

**State of California  
Office of Administrative Law**

**NOTICE OF PROPOSED RULEMAKING ACTION**

**ADOPT SECTION 45:  
“ADDENDUM TO INITIAL STATEMENT OF REASONS”**

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

**PUBLIC HEARING**

OAL will hold a public hearing on December 9, 2026, beginning at 2:00 p.m.

Attendees may participate via Microsoft Teams online meeting platform or telephone conferencing. To participate via Microsoft Teams, please contact Nicole Carrillo at [Nicole.Carrillo@oal.ca.gov](mailto:Nicole.Carrillo@oal.ca.gov) or (916) 323-6808 by 4:30 p.m. on December 8, 2026, to request a link to the meeting. A link to the hearing will also be posted under the “[Announcements](#)” heading on the homepage of the OAL website at [oal.ca.gov](http://oal.ca.gov), no later than 12:30 p.m. the day of the hearing. To participate by telephone, call 1-916-245-8850 and enter Conference ID: 455 686 404#

For those who wish to attend the hearing in person, including those who require reasonable accommodation, limited seating will be available in the OAL Training Room at 300 Capitol Mall, Suite 1210, Sacramento, California 95814. Please contact Nicole Carrillo at [Nicole.Carrillo@oal.ca.gov](mailto:Nicole.Carrillo@oal.ca.gov) or (916) 323-6808 by 4:30 p.m. on December 8, 2026, to request to attend the hearing in person or by 4:30 p.m. on November 23, 2026, if requesting reasonable accommodations.

Participants will be given instructions on how to provide oral comments once they have accessed the hearing. The hearing will proceed on the date noted above until all testimony is submitted or until 4:00 p.m., whichever is later. At the hearing, any person may present oral or written statements or arguments that are relevant to the proposed action. 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 their authorized representative may submit written comments relevant to the proposed regulatory action to:

Office of Administrative Law  
Attn: Nicole Carrillo  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

Comments may also be submitted by email to [OALProposedRulemakings@oal.ca.gov](mailto:OALProposedRulemakings@oal.ca.gov) or by facsimile (FAX) at (916) 445-9515. **The written comment period closes on December 9, 2026.** To ensure OAL will consider your comment, it must be received by 11:59 p.m. on December 9, 2026. When commenting, please indicate the proposed rulemaking action to which your comment refers, such as Adoption of Section 45 or Addendum to Initial Statement of Reasons.

## **AUTHORITY AND REFERENCE**

Government Code sections 11342.4 and 11349.1 authorize OAL to adopt this proposed regulation, which further implements, interprets, and makes specific Government Code sections 11346.2, 11346.8, and 11347.1.

## **INFORMATIVE DIGEST**

### Summary of Existing Laws & Regulations Related Directly to the Proposed Action:

The Administrative Procedure Act (APA), Government Code section 11340 et seq., establishes rulemaking requirements for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by OAL.

Under the APA, every state agency must provide a notice of its proposed action (NOPA) and make certain information available for public comment, including the text of the proposed regulations and an initial statement of reasons (ISR) for the adoption, amendment, or repeal of the regulation. (Gov. Code, § 11346.2.)

Government Code section 11346.2, subdivision (b), requires the ISR to include, but not be limited to, all of the following:

- A statement of (1) the problem the agency intends to address, (2) the specific purpose of each proposed regulatory provision, and (3) the rationale for the determination by the agency that each adoption, amendment, or repeal is reasonably necessary to carry out the purpose and address the problem for which it is proposed. (Gov. Code, § 11346.2, subd. (b)(1).)
- A statement enumerating the benefits anticipated from the regulatory action, including the benefits or goals provided in the authorizing statute. (*Id.*)

- An economic impact assessment or a standardized regulatory impact analysis required by Government Code section 11346.3, subdivisions (b) and (c), respectively. (Gov. Code, § 11346.2, subds. (b)(2)(A)-(B).)
- An identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the adoption, amendment, or repeal of a regulation. (Gov. Code, § 11346.2, subd. (b)(3).)
- A description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives, as specified. (Gov. Code, § 11346.2, subd. (b)(4).)
- Facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business. (Gov. Code, § 11346.2, subd. (b)(5).)
- Other findings, as specified, including a statement of the reasons why the agency believes mandates or prescriptive standards in the proposed regulation are required and a description of efforts to avoid unnecessary duplication with federal law, as specified. (Gov. Code, § 11346.2, subd. (b).)

