection (a)(2)(C). This subsection is further amended to replace the phrase, "the adoption or revision of state policy for water quality control plans, or the adoption or revision of water quality control plans and guidelines," with the phrase "actions subject to Government Code section 11353". This is necessary to alleviate potential misalignment of the regulations with the statutory language from Government Code section 11353(a) which reads, "Except as provided in subdivision (b), this chapter does not apply to the adoption or revision of state policy for water quality control and the adoption or revision of water quality control plans and guidelines pursuant to Division 7 (commencing with Section 13000) of the Water Code."

Section 6.5, subsection (b)(2)(A). This subsection is further amended to include the .png format in the non-exhaustive list of file formats that are explicitly permitted. This change is necessary to clarify that the .png format is a "commonly available file format". This change was made in response to a commenter's request.

Section 6.5, subsection (e). This subsection is further amended to provide that OAL will email the time stamped Form 400 to the agency contact listed on the Form 400 in addition to the email address of the agency staff member who uploaded the documents to the Portal. This is necessary so that agency staff are made aware of when documents are submitted to OAL in the event that the agency contact on the Form 400 is a different individual than the agency staff who uploaded the documents. This subsection is also further amended to provide that OAL will delete the folder created pursuant to paragraph (b)(1) of this section after moving the files out of the "Submission of Actions" folder. This is necessary to prevent an issue where agencies may submit multiple rulemakings with the same name and be prevented from submission by the requirements of paragraph (b)(1) of this section.

Section 6.5, subsection (f)(3). This subsection is further amended to increase the timeframe for agencies to download documents returned to them from 15 working days to 45 calendar days. This is necessary to provide agencies with additional time to download the documents in case the agency staff member responsible is unavailable. Forty-five calendar days were selected per commenter request and because this provides agencies several additional weeks in case multiple agency

staff members are unavailable to download the documents.

Section 6.5, subsection (g)(3). This subsection is further amended to increase the timeframe for agencies to download documents returned to them from 15 working days to 45 calendar days. This is necessary to provide agencies with additional time to download the documents in case the agency staff member responsible is unavailable. Forty-five calendar days were selected per commenter request and because this provides agencies several additional weeks in case multiple agency staff members are unavailable to download the documents.

Section 100, subsection (b)(3)(B)1. This subsection is further amended to provide that OAL will email the time stamped Form 400 to the agency contact listed on the Form 400 in addition to the email address of the agency staff member who uploaded the documents to the Portal. This is necessary so that agency staff are made aware of when documents are submitted to OAL in the event that the agency contact on the Form 400 is a different individual than the agency staff who uploaded the documents. This subsection is also further amended to provide that OAL will delete the folder created pursuant to paragraph (b)(1) of section 6.5 after moving the files out of the "Submission of Actions" folder. This is necessary to prevent an issue where agencies may submit multiple rulemakings with the same name and be prevented from submission by the requirements of paragraph (b)(1) of section 6.5.

Section 100, subsections (d)(1)(C). This subsection is further amended to increase the timeframe for agencies to download documents returned to them from 15 working days to 45 calendar days. This is necessary to provide agencies with additional time to download the documents in case the agency staff member responsible is unavailable. Forty-five calendar days were selected per commenter request and because this provides agencies several additional weeks in case multiple agency staff members are unavailable to download the documents.

LOCAL MANDATE DETERMINATION

In accordance with Government Code section 11346.9, subdivision (a)(2), OAL determined that the regulations do not impose a mandate on local agencies or school districts.

SUMMARY AND RESPONSE TO WRITTEN COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD

OAL received the following written comments from six commenters during the 45-day comment period:

Comment 1 – California Association of Realtors

Comment 1.1: Commenter is generally supportive of this rulemaking action and encourages OAL to continue its efforts to digitize the rulemaking process.

Response: OAL appreciates the support for this rulemaking action. OAL will continue to explore ways to enhance the rulemaking process for the public and state agencies.

Comment 2 – Department of Resources Recycling and Recovery (CalRecycle)

Comment 2.1: CalRecycle requests that OAL expand the regulations in Title 1, Section 6 of the California Code of Regulations to allow for submission of rulemaking actions via flash drive or compact disc in the event that the eSubmissions portal is unavailable for technical reasons.

