

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Administrative Rulemaking: Advisory Interpretations

September 1998

California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative.

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STATE OF CALIFORNIA

PETE WILSON, Governor

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September 25, 1998

To: The Honorable Pete Wilson
Governor of California, and
The Legislature of California

In general, a state agency must adopt a regulation in order to provide the public with generally applicable written advice as to the agency's interpretation of a law that it enforces or administers. This procedural requirement can impede useful communication between state agencies and the public. The Commission recommends a streamlined procedure that a state agency may use to communicate generally applicable, nonbinding, interpretive advice. This procedure could not be used to adopt binding regulations.

This recommendation is submitted pursuant to Resolution Chapter 91 of the Statutes of 1998.

Respectfully submitted,

Arthur K. Marshall
Chairperson

ADVISORY INTERPRETATIONS

INTRODUCTION

The California Administrative Procedure Act (APA) specifies the procedures a state agency must follow in order to adopt a regulation.¹ These procedures are beneficial in that they provide for public participation in agency rulemaking, but they are also time-consuming and costly to the rulemaking agency.²

The delay and cost associated with rulemaking procedures can be a problem where it impedes an agency's ability to convey useful information to the public in a timely fashion. For example, an agency must adopt a regulation in order to provide generally applicable advice to the public regarding the agency's opinion as to the meaning of a provision of law.³ Where the agency lacks the time or resources to adopt a regulation, it must then choose between two undesirable alternatives — remain silent despite the public's need for the

1. Gov't Code §§ 11340-11359. Note that certain agencies are partially or entirely exempt from these requirements, either by the terms of the APA or by an exemption in the agency's authorizing statutes. See, e.g., Gov't Code §§ 11342(g) (legal rulings of Franchise Tax Board and State Board of Equalization are not regulations subject to APA procedures), 19817.1 (partial exemption of Department of Personnel Administration from APA rulemaking provisions). The proposed law would not affect these exemptions.

2. See Asimow, *California Underground Regulations*, 44 Admin. L. Rev. 43, 56-58 (Winter 1992) (discussing the cost and delay associated with rulemaking procedures).

3. The APA's definition of "regulation" is quite broad, and includes a generally applicable statement of an agency's interpretation of a law that it enforces or administers, or that governs the agency's procedures. See Gov't Code § 11342(g).

advice,⁴ or provide the advice in violation of the rulemaking statute.⁵

Furthermore, the benefits of the APA's rulemaking procedures, which are clear when an agency is adopting a binding regulation, are less clear when an agency is offering nonbinding advice to the public. Rulemaking procedures are intended, in part, to lighten the regulatory burden on business by reducing the number and complexity of binding regulations.⁶ However, nonbinding interpretive advice does not increase the regulatory burden — it lightens the burden, by reducing ambiguity in the law and minimizing its inconsistent application.⁷

The Law Revision Commission recommends the creation of a simplified notice and comment procedure an agency may use to issue generally applicable, nonbinding, interpretive advice (hereinafter an “advisory interpretation”). This will expedite beneficial communication between agencies and the public while preserving the benefits of public participation in agency deliberations. Adoption of an advisory interpretation

4. In which case the first indication of an agency's interpretation of law may be its application in an enforcement action.

5. There are other ways for an agency to communicate its interpretations of law, such as in an advice letter or individual enforcement action, but these methods are reactive, limited to specific fact situations, and do not provide for public participation in formulating the agency's interpretation. See Gov't Code §§ 11343(a)(3), 11346.1(a). Presently, the only effective way for an agency to express a generally applicable interpretation, in advance of the public's need for information, is to adopt a regulation.

6. Gov't Code § 11340.1.

7. “Though too many regulations may lead to confusing, conflicting, or unduly burdensome regulatory mandates that stifle individual initiative, this effect is less pronounced in the case of interpretive regulations. The public generally benefits if agencies can easily adopt interpretive regulations because interpretive regulations clarify ambiguities in the law and ensure agency-wide uniformity.” *Tidewater Marine Western, Inc. v. Bradshaw*, 14 Cal. 4th 557, 576, 927 P.2d 296, 59 Cal. Rptr. 2d 186 (1996).

is optional and does not preclude expression of an agency's interpretive opinion by other lawful means.⁸

PROPOSED LAW

The proposed law has four principal elements: (1) limitations on the substance and form of an advisory interpretation, (2) limitations on the legal effect of an advisory interpretation, (3) streamlined notice and comment procedures for the adoption of an advisory interpretation, and (4) procedures to review whether a particular advisory interpretation is valid. In combination, these elements ensure that the special procedures for adoption of an advisory interpretation are properly targeted and limited in their effect.