Government Code section 11346.8, subdivision (d), prohibits an agency from “add[ing] any material to the record of the rulemaking proceeding after the close of the public hearing or comment period, unless the agency complies with Section 11347.1[.]” but also states, “[t]his subdivision does not apply to material prepared pursuant to Section 11346.9.” (Gov. Code, § 11346.8, subd. (d).)

Following public comment, Government Code section 11346.9 requires every agency to prepare and submit to OAL with the adopted regulation a *final* statement of reasons (FSR). Existing law requires the FSR to include, among other things, “[a]n update of the information contained in the [ISR].” (Gov. Code, § 11346.9, subd. (a)(1).) If the update identifies any data or any technical, theoretical, or empirical study, report, or similar document on which the agency is relying in proposing the action that was *not* identified in the ISR, or which was otherwise not identified or made available for public review prior to the close of the public comment period, “the agency shall comply with Section 11347.1.” (Gov. Code, § 11346.9, subd. (a)(1).)

Government Code section 11347.1 requires an additional 15-day public comment period for material that is added to the rulemaking record after publication of the notice of proposed action.

### Effect of Proposed Action:

Proposed section 45 standardizes a document (the ISR addendum) and further specifies the process to correct substantial deficiencies in an agency's original ISR. Pursuant to Government Code section 11346.2, every agency subject to the APA "shall prepare, submit to the office with the [NOPA] as described in Section 11346.5, and make available to the public upon request . . . [a]n initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation." If it is determined after publication of a NOPA that the ISR is substantially deficient, an agency must cure that deficiency in some way that fully informs the public as to why the action is being taken and its proposed effects. Section 45 provides the process to correct or cure substantial deficiencies in an agency's original ISR consistent with the 15-day public notice requirements of Government Code section 11347.1. Section 45 ensures that members of the public who are participating in the rulemaking proceeding have available to them and are able to comment on the information required by Government Code section 11346.2, subdivision (b).

### Policy Statement Overview & Anticipated Benefits:

In *Grier v. Kizer* (1990) 219 Cal.App.3d 422 at 438, the court found that "the Legislature adopted the [APA] to give interested parties the opportunity to provide input on proposed regulatory action." In *Tidewater Marine Western, Inc., et al. v. Bradshaw* (1996) 14 Cal.4th 557 at 568, the court found that "[o]ne purpose of the APA is to ensure that those persons or entities whom a regulation will affect have a voice in its creation (*Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204–205), as well as notice of the law's requirements so that they can conform their conduct accordingly (*Ligon v. State Personnel Bd.* (1981) 123 Cal.App.3d 583, 588). The Legislature wisely perceived that the party subject to regulation is often in the best position, and has the greatest incentive, to inform the agency about possible unintended consequences of a proposed regulation. Moreover, public participation in the regulatory process directs the attention of agency policymakers to the public they serve, thus providing some security against bureaucratic tyranny. (See *San Diego Nursery Co. v. Agricultural Labor Relations Bd.* (1979) 100 Cal.App.3d 128.)"

Aside from the text of the proposed regulation itself, an agency's ISR is the document in any rulemaking action that provides the most information for the proposed action. The ISR describes the problem the agency is trying to address and the agency's rationale for why the language it is proposing for a newly adopted or amended regulation is necessary to address that problem, or why it is necessary to repeal an existing regulation. It discusses the benefits of the regulation, including nonmonetary benefits, and contains the agency's assessment of the economic impacts of the proposed regulatory action. The ISR discusses any alternatives to the action and the agency's reasons for having rejected those. The ISR also lists all technical, theoretical, and empirical studies, reports, and other documents, if any, on which the agency

relied in proposing the action. (Gov. Code, § 11346.2, subd. (b).) In short, the ISR is the most important document in the record to inform the public of the agency's need for the regulations proposed for adoption, amendment, or repeal.