Response: No changes are being made to this rulemaking in response to this comment. However, OAL will continue to explore other digital submission options but is not amending its regulations to include flash drives or compact discs at this time because these options do not provide sufficient security, reliability, and procedural consistency.

Comment 2.2: CalRecycle requests clarification on which email addresses can be used for multi-factor authentication purposes. CalRecycle is concerned that some agency staff will be unable to access the portal if their work phone number is tied to Microsoft Teams.

Response: OAL has accommodated this request by removing the requirement. The language of section 4(d) is amended to read “(d) Agency staff must have a Microsoft account with multi-factor authentication enabled to access and use the OAL eSubmissions Portal. Users of the OAL eSubmission Portal must provide a phone number or email address to meet the multifactor authentication requirements.”

This change reflects the underlying use conditions of the eSubmissions Portal. The portal is only accessible to users with a Microsoft account with multi-factor authentication enabled. No multi-factor authentication methods are specified so that agencies may use whichever method is available to them and compatible with the portal.

Comment 2.3: CalRecycle requests a visual instruction guide for how to use the portal.

Response: No changes are being made to this rulemaking in response to this comment. However, OAL intends to provide instructional materials to assist agencies in using the eSubmission Portal.

Comment 2.4: CalRecycle requests additional information from OAL on when this rulemaking action will take effect. CalRecycle also requests clarification on how this would affect rulemakings which are already out for 45-day notice but have not yet been submitted for review.

Response: The effective date for regular rulemakings pursuant to Government Code section 11346.4 are subject to the effective dates enumerated in Government Code section 11343.4. If the regulations are approved, the effective date of the regulations will be reflected in the history note for each section affected. OAL will also publish information about the approval and effective date of the regulations on its website. Agencies submitting notices or final rulemaking submissions must follow the regulations and procedures in effect at the time of submission. Please reach out to the OAL Reference Attorney at staff@oal.ca.gov if you have specific questions.

Comment 2.5: CalRecycle requests that OAL rebuild the Portal to allow agencies to finalize submissions at the click of a button instead of via email.

Response: No changes are being made to this rulemaking in response to this comment. Such a request is not technically feasible for OAL at this time.

Comment 2.6: CalRecycle requests that the proposed regulations be amended such that the time-stamped version of the Form 400 be returned to agencies via the eSubmissions Portal.

Response: In response to commenters, OAL elected to amend the proposed regulations such that the time-stamped version of the Form 400 will be returned to agencies via the email address used to upload the documents to the Portal and the email address listed on the Form 400.

Comment 2.7: CalRecycle requests that OAL expand the timeframe to download returned documents from 15 days to 30 days. CalRecycle also requests information on what will happen with files returned to the agency for emergency rulemaking actions.

Response: In response to commenters, OAL elected to expand the timeframe to download returned documents to 45 calendar days. Because agencies are required to maintain their own rulemaking files pursuant to Government Code

section 11347.3, it is important that agencies have sufficient time to download those files but also download those files within a reasonable time. Based upon the responses of the commenting agencies, 45 days seems a reasonable balance between these two competing objectives. All rulemaking files and section 100 filings which are returned to the agency must be downloaded within this timeframe.

Comment 3 – State Water Resources Control Board (SWRCB)

Comment 3.1: SWRCB is concerned that the requirement to name the submissions folders with a unique name and to have the submissions folders' name match the Subject of Regulations box on the Form 400 will result in agencies having to arbitrarily pick new names for their actions. This could be especially confusing for actions which repeat yearly.

Response: OAL amended the proposed regulations to clarify this requirement. The new regulations are amended such that the submissions folders are deleted after completion of OAL's review. This will prevent situations where the same folder is still in the main submissions folder for years on end.

Comment 3.2: SWRCB requests OAL to amend the language of section 6(a)(3)(C) and section 6.5(a)(2)(C) to remove the word "plans".