Limited Substance and Form

In order to avoid possible agency misuse of the advisory interpretation procedure and to provide certainty to the regulated public, an advisory interpretation must satisfy both of the following requirements:

Interpretive content. An advisory interpretation expresses an agency's opinion as to the meaning of a statute, regulation, agency order, court decision, or other provision of law that the agency enforces or administers, or that governs the agency's procedures. An agency statement that goes beyond offering such advice and purports to bind or compel is not an advisory interpretation.⁹

8. For example, an agency may express its interpretation of law in a declaratory decision or other adjudication. See Gov't Code §§ 11465.10-11465.70 (declaratory decision). Note that an agency's interpretation expressed in an adjudication may not be expressly relied on as a precedent unless it has been designated a precedent decision by the agency. See Section 11425.60 (use of precedent decisions).

9. See proposed Gov't Code § 11360.020 ("advisory interpretation" defined).

Clear labeling. An advisory interpretation must be clearly labeled as an advisory interpretation. This avoids the need to consider agency intention in determining whether a particular agency statement is an advisory interpretation.¹⁰

Limited Effect

Legal effect. The legal effect of an advisory interpretation is limited in two ways. First, an advisory interpretation may not include a statement that purports to bind or compel. Such a statement is not an advisory interpretation and is subject to review and disapproval by the Office of Administrative Law (OAL) and the courts.¹¹ Second, the proposed law expressly prohibits an advisory interpretation being given any judicial deference or binding effect.¹²

Practical effect. An advisory interpretation will have some practical effect, as members of the regulated public may voluntarily conform their behavior to the agency's view of the law in order to avoid a dispute with the agency. The proposed law accounts for this in two ways. First, it requires public participation when adopting an advisory interpretation. This allows those who may be affected by an advisory interpretation to have a say in its formulation and provides a notice period during which members of the public may conform their conduct to the pending advisory interpretation. Second, the proposed law provides a "safe harbor" for those who do

10. The labeling requirement is drawn from a Washington statute, exempting "interpretive statements" from rulemaking procedures. See Wash. Rev. Code § 34.05.010(8) (Westlaw 1996). This avoids the uncertainty that has occurred under the Federal APA's interpretive statement exception. See 5 U.S.C.A. § 553(b)(A) (Westlaw 1998); see also Asimow, *Nonlegislative Rulemaking and Regulatory Reform*, 1985 Duke L.J. 381, 389-90 (discussing problems that arise under federal law when agencies do not clearly label interpretive statements).

11. See proposed Gov't Code §§ 11360.090-11360.100.

12. Note, however, that an advisory interpretation may be binding on the adopting agency in an enforcement action or adjudication. See proposed Gov't Code § 11360.030(b).

conform their conduct to an interpretation expressed in an advisory interpretation. Under this provision, an agency must abide by its own advisory interpretation in applying the interpreted law.¹³ However, the safe harbor provision does not apply to an advisory interpretation that is inconsistent with an interpretation in a published opinion of the California Supreme Court or a California court of appeal.¹⁴

Public Participation

Because advisory interpretations will have some practical effect on the regulated public, the proposed law requires public input in their formulation. Public input is provided through a simplified notice and comment procedure that achieves the benefits of public participation¹⁵ with less cost and delay than under existing rulemaking procedures. These savings are achieved by limiting the analyses and determinations an agency must conduct and limiting public input to written comments that the agency must read and consider.

Review Procedures

As a check on agency error and misuse of the special procedure, the proposed law includes two methods for review of a problematic advisory interpretation:

Review by Office of Administrative Law (OAL). Any interested person may request that OAL review an existing advi-

13. *Id.*

14. See proposed Gov't Code § 11360.030(c).

15. Public participation serves many purposes. It provides the regulated public with a say in the formulation and interpretation of rules that affect them, and provides a notice period during which affected parties may conform their affairs to the new interpretation. It also benefits the agency by providing useful information and perspectives that might not otherwise have been considered. Furthermore, agency openness enhances the perceived legitimacy of the agency's action, increasing the likelihood of voluntary compliance by the public. See discussion, *Tidewater Marine Western, Inc. v. Bradshaw*, 14 Cal. 4th 557, 568-69, 927 P.2d 296, 59 Cal. Rptr. 2d 186 (1996); *Chamber of Commerce of United States v. OSHA*, 636 F.2d 464, 470-71 (D.C. Cir. 1980).

sory interpretation to determine whether it satisfies the requirements of the law and is consistent with the law it interprets. If OAL disapproves an advisory interpretation as not satisfying the requirements of the law or as being inconsistent with the law it interprets, then the advisory interpretation is invalid.¹⁶

Judicial review. After OAL has had an opportunity to review an advisory interpretation, an interested person may request a declaratory judgment as to the validity or invalidity of the advisory interpretation by bringing an action in the superior court.¹⁷

16. See proposed Gov't Code § 11360.090.

17. See proposed Gov't Code § 11360.100. Declaratory relief under this section is not the exclusive means by which a court may review an advisory interpretation. For example, where the validity of an advisory interpretation arises in an agency adjudication, the advisory interpretation may be subject to review by administrative mandamus. See Code Civ. Proc. § 1094.5.