The APA requires the ISR to include all the information described above and comply substantially with Government Code section 11346.2, subdivision (b), to fully inform the public of the reasons for, benefits of, alternatives to, empirical support for, and economic impacts of state regulatory actions so that the public can meaningfully and intelligently participate in the rulemaking process. Deficiencies in ISRs could substantially impair the rights and abilities of members of the public to participate in an informed way in regulation development. The process for addressing substantial deficiencies in the necessity for the original proposed language should be open, transparent, and provide for meaningful public participation pursuant to Government Code section 11347.1. The ISR must be prepared and available to the public beginning with publication of the notice. (Gov. Code, § 11346.5, subd. (a)(16).) Any substantial change to or supplementation of the information contained in the ISR by way of a subsequent document must, therefore, be made available to the public.

## **EVALUATION OF INCONSISTENCY/INCOMPATIBILITY OF THE PROPOSED REGULATION WITH EXISTING STATE REGULATIONS**

Implementation of regulations concerning the rulemaking process under the APA was delegated to OAL. (Gov. Code, § 11342.4.) No other state agency promulgates regulations for this purpose. Nevertheless, OAL has conducted an exhaustive, section-by-section, as well as subdivision-by-subdivision, search of all titles of the California Code of Regulations and has found no section, subdivision, phrase, or clause with which any of the proposed sections conflict or is incompatible. Therefore, OAL has determined the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

## **IMPOSITION OF LOCAL MANDATE**

The proposed regulations impose no mandate on local agencies or school districts.

## **FISCAL IMPACT ESTIMATES**

Cost to any local agency or school district requiring reimbursement under Gov. Code section 17500 et seq.: None.

Cost or savings to any state agency: Section 45 may result in minimal additional costs or savings to state agencies, depending upon whether they have a hardcopy mailing list and whether they receive comments on any 15-day notice. This amount would seem absorbable for the vast majority of state agencies.

Other non-discretionary cost or savings imposed upon local agencies: None.

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

### **SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS**

This proposal will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Creation of Jobs in California: None.

Elimination of Jobs in California: None.

Creation of New Businesses in California: None.

Elimination of Existing Businesses in California: None.

Expansion of Businesses Currently Doing Business within California: None.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The proposed regulation benefits the general welfare of California residents and businesses by promoting informed public participation in the APA rulemaking process. Section 45 is not anticipated to impact on worker safety or the state's environment.

### **EFFECT ON REPRESENTATIVE PRIVATE PERSONS 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 action.

### **BUSINESS REPORT**

The proposed regulations do not apply to businesses, nor do they establish reporting requirements that apply to businesses.

### **HOUSING**

There will be no effect on housing costs.

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## **DETERMINATION OF EFFECT ON SMALL BUSINESS**

The proposed regulations do not directly affect small businesses. OAL has reached this determination because the proposed regulations apply to state agencies engaging in rulemaking pursuant to the APA. However, small businesses may derive an indirect benefit from the proposed change by being afforded the opportunity to comment on additional material added to the rulemaking record.

## **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 would be more cost effective to affected private persons and equally as effective in implementing the statutory policy or other provision of law.

## **CONTACT PERSON**

Inquiries concerning this proposed rulemaking action may be directed to:

Nicole Carrillo  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
(916) 323-6808  
[Nicole.carrillo@oal.ca.gov](mailto:Nicole.carrillo@oal.ca.gov)

The backup contact person for these inquiries is:

Kevin Hull  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814  
(916) 323-8916  
[Kevin.hull@oal.ca.gov](mailto:Kevin.hull@oal.ca.gov)

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING RECORD**

OAL will make the entire rulemaking record available for inspection and copying throughout the rulemaking process at its office at the above address and posted on its

website as documents are published. As of the date this notice is published in the Notice Register, the rulemaking record 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 record 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 at least 15 days after the date on which they are made available.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Upon its completion, OAL will make copies of the Final Statement of Reasons available. Please direct a request 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, the proposed text of the regulations in underline/strikeout format, as well as other rulemaking documents as they are completed, may be accessed via OAL's website at [www.oal.ca.gov/oal-rulemaking/](http://www.oal.ca.gov/oal-rulemaking/).