Response: OAL amended the proposed regulations in response to this comment. The language of those sections now reads, "~~For actions subject to Government Code section 11353 the adoption or revision of state policy for water quality control plans, or the adoption or revision of water quality control plans and guidelines, promulgated in accordance with division 7 (commencing with section 13000) of the Water Code, the documents and information described in Government Code section 11353(b)(2).~~" This language fully captures the scope of actions covered by Government Code section 11353.

Comment 3.3: SWRCB requests that agencies be permitted to submit the regulation text attached to the Form 400 in .doc or .docx format.

Response: OAL amended the proposed regulations in response to this comment. Agencies may submit the regulation text in .docx format but must still submit the Form 400 in .pdf format.

Comment 3.4: SWRCB requests that OAL expand the timeframe to download returned documents from 15 days to 60 days.

Response: In response to commenters, OAL elected to expand the timeframe to download returned documents to 45 calendar days. Because agencies are required to maintain their own rulemaking files pursuant to Government Code

section 11347.3, it is important that agencies have sufficient time to download those files but also download those files within a reasonable time. Based upon the responses of the commenting agencies, 45 days seems a reasonable balance between these two competing objectives.

Comment 4 – California Fish and Game Commission (FGC)

Comment 4.1: Overall, the FGC supports implementation of the rulemaking portal.

Response: OAL appreciates FGC's support.

Comment 4.2: FGC is concerned that section 4(b) prohibits use of shared email inboxes when accessing the Portal. FGC prefers to use a shared email inbox because it facilitates agency staff access to rulemaking documents.

Response: No change was made in response to this comment. The language of section 4(b) requires requests for access to the Portal to include the “name(s) and email address(es) of any agency staff who may submit documents electronically on behalf of the agency”. Those items must be included in the request for access. This does not prohibit use of shared email addresses.

Comment 4.3: FGC is concerned that section 4(c)(2) is not sufficiently clear as to the criteria upon which a request for access to the Portal will be rejected.

Response: No change was made in response to this comment. The criteria upon which a request for access will be approved or denied are contained in section 4(b). As specified in section 4(c), OAL will approve the request if it complies with section 4(b) and will deny the request if it does not comply with section 4(b).

Comment 4.4: FGC is concerned about the language of 5(b)(2)(B)4. FGC is primarily concerned with the potential for notice submissions to be rejected if documents in the Submission of Notices folder are modified after sending the finalization email to OAL pursuant to 5(b)(2)(B)3. FGC's concern is that if documents cannot be changed in the folder after that email is sent, FGC may face many rejected notice submissions. FGC requests that OAL include a provision to allow for correction of deficiencies and further requests that OAL regulate the procedures for resubmitting rejected submissions.

Response: No change was made in response to this comment. While the documents in the *Submission of Notices* folder cannot be modified after the email is sent, documents requiring correction or modification can still be changed on a case-by-case basis during OAL's review by direct communication with OAL staff. Rejected submissions can be re-submitted through the same process as regular submissions.

Comment 4.5: FGC is concerned about the language of 6.5(b)(2)(B)4. FGC is primarily concerned with the potential for regulatory submissions to be rejected if documents in the *Submission of Actions* folder are modified after sending the finalization email to OAL pursuant to 6.5(b)(2)(B)3. FGC's concern is that if documents cannot be changed in the folder after that email is sent, FGC may face many rejected regulatory submissions. FGC requests that OAL include a provision to allow for correction of deficiencies and further requests that OAL regulate the procedures for resubmitting rejected submissions.

Response: No change was made in response to this comment. While the documents in the *Submission of Actions* folder cannot be modified after the email is sent, documents requiring correction or modification can still be changed on a case-by-case basis by direct communication with OAL staff. Rejected submissions can be re-submitted through the same process as regular submissions.

Comment 4.6: FGC is concerned that the language of 6.5(f)(2) prohibits the use of shared email inboxes. That language reads, "After uploading the returned submission to the 'Returned Actions' folder, OAL will send an email to the email address used to upload the submission indicating the documents are ready to be downloaded by the agency."

Response: No change was made in response to this comment. This provision does not prohibit use of shared email addresses. This language requires OAL to send an email to the email address used to upload the submission. If the email used to upload the submission is a shared email inbox, OAL will send its required email to that inbox.

