

**State of California
Office of Administrative Law**

ORIGINALLY PROPOSED TEXT

**STANDARDS FOR FILE & PRINT AND PRINT ONLY ACTIONS
ADOPTION OF SECTION 110
AMENDMENT OF SECTIONS 1, 6, AND 14**

Chapter 1. Review of Proposed Regulations

Article 1. Chapter Definitions

§ 1. Chapter Definitions.

(a) The following definitions ~~shall~~ apply to the regulations contained in this chapter:

(1) "APA" means the part of the California Administrative Procedure Act appearing in California Government Code, Title 2, division 3, part 1, chapter 3.5, commencing with section 11340, which generally governs the adoption, amendment, or repeal of regulations by California state agencies.

(2) "CCR" means the California Code of Regulations.

(23) "Certificate of compliance" means a statement by the head of the rulemaking agency that the agency has complied with the provisions of Government Code sections 11346.2 through 11347.3 prior to the expiration of the effective period of the emergency regulations. After the adoption of emergency regulations, this statement is submitted to OAL for review along with the regulatory text and the rulemaking file.

(4) "File and Print" means

(A) a regulation or order of repeal submitted to OAL for filing with the Secretary of State and printing in the CCR pursuant to Government Code section 11343.8;

or

(B) the submission of regulations adopted pursuant to some or all of the requirements of the APA, but which are expressly exempted by statute from OAL review; or

(C) the submission of regulations that are exempt from the APA, but which are required to be submitted to OAL for filing with the Secretary of State and/or printing in the CCR.

(35) [***]

(46) "OAL" means "the Office of Administrative Law."

(7) "Print Only" means a regulation or order of repeal submitted to OAL only for printing in the CCR pursuant to Government Code section 11343.8 after the rulemaking agency filed the regulation or order of repeal with the Secretary of State.

(58) "Regular rulemaking" means ~~the original submission of a regulatory action, other than a certificate of compliance filing,~~ subject to OAL review by OAL within thirty working days of receipt pursuant to Government Code section 11349.1, except an emergency rulemaking action or certificate of compliance subject to OAL review under Government Code section 11349.6.

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Sections 11340.2, 11342.550, 11343, 11343.8, 11344, 11346.1, 11349.3, and 11349.6 and ~~11370,~~ Government Code.

Article 2. Criteria Applied in the Review of Proposed Regulations

§ 6. Hard-copy Submission of Regulatory Actions.

(a) [***]

[***No changes to subsections (a)(1) through (a)(3)(C)***]

(b) The completed Form 400 must contain:

(1) [***]

(2) [***]

(3) the type of regulatory filing:

(A) [***]

[***No changes to subsections (b)(3)(B) through (b)(3)(E)***]

(F) "Print Only;" requests for:

1. regulations adopted pursuant to the requirements of the APA, but which are expressly exempted by statute from OAL review; or

2. regulations not required to be printed in the California Code of Regulations, but which the adopting agency desires to have printed pursuant to Government Code section 11343.8;

(G) "File and Print;"

(H) [***]

[***No changes to subsections (b)(4) through (c)(6)***]

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Sections 11343, 11343.1, 11343.8, 11346.1 and 11347.3, Government Code.

§ 14. "Authority" and "Reference."

In reviewing a regulation for compliance with the "authority" and "reference" requirements of section 110 and Government Code section 11349.1, OAL shall apply the following standards and presumptions:

(a) Sources of "Authority." "Authority" shall be presumed to exist only if an agency cites in its "authority" note proposed for printing in the CCR-California Code of Regulations:

(1) [...]

(2) [...]

(b) Sources of "Reference." "Reference" shall be presumed to exist if an agency is empowered to implement, interpret or make specific a:

(1) [...]

(2) [...]

(3) [...]

(4) court decision or order, cited in its "reference" note proposed for printing in the CCR California Code of Regulations.

(c) [***]

(d) [***]

NOTE: Authority cited: Sections 11342.4 and 11349.1~~(c)~~, Government Code.

Reference: Sections 11343.8, 11344 and 11349~~(b) and (e)~~, Government Code;

Cal. Const. Art.3, section 3.5; *Rivera v. City of Fresno* (1971) 6 Cal.3d 132, ~~98~~

~~Cal.Rptr. 281~~; *First Industrial Loan v. Daugherty* (1945) 26 Cal.2d 545; *Whitcomb*

Hotel, Inc. v. Cal. Emp. Com. (1944) 24 Cal.2d 753; *Cal. Drive-In Restaurant Assn.*

v. Clark (1943) 22 Cal.2d 287; *Boone v. Kingsbury* (1928) 206 Cal. 148; *Bank of*

Italy v. Johnson (1926) 200 Cal. 1; *Hodge v. McCall* (1921) 185 Cal. 330; *Pope v.*

Bd. of Equalization of State of Cal. (1983) 146 Cal.App.3d 1132, ~~194 Cal.Rptr.~~

~~883~~; *Rich Vision Centers, Inc. v. Board of Medical Examiners* (1983) 144 Cal.

App.3d 112, ~~192 Cal.Rptr. 445~~.

§ 110. Submission of File and Print and Print Only Actions.

(a) This section applies to File and Print and Print Only actions.

(b) In addition to meeting the requirements enumerated in section 6 or 6.5, as applicable based upon the method of submission, a rulemaking agency submitting a File and Print action or a Print Only action to OAL must submit

(1) proposed regulatory text including

(A) underline or italics to indicate additions to, and strikeout to indicate deletions from, the CCR; and

(B) authority and reference note(s) pursuant to section 14; and

(2) a written explanatory statement including the following:

(A) a citation to each applicable APA exemption; and

(B) an explanation of how each proposed change in the action is within the scope of the cited exemption.

1. If an APA exemption depends upon a proposed regulation aligning with, conforming to, or being comparable to other standards, such as the Code of Federal Regulations, then for each state regulation, a citation to the standards the rulemaking agency is required to use or rely upon for drafting the proposed regulation sufficient to enable a direct comparison between the proposed regulation and the specifically applicable portion of the standards.

2. If an APA exemption depends upon satisfying a condition, confirmation that the condition is satisfied.

(c) OAL must determine whether to file the regulation with the Secretary of State and/or print it in the CCR, as appropriate for the type of action, within 30 working days after OAL receives the submission from the rulemaking agency pursuant to section 6 or 6.5.

(d) OAL will file the regulation with the Secretary of State and/or print it in the CCR, as appropriate for the type of action, only if OAL determines the submitted change to the CCR falls within a statutory exemption and conforms to subsection (b).

(e) If OAL receives a written request from the rulemaking agency to withdraw the action before OAL makes its determination, then OAL will not make its determination.

(f) OAL will send written notification of the determination or withdrawal to the rulemaking agency.

NOTE: Authority cited: Section 11342.4, Government Code. Reference: Section 11343.8, Government Code.