

Commenting on Proposed Regulations

The California Administrative Procedure Act (APA) is designed to provide the public with a meaningful opportunity to participate in the adoption of regulations by California state agencies. During the formal rulemaking process, there are two principal opportunities for interested persons to exercise their right to participate in this process. The first is the written comment period; the second is the public hearing.

- **The Written Comment Period**

The APA requires an agency to provide for a minimum forty-five day written comment period wherein interested persons can submit written comments. This forty-five day comment period begins when the Notice of Proposed Action (NOPA) is published in the [Notice Register](#) and will end when specified in the NOPA. When submitting comments, interested parties should make sure that the comment is received by the agency no later than the last day of the notice period. Written comments are only accepted and reviewed during an open public comment period. The NOPA will contain the beginning and end dates of the comment period as well as the name and address of the person within the agency to whom comments must be addressed.

- **Public Hearings**

Under the APA, an agency has an option as to whether to hold a public hearing. If a public hearing is scheduled, it must take place no sooner than forty-five days after the date the NOPA is published in the Notice Register. The time, place, date and nature of the hearing must be set forth in the NOPA. However, if an agency does not schedule a public hearing, any interested person can make a request for a hearing. The request must be made in writing within 15 days of the close of the written comment period. The agency must accept both written and oral comments at the hearing. Oral comments are only accepted at the public hearing, not via telephone. An agency is permitted to place reasonable restrictions on oral comments at hearings, including the length of time allotted to each speaker. Therefore, interested persons who wish to testify should also consider bringing a written testimonial to submit at the hearing. Limitations imposed by the agency will depend on the circumstances of the hearings. Note: the public hearing for a rulemaking is intended to provide the public with an opportunity to voice opinions on the rulemaking. Agencies are not required to, and generally will not, provide a response to comments at the public hearing.

- **How and Why to Comment**

One of the primary purposes of providing the opportunity for public comment is to allow interested persons to present ways of improving the regulations. Public comment is always very important but especially when you have concerns about what is being proposed. Effective comments are based on an understanding of the statutes and factual material the agency relies on in proposing the regulation, and on an understanding of what the proposed regulation is intended to do.

Here is some guidance about how to comment effectively – orally or in writing – on an agency’s proposed regulations:

1. During public hearings, interested persons who wish to provide oral testimony may also wish to bring a written testimonial. For written comments, there is no required format for you to follow. Your comments are not required to be typed; however, they do need to be legible. Comments need to be addressed to the contact person(s) listed in the Public Notice and may be mailed, faxed, e-mailed, or hand delivered -- but they must arrive, or be post-marked, by the last date of the comment period. This date can be found in the Public Notice.
2. Comments should be directed to the specific proposed regulation provisions and/or procedures followed by the agency in proposing the regulations. **In order to ensure that a comment is properly directed, the comment should reference the specific rulemaking to which the comment is intended, including the section number(s), preferably in the order they appear, and name. Some agencies may conduct multiple rulemakings at the same time.**
3. **Be brief but concise.** You don't want the reviewer to miss the point of your concern.
4. **Be specific.** Make it clear what you want. It is more effective to say, for example, "*I am concerned about how this will affect small marine fueling facilities because...*", than "*Don't do this.*"
5. **Know your subject.** Make sure you have read the proposal thoroughly so that your comments are clear and accurate.
6. **Be polite.** Reviewers are human, too. Even though you may be upset about a proposal, try to state your opinion objectively. Remember that agencies write regulations to help people comply with statutes. Communication is increased by extending to agencies the courtesies that you expect from them.

Although the agency may not have a choice about adopting regulations (such as when the legislature passes a new law directing the agency to do so), your input can make the regulations better.