

OAL CHECKLIST NOTICE OF PROPOSED APA RULEMAKING

Z-No. _____ Agency: _____

Reviewer: _____ Due Date: _____

(OAL has three working days to review Notices for APA compliance. All citations are to the Government Code unless otherwise specified. CCR = California Code of Regulations)

REQUIREMENT

PROBLEMS

Are FOUR COPIES of the text of the notice included? (1 CCR 5)	Y	N
Are TWO COPIES of Form 400 included? (1 CCR 5)	Y	N
Is ONE COPY of the Initial Statement of Reasons (ISOR) submitted? (11346.2(b)) <i>Please refer to the REGULAR RULEMAKING CHECKLIST for requirements of the Initial Statement of Reasons. At the Notice stage, OAL does not review the ISOR for compliance with 11346.2(b). A sample ISOR is available at: http://www.oal.ca.gov/Regular_Rulemaking_Process.htm (Checklists can be found at www.oal.ca.gov, under "Publications.")</i>	Y	N
Is ONE COPY of the proposed text submitted? (11346.2(a))	Y	N
Is ONE COPY of STD Form 399 submitted?	Y	N
Is the Fiscal Impact Statement portion of the 399 complete, signed by Agency Secretary or by the highest ranking official in the rulemaking agency if not under an Agency Secretary? (SAM 6601-6616; 11346.5(a)(6))	Y	N
FORM 400: Is Part A of Form 400 completed? (1 CCR 5)	Y	N
BUILDING STANDARDS: If changes to title 24 are indicated, is approval by Building Standards Commission provided? (Health & Safety Code 18935(a))	Y	N
<i>NOTICE OF PROPOSED RULEMAKING</i>		
HEARING: <i>If a hearing is scheduled</i> , is the time, place, and nature of proceeding included? (11346.5(a)(1)) --If "yes," Are there at least 45 days (or other time period specified by statute) between publication date and hearing? (11346.4(a))	Y	NA N
<i>If no hearing is scheduled</i> , is information on opportunity to request one included? (11346.5(a)(17))	Y	NA N

WRITTEN COMMENT PERIOD (11346.4(a); 11346.5(a)(15)): Is the date the written comment period closes included?	Y	N
Are there at least 45 days (or other time period specified by statute) between publication date and close of written comment period?	Y	N
AUTHORITY and REFERENCE: Are citations included? (11346.5(a)(2); 1 CCR 14)	Y	N
INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW (11346.5(a)(3)):		
Is the format similar to the Legislative Counsel’s digest?	Y	N
Is it in plain English?	Y	N
Does it include a clear and concise summary of existing laws, and regulations (if any) related directly to the proposed rulemaking?	Y	N
Does it include a clear and concise summary of the effect of the proposed rulemaking?	Y	N
If there is a substantial difference from an existing, comparable federal regulation or statute, are significant differences briefly described?	Y	N
If so, is a full citation to federal regulation or statute included? (11346.5(a)(3)(B))	Y	N
Does it include a policy statement overview explaining the broad objectives of the regulation AND explaining the specific benefits anticipated from the proposed action, including, to the extent applicable, non-monetary benefits such as the protection of public health and safety, worker safety, or the environment, the prevention of discrimination, the promotion of fairness or social equity, and the increase in transparency in business and government?	Y	N
Does it include an evaluation of whether the proposed regulation is inconsistent or incompatible with existing state regulations?	Y	N
FORMS INCORPORATED BY REFERENCE (Identified in the Informative Digest)		
<i>If document(s) or form(s) are incorporated by reference, are they listed by title and date? (1 CCR 20(c)(3))</i>	Y	NA N
MANDATED BY FEDERAL LAW OR REGULATIONS (11346.2(c); 11346.9): <i>If adopting or amending regulations on this basis that are identical to previously adopted or amended federal regulation, is a statement included to that effect, together with a citation to where an explanation of the provisions of the regulation can be found?</i>		
	Y	NA N

<p>OTHER STATUTORY REQUIREMENTS (11346.5(a)(4)): Are there any other requirements identified in the Notice that are specific to the agency or to any specific regulation or class of regulations?</p>	<p>Y NA N</p>
<p>LOCAL MANDATE (11346.5(a)(5)): Is a determination (policy or expenditure) included as to whether a mandate is imposed on local agencies or school districts?</p> <p><i>If a mandate is imposed</i>, is a determination included as to whether the mandate requires state reimbursement pursuant to 17500 et seq.?</p>	<p>Y N</p> <p>Y N</p>
<p>FISCAL IMPACT (11346.5(a)(6)): The following estimates must be prepared in accordance with DOF instructions (SAM 6601-6616):</p> <p>--Is there an estimate included as to any cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq.?</p> <p>--Is there an estimate included as to any cost or savings to any state agency?</p> <p>--Is there an estimate included as to any other non-discretionary cost or savings imposed upon local agencies?</p> <p>--Is there an estimate included as to any cost or savings in federal funding to the state?</p>	<p>Y N</p> <p>Y N</p> <p>Y N</p> <p>Y N</p>
<p>HOUSING COSTS (11346.5(a)(12)): <i>If agency makes initial determination of significant effect on housing costs</i>, is a statement of that effect included?</p>	<p>Y NA N</p>
<p>SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE (11346.3(a); 11346.5(a)(7); 11346.5(a)(8)):</p> <p><i>If agency makes initial determination that proposal may have such an impact</i>, does the determination:</p> <p>--Identify types of businesses affected?</p> <p>--Describe projected compliance requirements?</p> <p>--Solicit proposed alternatives using boilerplate at 11346.5(a)(7)(C)?</p> <p><i>If agency makes initial determination that proposal will not have such an impact</i>, does Notice make a declaration to that effect? (11346.5(a)(8))</p>	<p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p> <p>Y NA N</p>