PROPOSED LEGISLATION

Gov't Code §§ 11360.010-11360.100 (added). Advisory interpretations

SEC. _____. Article 10 (commencing with Section 11360.010) is added to Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 10. Advisory Interpretations

§ 11360.010. Purpose and application

11360.010. (a) The purpose of this article is to provide an efficient procedure by which a state agency may communicate, in a nonbinding, advisory form, the agency's interpretation of a statute, regulation, agency order, court decision, or other provision of law that the agency enforces or administers, or that governs the agency's procedures. This procedure is intended as an alternative to the adoption of a regulation.

(b) Except as expressly provided in this chapter, an advisory interpretation adopted pursuant to this article is not subject to the requirements of the other provisions of this chapter.

(c) This article does not provide an alternative means of adopting binding regulations.

(d) This article may not be used to adopt or amend California Environmental Quality Act guidelines as required under Sections 21083 and 21087 of the Public Resources Code.

(e) Nothing in this article requires an agency to adopt an advisory interpretation. An advisory interpretation is not the exclusive means by which an agency may express the agency's interpretation of a statute, regulation, agency order, court decision, or other provision of law that the agency

enforces or administers, or that governs the agency's procedures.

Comment. Section 11360.010 states the purpose of this article and governs its application. Subdivision (a) provides that this article is intended as an optional procedure by which an agency can offer generally applicable interpretive advice, without adopting a regulation under Article 5 (commencing with Section 11346). For example, an agency may wish to adopt an advisory interpretation to clarify the meaning of an ambiguous law or to provide examples illustrating the operation of a highly technical law.

Although subdivision (b) generally provides that an advisory interpretation adopted under this article is not subject to other provisions of this chapter, there may be express exceptions. See, e.g., Sections 11340.6-11340.7 (governing petition for adoption, amendment, or repeal of regulation or advisory interpretation).

Subdivision (e) provides that adoption of an advisory interpretation is optional and does not preclude an agency from expressing interpretive advice by some other lawful means. Note that an agency's interpretation expressed in an adjudication may not be expressly relied on as a precedent unless it has been designated a precedent decision by the agency. See Section 11425.60 (use of precedent decisions). Nothing in subdivision (e) affects the prohibition against the issuance or use of regulations that have not been properly adopted. See Section 11340.5 (prohibiting use of "underground regulations").

§ 11360.020. Definition of "advisory interpretation"

11360.020. As used in this article, "advisory interpretation" means a written agency statement, adopted pursuant to this article, that expresses the agency's opinion as to the meaning of a statute, regulation, agency order, court decision, or other provision of law that the agency enforces or administers, or that governs the agency's procedures.

Comment. Section 11360.020 defines "advisory interpretation." An advisory interpretation is a statement of an agency's opinion, and does not include a statement that purports to bind or compel. For example, the State Department of Education could adopt an advisory interpretation expressing its opinion that the term "education activities," as used in Education Code Section 46300(a), does not include time spent watching television commercials. However a statement prohibiting the watching of television commercials in school would not be an advisory interpretation.

A binding rule of this type could only be adopted as a regulation under Article 5 (commencing with Section 11346).

§ 11360.030. Effect of advisory interpretation

11360.030. (a) Except as provided in subdivision (b), an advisory interpretation has no legal effect and is entitled to no judicial deference. An advisory interpretation cannot prescribe a penalty or course of conduct, confer a right, privilege, authority, exemption, or immunity, impose an obligation, or in any way bind or compel.

(b) In an enforcement action or adjudicatory proceeding, an agency may not assert or rely on an interpretation of law contradicting an advisory interpretation adopted by the agency, where events material to the enforcement action or adjudicatory proceeding occurred while the advisory interpretation was in effect.

(c) Subdivision (b) does not apply where the interpretation of a provision of law expressed in the advisory interpretation is inconsistent with an interpretation of the same provision of law in a published opinion of the California Supreme Court or a California court of appeal.

