

## Frequently Asked Questions

**Q. What is a proposed action?**

- A. “ ‘Proposed action’ means the regulatory action submitted to the office [Office of Administrative Law] for publication in the *California Regulatory Notice Register*.” [Government Code section (GC §) 11342.595]

**Q. What is a cost impact?**

- A. “ ‘Cost impact’ means the amount of reasonable range of direct costs, or a description of the type and extent of direct costs, that a representative private person or business necessarily incurs in reasonable compliance with the proposed action.” [GC § 11342.535]

**Q. What definition of small business do regulatory agencies use?**

- A. California rulemaking law specifically defines “small business” as a business activity in one of a specified number of industries. The business must be both:
- Independently owned and operated, and
  - Not dominant in its field of operation.
- However, the definition also includes a list of exclusions for specified industries, economic activities, employee size, gross receipts, and other factors. [See GC § 11342.610 for details.]

**Q. Are agencies required to post proposed regulations on their website?**

- A. Yes, agencies that have an Internet website (and most agencies do) are required to publish the following materials on their website: [GC § 11340.85(c)]
- The Notice of proposed action,
  - The initial statement of reasons,
  - The exact text of the proposed regulation(s) or instructions on how to obtain a copy of the text,
  - The final statement of reasons, and
  - Notice of a decision not to proceed, if the agency decides to discontinue the proposed action.

**Q. Is the STD. 399 Form, Economic and Fiscal Impact Statement, available to the public?**

- A. Yes, the STD. 399 Form is a public document that is available at the beginning of the 45-day public comment period. You may request a copy from the agency’s contact person. (Occasionally an agency contact person may be uncertain as to whether the STD. 399 Form can be released to the public; be gracious but persistent with your request.) A few agencies post the STD. 399 Form on their website. However, there is currently no statutory requirement for them to do so.

**Q. I have had telephone conversations with the agency staff. Do**

**I still need to submit a written comment?**

- A. Yes. During the comment period, the public has an opportunity to review the proposed regulations and submit written comments. Informal telephone conversations are not accepted into the formal rulemaking record. As a result, the agency is not required to formally respond to the telephone comment in the final statement of reasons.

**Q. If I submit a written comment, will I have an opportunity to rebut the agency's response to that comment?**

- A. No. The regulatory process proceeds as follows:
- The agency proposes a regulation.
  - Any affected or interested party can submit a written comment on the proposed regulation.
  - The agency summarizes the comment and prepares a response to it.
- The agency, in effect, gets the last word in the rulemaking record that will be submitted to OAL for approval or disapproval.

**Q. Is an OAL disapproval the final action on a regulatory proposal?**

- A. Not necessarily. The agency has 120 days to address OAL concerns. The director of OAL may also, for good cause, grant an extension to this 120-day period. [GC § 11349.4] The agency may also file with the Governor's Legal Affairs Secretary a written Request for Review of an OAL disapproval decision. [GC § 11349.5]