<p><i>FOR A <u>NON-MAJOR REGULATION</u>: STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT (EIA) (11346.5(a)(10))</i></p> <p>Is a statement of the results of the economic impact assessment included? Does it specify whether and to what extent the proposed regulation will affect:</p> <ul style="list-style-type: none"> --Creation or elimination of jobs within California --Creation of new businesses or elimination of existing businesses within California --Expansion of businesses currently doing business within the state --Benefits of the regulation to the health and welfare of California residents, worker safety, and the state’s environment 	<p>Y N</p> <p>Y N</p> <p>Y N</p> <p>Y N</p>
<p><i>FOR A <u>MAJOR REGULATION</u>: STATEMENT OF THE RESULTS OF THE STANDARDIZED REGULATORY IMPACT ANALYSIS (SRIA) (11346.5(a)(10))</i></p> <p>Is a statement of the results of the standardized regulatory impact analysis included? Does it address the following:</p> <ul style="list-style-type: none"> --Creation or elimination of jobs within California --Creation of new businesses or elimination of existing businesses within California --The competitive advantages or disadvantages for businesses currently doing business within California --The increase or decrease of investment in California --The incentives for innovation in products, materials, or processes --The benefits of the regulation, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state’s environment and quality of life, among any other benefits identified by the agency. <p>Is (1) a summary of Department of Finance’s comments on the SRIA and (2) the agency’s responses to those comments included?</p>	<p>Y NA N</p> <p>Y N</p>
<p><i>COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS (11346.5(a)(9)):</i></p> <p>Is a description included of all cost impacts known to the agency that a representative person or business would necessarily incur in reasonable compliance with the proposed action?</p> <p><i>If no cost impacts are known to the agency does the notice say: “The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action?”</i></p>	<p>Y NA N</p> <p>Y NA N</p>

BUSINESS REPORT (11346.5(a)(11); 11346.3(d)):	
Does the regulation require a report to be made?	Y N
Does the report requirement apply to business?	Y N
-- <i>If “yes,”</i> is there a finding that: “It is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses”?	Y N
SMALL BUSINESS (1 CCR 4(a) and (b)):	
Is a statement included that the proposed action does/does not affect small businesses? (1 CCR 4(a))	Y N
If “does not affect” determination is made, is a brief explanation included? (1 CCR 4(b))	Y N
ALTERNATIVES STATEMENT (11346.5(a)(13)): Does the notice include the following statement:	
<p>A rulemaking agency must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency</p> <p>--would be more effective in carrying out the purpose for which the action is proposed,</p> <p>--would be as effective and less burdensome to affected private persons than the proposed action, or</p> <p>--would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.</p>	Y N

<p>DISABILITY ACCOMMODATION STATEMENT APPLICABLE TO THE FOLLOWING (11346.5(a)(21); 11346.6):</p> <p><i>(1) Regulations proposed by the Department of Rehabilitation;</i> <i>(2) Regulations that must be submitted to the California Building Standards Commission that pertain to disability access compliance, including, but not limited to, regulations proposed by the State Fire Marshal, the Department of Housing and Community Development, the Division of the State Architect, and the California Commission on Disability Access;</i> <i>(3) Regulations proposed by the Department of Education pertaining to special education; and</i> <i>(4) Regulations proposed by the Department of Health Care Services that pertain to the Medi-Cal program:</i></p> <p>If one of the above, is there a statement that the agency shall provide, upon request, a description of the proposed changes included in the proposed action, in the manner provided by Section 11346.6, to accommodate a person with a visual or other disability for which effective communication is required under state or federal law and that providing the description of proposed changes may require extending the period of public comment for the proposed action?</p>	<p>Y NA N</p>
<p>CONTACT PERSON (11346.5(a)(14)): Is the name and telephone number of agency representative and backup contact person included?</p>	<p>Y N</p>
<p>AVAILABILITY STATEMENTS (11346.5(a)(16)): Are the following statements included:</p> <p>--Availability of express terms?</p> <p>--Availability of initial statement of reasons?</p> <p>--Availability of information upon which proposed rulemaking is based? (11346.5(a)(16); 11346.5(b); 11346.2(a))</p> <p>--Availability of substantial changes to original proposal for at least 15 days prior to agency adoption/repeal/ amendment of resulting regulation (11346.5(a)(18))</p>	<p>Y N</p> <p>Y N</p> <p>Y N</p> <p>Y N</p>
<p>FINAL STATEMENT OF REASONS (11346.5(a)(19)): Is a statement included explaining how to get a copy of the final statement of reasons?</p>	<p>Y N</p>
<p>INTERNET ACCESS (11346.4(a)(6); 11346.5(a)(20)): Is a statement included explaining how materials published or distributed through the agency's Internet website, <i>if the agency has one</i>, can be accessed?</p>	<p>Y N</p>