Comment 4.7: FGC reiterates its concerns regarding submission of electronic documents from section 6.5 as they apply to section 50.

Response: See OAL's response to comments 4.5 and 4.6 above.

Comment 5 – California Department of Fish and Wildlife (DFW)

Comment 5.1: DFW generally supports adoption of the portal regulations.

Response: OAL appreciates DFW's support.

Comment 5.2: DFW is concerned that section 4(b) prohibits use of shared email inboxes when accessing the Portal. DFW prefers to use a shared email inbox because it facilitates agency staff access to rulemaking documents. DFW specifically requests that OAL clarify that shared inboxes are not prohibited and that all agency staff can access all agency subfolders in the portal.

Response: No change was made in response to this comment. The language of

section 4(b) requires requests for access to the Portal to include the “name(s) and email address(es) of any agency staff who may submit documents electronically on behalf of the agency”. Those items must be included in the request for access. This does not prohibit use of shared email addresses. The portal’s architecture permits all agency staff who are given permission to access the portal to access all subfolders in the submissions, rejections, and returns folders of that agency.

Comment 5.3: DFW requests that OAL clarify that agencies only need to request access for an individual user one time, and not for each submission.

Response: OAL amended the regulations in response to this comment. Section 4(b) is amended to include the following language, “Once granted access to the OAL eSubmissions Portal, agency staff will retain access until OAL receives a request from the agency to remove that agency staff’s access or that agency staff member is no longer employed by that agency.”

Comment 5.4: DFW is concerned that section 4(c)(2) is not sufficiently clear as to the criteria upon which a request for access to the Portal will be rejected.

Response: No change was made in response to this comment. The criteria upon which a request for access will be approved or denied are contained in section 4(b). As specified in section 4(c), OAL will approve the request if it complies with section 4(b) and will deny the request if it does not comply with section 4(b).

Comment 5.5: DFW requests that OAL permit a form of multi-factor authentication which links to an email or phone number.

Response: OAL has accommodated this request. The language of section 4(d) is amended to read “(d) Agency staff must have a Microsoft account with multi-factor authentication enabled to access and use the OAL eSubmissions Portal. Users of the OAL eSubmission Portal must provide a phone number or email address to meet the multifactor authentication requirements.”

This change reflects the underlying use conditions of the eSubmissions Portal. The portal is only accessible to users with a Microsoft account with multi-factor authentication enabled. No multi-factor authentication methods are specified so that agencies may use whichever method is available to them and compatible with the portal.

Comment 5.6: DFW requests that only staff from its own agency be able to access its document library.

Response: No change was made in response to this comment. The eSubmissions Portal is already built to function this way.

Comment 5.7: DFW requests clarity on the meaning of the following phrase from section 5(b)(2)(B)2. “The file name of each document must be consistent with the title of the document.” DFW is unclear on what the phrase “title of the document” means.

Response: No change was made in response to this comment. The term “title of the document” was chosen in context of the term “file name”. File name is a commonly used term which means the name of the file as it appears inside of a computer’s file system. This provision ensures that the name given to submitted files accurately reflect the document in the file.

Comment 5.8: DFW is concerned about the language of 5(b)(2)(B)4. DFW is primarily concerned with the potential for notice submissions to be rejected if documents in the Submission of Notices folder are modified after sending the finalization email to OAL pursuant to 5(b)(2)(B)3. The concern is that if documents cannot be changed in the folder after that email is sent, DFW may face many rejected notice submissions. DFW requests that OAL includes a provision to allow for correction of deficiencies and further requests that OAL regulate the procedures for resubmitting rejected submissions. DFW also requests that OAL work with DGS to modify the requirements related to submission of the Form 399.

Response: No change was made in response to this comment. While the documents in the *Submission of Notices* folder cannot be modified after the email is sent, documents requiring correction or modification can still be changed on a case-by-case basis during OAL’s review by direct communication with OAL staff. Rejected submissions can be re-submitted through the same process as non-rejected submissions. OAL acknowledges DFW’s request to change the Form 399 submission process, but doing so is beyond the scope of this rulemaking action.