Comment. Section 11360.030 provides that an advisory interpretation has no legal effect other than to bind the adopting agency in an enforcement action or other adjudication.

While an advisory interpretation should not be accorded any deference by a court in interpreting a provision of law that is the subject of the advisory interpretation, this does not preclude a court from independently reaching the same interpretive conclusion. Nor is the adopting agency precluded from advancing the same interpretation on its own merits.

Subdivision (c) provides that the adopting agency is not bound, under subdivision (b), by an advisory interpretation that is inconsistent with an interpretation in a published opinion of the California Supreme Court or a California court of appeal. This does not affect any other possible limits on an agency's ability to contradict an advisory interpretation (e.g., in some circumstances, an agency might be equitably estopped from contradicting an advisory interpretation). Subdivision (c) only affects the safe harbor provision provided under subdivision (b) and is not intended

to raise any implication regarding the proper interpretation of the provision of law that is the subject of the advisory interpretation.

§ 11360.040. Effective dates of advisory interpretation

11360.040. (a) The adoption, amendment, or repeal of an advisory interpretation is effective on publication of a notice of completed adoption, amendment, or repeal in the California Regulatory Notice Register.

(b) An advisory interpretation remains in effect until one of the following occurs:

(1) The advisory interpretation is repealed.

(2) The advisory interpretation is disapproved or superseded by a statute or regulation or is contradicted by a published opinion of the California Supreme Court or a California court of appeal.

(3) The advisory interpretation is disapproved by the office and notice of the disapproval is published in the California Regulatory Notice Register.

(c) An advisory interpretation that has been rendered ineffective pursuant to paragraph (2) or (3) of subdivision (b) shall be promptly repealed by the agency that adopted the advisory interpretation.

Comment. Section 11360.040 governs the effective period of an advisory interpretation. An advisory interpretation may bind the adopting agency in an enforcement action or adjudicatory proceeding where events material to the enforcement action or adjudicatory proceeding occur while the advisory interpretation is in effect. See Section 11360.030. See also Sections 11342(b) (“office” means Office of Administrative Law), 11360.080(b)(2) (publication of notice of completed adoption, amendment, or repeal), 11360.090(c) (publication of notice of disapproval by Office of Administrative Law).

§ 11360.050. Adoption, amendment, or repeal of advisory interpretation

11360.050. An agency may adopt, amend, or repeal an advisory interpretation, by completing all of the following procedures:

(a) Prepare a preliminary text of the proposed action. The preliminary text shall clearly identify the provision of law that the advisory interpretation interprets and shall include the following notice, prominently displayed on its first page:

“This is an advisory interpretation adopted pursuant to Government Code Sections 11360.010-11360.100. It has no legal effect, other than to bind the adopting agency in an enforcement action or adjudicatory proceeding. However, an advisory interpretation that is inconsistent with an interpretation in a published opinion of the California Supreme Court or a California court of appeal does not bind the adopting agency. See Government Code Section 11360.030(c). Review of this advisory interpretation by the Office of Administrative Law is available on request under Government Code Section 11360.090.”

(b) Provide public notice of the proposed action, as provided in Section 11360.060.

(c) Accept written public comment for at least 45 calendar days after providing the notice required in subdivision (b).

(d) Certify in writing to the office that all written public comments received in the period provided in subdivision (c) were read and considered by the agency.

(e) Prepare the final text of the proposed action, subject to the limitations of Section 11360.070. The final text shall clearly identify the provision of law that the advisory interpretation interprets and shall include the following notice, prominently displayed on its first page:

“This is an advisory interpretation adopted pursuant to Government Code Sections 11360.010-11360.100. It has no legal effect, other than to bind the adopting agency in an enforcement action or adjudicatory proceeding. However, an advisory interpretation that is inconsistent with an interpretation in a published opinion of the California Supreme Court or a California court of appeal does not bind

the adopting agency. See Government Code Section 11360.030(c). Review of this advisory interpretation by the Office of Administrative Law is available on request under Government Code Section 11360.090.”

(f) Submit the final text of the proposed action and the certification required by subdivision (d) to the office.

Comment. Section 11360.050 specifies the procedures that must be followed in adopting, amending, or repealing an advisory interpretation. See also Section 11342(b) (“office” means Office of Administrative Law).

§ 11360.060. Notice

11360.060. (a) The agency shall mail notice of the proposed action to the office and to any person who has requested notice of agency regulatory actions. If the agency is within a state department, the agency shall also mail or deliver notice to the director of the department.

(b) Notice of the proposed action shall include both of the following:

(1) A clear overview explaining the purpose of the proposed action.

