

Role of OOR:

- Assist DHS Programs in preparing rulemaking packages that comply with the Administrative Procedure Act (APA) requirements of Title 2, Government Code Sections 11340 through 11361, and implementing regulations in Title 1, California Code of Regulations (CCR), Sections 1 through 190.
- Act as a liaison through the regulation development process and guide and monitor regulation packages through the internal and external stages of review and approval.
- Compile and maintain the rulemaking record for each regulation package.

Regulation Development (DHS Program):

- Define the scope and desired outcomes for the regulation package.
- Establish policy determinations; consult with affected department programs, advisory groups and advocacy groups; identify potential constraints; and gather supporting information.
- Develop all of the components of the regulation package and submit the package, through Program Management, to OOR.
- The timing of the Program's regulation development will vary depending on program resources and other factors.

OOR staff is available to assist a Program in the initial phases of regulation development, which could include the development of work plan that would establish relevant phases and timeframes.

Regulation Development (OOR Review through Publication of Notice):

OOR Review:

- Assesses the package to ensure that the procedural requirements related to the prescribed standards of the APA have been met.
- Collaborates with the Program to finalize the regulations.
- Forwards the package to the Office of Legal Services (OLS).

OLS Review:

- Assesses legal considerations.
- Collaborates with OOR and the Program for necessary revisions.
- Returns the package to OOR for submittal and review by the Fiscal Forecasting Office or Budget Office.

Fiscal Forecasting/Budget Office Review:

- Reviews the proposal's fiscal impact.
- Prepares a fiscal analysis and completes the Economic and Fiscal Impact Statement.
- Returns the package to OOR for submittal and review by the Director's Office.

Director's Office Review:

- Reviews the package; has an opportunity to discuss with DHS Staff.
- Returns the package to OOR for submittal and review by the Health and Human Services Agency (HHS).

HHS Review:

- Reviews the package.
- The delegated HHS representative signs the Economic and Fiscal Impact Statement.
- Forwards the package to the Department of Finance (DOF) *(if there is a fiscal impact)*.
- *There are no time constraints on the HHS review.*

DOF Review --if there is a fiscal impact:

- Reviews the package.
- The delegated DOF representative signs the Economic and Fiscal Impact Statement.
- Returns the package to OOR.
- *There are no time constraints on the DOF review.*

Filing and Publication of 45-Day Public Notice:

- OOR prepares the public notice that is signed by the Director and submitted to OAL.
- OAL reviews the notice and publishes it in the California Regulatory Notice Register.
- The public notice and package is released by OOR to interested parties via direct mailing and through the OOR website <http://www.dhs.ca.gov/regulation/>.

The rulemaking must be completed and submitted to OAL within 364 days from the date the notice is published.

The Stages from the OOR Review through the Publication of the 45-Day Public Notice have no time constraints and may vary depending on resources and other factors.

45-Day Public Proceedings:

- A package is available for public comment for 45 days, with public comments submitted to OOR.
- A public hearing is conducted if scheduled or requested – written or oral comments may be submitted.
- The Department considers all relevant material presented through the public proceedings.

Regulation Development (After the 45-Day Public Proceedings through the OAL Filing):

Program Review of Public Comments:

- Evaluates comments received and determines if regulation changes are necessary.
- If regulation changes are made this will prompt a 15-Day Public Availability for which the Program will prepare the revised regulations with the changes clearly designated and may include relevant reasoning, and any materials added to the rulemaking record.
- Submits the revised regulation package to OOR.

15-Day Public Availability --if applicable:

- OOR prepares the 15-Day Public Notice that is signed by the Director and the package is released to interested parties via direct mailing and through the OOR website – <http://www.dhs.ca.gov/regulation/>.
- The package is available for public comment for 15 days.
- Public comments are submitted to OOR.
- The Program then evaluates the comments and determines if additional changes are necessary. If so a subsequent 15-Day Public Availability would be provided.

Preparation of the Final Regulation Package (Filing Order) for submittal to OAL:

- The Program finalizes the regulation package.
- The Program submits the package to OOR, via Program Management.
- OOR reviews and prepares the final package.
- OOR submits the package to the Director's Office for review and adoption.
- OOR submits the package to OAL.

OAL Review:

- OAL has 30 working days to review the completed rulemaking.
- If the package is approved, regulations typically become effective 30 days after filing with the Secretary of State (SOS).
(120 days is given to correct disapproved packages)

Nominally, the process requires a total of about a year once the initial proposal has been developed and forwarded to OOR for processing. Many regulation proposals require far more time to complete.

Regulation Development for Emergency Packages:

Basis for Emergency Regulations:

- The Legislature declares the need to adopt regulations as an emergency by statute.
- DHS makes a finding that regulations must be adopted as an emergency in order to preserve the public peace, health and safety or general welfare of Californians.

Emergency Regulation Development Process:

- Is identical to the non-emergency regulation process until the Filing and Publication of the 45-Day Public Notice.
- An Emergency Filing Order would accompany the Public Notice Package that is submitted to OAL.
- OAL has 10 days to review the reason for the emergency.
- Upon approval by OAL, the regulations become effective upon filing with the SOS.
- The remainder of the regulation process, from the 45-Day Public Proceedings through filing the final package with OAL is identical to the non-emergency process.
- However, emergency regulations are typically in effect for 120 days, so the Department must complete the regulation process within the designated time period.

OAL Review:

- OAL has 30 working days to review the completed rulemaking.
- If the package is approved, the regulations would remain in effect; otherwise if disapproved the regulations would be repealed by OAL.

Typically, emergency regulation packages take the same amount of time to complete as non-emergency packages.

Questions regarding the preparation of regulation proposals can be directed to:

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