Comment 5.9: DFW requests an extension of the timeline to download returned documents from 15 days to 30 days. DFW also requests that all agency staff be permitted to download documents from other agency staff’s files within DFW.

Response: In response to commenters, OAL elected to expand the timeframe to download returned documents to 45 calendar days. Because agencies are required to maintain their own rulemaking files pursuant to Government Code section 11347.3, it is important that agencies have sufficient time to download those files but also download those files within a reasonable time. Based upon the responses of the commenting agencies, 45 days seems a reasonable balance between these two competing objectives. No change was made in response to the second half of this comment as the portal is already structured to permit such access.

Comment 5.10: DFW requests that OAL clarify paragraph 6.5(a)(2) to state that an electronic record can contain multiple files and file types.

Response: No change was made in response to this request. This issue is addressed in section 6.5(b)(2)(A) which states, "The documents and information comprising the record may be in any commonly available file format (e.g., .pdf, .docx, .xlsx, .jpg, .png, .mp4). OAL's access to each document or other file in the electronic record may not be restricted via password protection or any other method."

Comment 5.11: DFW is concerned about the language of 6.5(b)(2)(B)4. DFW is primarily concerned with the potential for regulatory submissions to be rejected if documents in the Submission of Actions folder are modified after sending the finalization email to OAL pursuant to 6.5(b)(2)(B)3. The concern is that if documents cannot be changed in the folder after that email is sent, DFW may face many rejected regulatory submissions. DFW requests that OAL include a provision to allow for correction of deficiencies and further requests that OAL regulate the procedures for resubmitting rejected submissions.

Response: No change was made in response to this comment. While the documents in the *Submission of Actions* folder cannot be modified after the email is sent, documents requiring correction or modification can still be changed on a case-by-case basis during OAL's review by direct communication with OAL staff. Rejected submissions can be re-submitted through the same process as non-rejected submissions.

Comment 5.12: DFW is concerned that the language of 6.5(f)(2) prohibits the use of shared email inboxes. That language reads, "After uploading the returned submission to the 'Returned Actions' folder, OAL will send an email to the email address used to upload the submission indicating the documents are ready to be downloaded by the agency."

Response: No change was made in response to this comment. The language does not prohibit the use of shared email inboxes. This language requires OAL to send an email to the email address used to upload the submission. If the email used to upload the submission is a shared email inbox, OAL will send its required email to that inbox.

Comment 5.13: DFW requests an extension of the timeline to download returned documents from 15 days to 30 days.

Response: In response to commenters, OAL elected to expand the timeframe to download returned documents to 45 calendar days. Because agencies are required to maintain their own rulemaking files pursuant to Government Code section 11347.3, it is important that agencies have sufficient time to download those files but also download those files within a reasonable time. Based upon the responses of the commenting agencies, 45 days seems a reasonable balance between these two competing objectives.

Comment 5.14: DFW reiterates its concerns regarding submission of electronic documents from section 6.5 as they apply to section 50.

Response: See OAL's response to comments 5.10 through 5.12 above.

Comment 5.15: DFW reiterates its request for an extension of the timeline to download returned documents from 15 days to 30 days.

Response: In response to commenters, OAL elected to expand the timeframe to download returned documents to 45 calendar days. Because agencies are required to maintain their own rulemaking files pursuant to Government Code section 11347.3, it is important that agencies have sufficient time to download those files but also download those files within a reasonable time. Based upon the responses of the commenting agencies, 45 days seems a reasonable balance between these two competing objectives.

Comment 6 – California Department of Insurance (DOI)

Comment 6.1: Generally, DOI supports OAL's proposed regulations to implement a SharePoint platform for the submission and return of APA actions.

Response: OAL appreciates DOI's support for its rulemaking action.

Comment 6.2: DOI requests that OAL clarify that agencies only need to request access for an individual user one time, and not for each submission.

Response: OAL amended the regulations in response to this comment. Section 4(b) is amended to include the following language, "Once granted access to the OAL eSubmissions Portal, agency staff will retain access until OAL receives a request from the agency to remove that agency staff's access or that agency staff member is no longer employed by that agency."

