

EMERGENCY RULEMAKING

(State agency should choose desired effective date and count backwards at least 17 days)

At least 5 working days before filing with OAL, the state agency must mail and post an emergency Notice, but 5-day Notice is not required if it is a Government Code § 11346.1(a)(3) emergency.

Notice consists of:

1. Proposed text
2. Finding of Emergency, which includes:
 - 1 CCR § 48 statement
 - Justification of emergency
 - Gov. Code § 11346.5(a)(2)-(6) information

AT LEAST 10 CALENDAR DAYS BEFORE DESIRED EFFECTIVE DATE, AGENCY MUST FILE EMERGENCY WITH OAL

Filing with OAL consists of:

1. Form 400, plus six copies
2. Proposed text, plus six copies
3. Form 399
4. Finding of Emergency
5. 1 CCR § 50(a)(5)(A) statement

During the first 5 days of OAL's review, the public may submit comments to OAL with a copy to the state agency, unless it is a Government Code § 11346.1(a)(3) emergency.

The agency generally has until the 8th day of OAL's 10-day review to submit rebuttal to any public comments to OAL (optional).

The 10th day after the emergency is filed with OAL is OAL's deadline for a decision, and, if approved, for filing with the Secretary of State.

If approved, the emergency is effective upon filing with the Secretary of State and is effective for 180 days.

Up to two 90-day readoptions are allowed if the agency is making progress towards adopting permanent regulations.

To make regulations permanent, the agency must conduct a regular rulemaking, providing for a regular notice and comment period (known as a Certificate of Compliance).