Comment 6.3: DOI seeks clarity on the specific multi-factor authentication tools permitted for use with the Portal. DOI also requests that OAL modify its Economic Impact Assessment if OAL intends to require a specific multi-factor authentication tool.

Response: OAL has accommodated this request. The language of section 4(d) is amended to read "(d) Agency staff must have a Microsoft account with multi-factor authentication enabled to access and use the OAL eSubmissions Portal. Users of the OAL eSubmission Portal must provide a phone number or email address to meet the multifactor authentication requirements." This language was selected so that agencies may choose which multi-factor authentication tools to use.

Comment 6.4: DOI is concerned with OAL's requirement that the name of the

subfolders within the "Submission of Notices" folder must match the subject of notice listed on the Form 400 and must be named differently than other subfolders in that folder. DOI's concern is that they regularly submit actions titled CAARP Plan of Operations and they would not be able to name each action exactly that. DOI urges OAL to consider an alternative of allowing agencies to name the sub folder using the same name as the matter identified in the Notice and/or the Proposed Text of Regulation, followed by the agency's selected unique identification number.

Response: OAL made no amendments in response to this comment at this time. The SharePoint platform does not permit duplicate folder names. Agencies may need to amend the names of their Notice submissions to conform with the limitations of the SharePoint platform.

Comment 6.5: DOI requests that OAL amend the proposed regulatory text so that OAL will be required to email the time-stamped Form 400 to the person identified on the Form 400 in addition to the email used to upload the documents.

Response: OAL amended the proposed regulations in response to this comment. The proposed regulations now read, "OAL will move the documents from the "Submission of Notices" folder and email a time-stamped Form 400 that includes the assigned notice file number to the email address used to upload the documents and, if provided by the agency, the email address of the agency contact listed on the Form 400."

Comment 6.6: DOI notes that OAL has a practice of working with agencies to amend submitted notice documents during the Notice of Proposed Action process. DOI requests that OAL modify its fiscal impact statement if this regulation intends to curtail that practice.

Response: This regulation does not curtail OAL's ability to work with agencies on a case-by-case basis to amend submitted documents. Documents requiring correction or modification can still be changed on a case-by-case basis during OAL's review by direct communication with OAL staff.

Comment 6.7: DOI points out a paragraph hierarchy issue in paragraphs 6.5(a)(1).

Response: OAL amended the text in response to this comment. The paragraph hierarchy issue has been resolved.

Comment 6.8: DOI is concerned with OAL's requirement that the name of the subfolders within the "Submission of Actions" folder must match the subject of notice listed on the Form 400 and must be named differently than other subfolders in that folder. DOI's concern is that they regularly submit actions titled CAARP Plan of Operations and they would not be able to name each action exactly that. DOI urged OAL to consider an alternative of allowing agencies to name the

appropriate Portal folder using the same name as the matter identified in the Notice and/or the Proposed Text of Regulation, followed by the agency's selected unique identification number.

Response: OAL amended the proposed regulations in response to this comment. The proposed regulations now read, “After moving the documents from the “Submission of Actions” folder, OAL will delete the folder created pursuant to paragraph (b)(1) of this section.” Please also see OAL’s response to comment 3.1.

Comment 6.9: DOI requests that OAL add .png to the non-exhaustive list of file formats explicitly permitted in electronic record submissions.

Response: OAL made the requested amendment.

Comment 6.10: DOI requests that OAL amend the proposed regulatory text so that OAL will be required to email the time-stamped Form 400 to the person identified on the Form 400 in addition to the email used to upload the documents.

Response: OAL amended the proposed regulations in response to this comment. The proposed regulations now read, “OAL will move the documents from the “Submission of Actions” folder and email a time-stamped Form 400 that includes the assigned notice file number to the email address used to upload the documents and, if provided by the agency, the email address of the agency contact listed on the Form 400.”

Comment 6.11: DOI asserts that it was not able to locate in the ISOR an explanation for the reasonable necessity for amending the requirements related to incorporating by reference and that if OAL has been able to complete their review of documents incorporated by reference, successfully and timely, despite agencies not including them in Notice and Regulation submissions, the proposed rule requiring that documents incorporated by reference now be submitted at notice filing appears to fail the necessity standard of the APA.

Response: Pursuant to 1 CCR section 5 subsection (b)(1), a copy of the “express terms of the proposed regulation” pursuant to Government Code section 11346.2(a) is required. That requirement remains unchanged. Government Code section 11346.2 states: “Every agency subject to this chapter shall prepare, submit to the office. . . and make available to the public upon request, all of the following: (a) A copy of the express terms of the proposed regulation . . .” OAL provided further information on this issue on pages 3, 6, 7, and 10-11 of its Initial Statement of Reasons.

Comment 6.12: DOI asserts that requiring agencies to attach a copy of documents incorporated by reference to the Form 400 when submitting those documents for publication in the Notice Register and when submitting those documents to OAL for review is inconsistent with Government Code section 11347.3. DOI also argues that

the challenged provisions are inconsistent with OAL's own regulations found at 1 CCR 20(c)(2-3) because those regulations contemplate situations where agencies do not have access to the document being incorporated by reference.

Response: OAL disagrees with DOI's interpretation. Government Code section 11347.3 is not applicable to the challenged portions of the text. The challenged portions of the text relate to providing documents to OAL for publication of NOPAs in the California Regulatory Notice Register. Government Code section 11347.3, on the other hand, contains requirements for what documents need to be included in the agency's rulemaking file. Please also see OAL's response to comment 6.11.

Regarding alleged conflicts with 1 CCR 20 subsections (c)(2) and (3), these provisions relate to making documents incorporated by reference available to the public – not whether such documents need to be provided to OAL for an effective NOPA review before publication. Similarly, 1 CCR section 20 subsection (d) is merely an exemption from the requirement to provide duplicate copies of the document incorporated by reference when submitting the final rulemaking to OAL.

Comment 6.13: DOI asserts that requiring agencies to attach a copy of documents incorporated by reference to the Form 400 when submitting those documents for publication in the Notice Register and when submitting those documents to OAL for review is inconsistent with authority and reference standards of the APA.

Response: OAL disagrees with DOI's assertion. DOI makes no further argument as to why this would violate the authority or reference standards of the APA. In fact, all regulations proposed for adoption, amendment or repeal are required to be submitted. (Government Code section 11346.2(a).) After reviewing relevant statutory authority, OAL has not identified any provisions of the proposed regulations that violate the Authority or Reference standards. The proposed amendments further implement and make specific Government Code sections 11346.2 and 11346.4 which relate to the publication of NOPAs.

SUMMARY AND RESPONSE TO ORAL COMMENTS RECEIVED AT THE PUBLIC HEARING ON JUNE 11, 2025:

The State Water Resources Control Board submitted an oral comment at the public hearing which reiterated their 45-day written comments. Please see OAL's summaries of and responses to comments 3.1 through 3.4 above.

SUMMARY AND RESPONSE TO WRITTEN COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD:

OAL did not receive any comments during the 15-day comment period.

SUMMARY AND RESPONSE TO WRITTEN COMMENTS RECEIVED OUTSIDE OF ANY COMMENT PERIOD

OAL received the following written comment from one commenter after the close of the 15-day comment period.

Comment 7 – Department of Health Care Access and Information (HCAI)

Comment 7.1: HCAI requests that Excel spreadsheets (.xlsx) be added as a permissible file format for attachment to the Form 400 when submitting proposed regulatory text and documents incorporated by reference to OAL for review.

Response: No change was made in response to this request. When OAL files final regulatory text with the Secretary of State, OAL is required to submit those documents in a printed format. When re-formatting Excel spreadsheets for printing, information can be inadvertently lost or distorted. To ensure the agency has formatted the document in a manner that can be printed without loss or distortion of content, if the regulation text or document(s) incorporated by reference include a spreadsheet in .xlsx format, the document(s) will need to be converted to .pdf or .docx format in order to submit to OAL.

ALTERNATIVES DETERMINATION

In accordance with Government Code section 11346.9, subdivision (a)(4), OAL determined that no alternative it considered or that was otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The only alternatives that were brought to our attention during this rulemaking process are discussed above in the summary and response to comments, and OAL has not identified any others.