(2) Instructions on how to obtain a copy of the preliminary text of the proposed action and how to submit a written comment relating to the proposed action. The instructions shall specify the deadline for submission of written comment.

Comment. Section 11360.060 specifies the content and delivery requirements of the notice required under Section 11360.050(b). See also Section 11342(b) (“office” means Office of Administrative Law).

§ 11360.070. Limitation on final text of proposed action

11360.070. An agency may not adopt the final text of a proposed action unless the final text is sufficiently related to the preliminary text provided to the public pursuant to subdivision (a) of Section 11360.050 that the public could reasonably have anticipated adoption of the final text.

Comment. Section 11360.070 is drawn from Section 11346.8(c) (relating to the adoption, amendment, or repeal of a regulation). Nothing in this section prevents an agency from reinitiating the procedures in this article, with a former final text as a preliminary text.

§ 11360.080. Publication and filing

11360.080. (a) On receiving a notice pursuant to Section 11360.060, the office shall publish the contents of the notice in the California Regulatory Notice Register.

(b) On receiving the final text of a proposed action and certification that all timely public comment was read and considered, pursuant to subdivision (f) of Section 11360.050, the office shall do all of the following:

(1) File the final text of the proposed action with the Secretary of State.

(2) Publish a notice of the completed action in the California Regulatory Notice Register.

(3) Publish the final text of the completed action in the California Code of Regulations.

Comment. Section 11360.080 specifies the publication and filing responsibilities of the Office of Administrative Law when an agency adopts, amends, or repeals an advisory interpretation. See also Section 11342(b) (“office” means Office of Administrative Law).

§ 11360.090. Review by Office of Administrative Law

11360.090. (a) Any interested person may request in writing that the office review an advisory interpretation.

(b) Within 15 days of receipt of a written request pursuant to subdivision (a), the office shall either deny the request, approve the advisory interpretation, or disapprove the advisory interpretation.

(c) On reaching a decision pursuant to subdivision (b), the office shall do all of the following:

(1) Mail notice explaining its decision to the person who made the request and to the agency that adopted the advisory interpretation.

(2) If the office approves or disapproves the advisory interpretation, it shall publish a notice explaining its decision in the California Regulatory Notice Register.

(3) If the office disapproves an advisory interpretation, the office shall file its decision with the Secretary of State and remove the disapproved advisory interpretation from the California Code of Regulations.

(d) In reviewing an advisory interpretation, the office shall approve the advisory interpretation if it satisfies the requirements of this article and is consistent with the provision of law it interprets. The office shall disapprove an advisory interpretation if it does not satisfy the requirements of this article or is inconsistent with the provision of law it interprets.

(e) For the purposes of this section, an advisory interpretation is consistent with the provision of law it interprets if it is any one of several reasonable interpretations of the provision of law.

(f) An advisory interpretation that has been approved or disapproved by the office under this section is not subject to further review by the office.

Comment. Section 11360.090 provides for post-adoption review of an advisory interpretation by the Office of Administrative Law (OAL). Disapproval of an advisory interpretation is effective on publication of the notice of disapproval in the California Regulatory Notice Register. See Section 11360.040(b)(3).

Disapproval of an advisory interpretation does not preclude expression of the agency's interpretation by other lawful means. Note, however, that an agency's interpretation expressed in an adjudication may not be expressly relied on as a precedent unless it has been designated a precedent decision by the agency. See Section 11425.60 (designation of precedent decisions).

A decision under this section is subject to judicial review. See Section 11360.100 & Comment. See also Section 11342(b) ("office" means Office of Administrative Law).

§ 11360.100. Judicial review

11360.100. (a) Any interested person may obtain a judicial declaration as to the validity or invalidity of an advisory interpretation that the office has reviewed or declined to review under Section 11360.090, by bringing an action for declaratory relief in the superior court in accordance with the Code of Civil Procedure.

(b) An advisory interpretation may be declared invalid for failure to satisfy the requirements of this article or for inconsistency with the provision of law it interprets.

Comment. Section 11360.100 is drawn from Section 11350.3 (declaratory review of a regulation disapproved by the Office of Administrative Law). Review under this section is not the exclusive means by which a court may review an advisory interpretation. For example, where the validity of an advisory interpretation arises in an agency adjudication, the advisory interpretation may be subject to review by administrative mandamus. See Code Civ. Proc. § 1094.5. See also Section 11342(b) (“office” means Office of Administrative Law).

CONFORMING REVISIONS

Gov’t Code § 11340.6 (amended). Petition for adoption, amendment, or repeal

SEC. _____. Section 11340.6 of the Government Code is amended to read:

11340.6. Except where the right to petition for adoption of a regulation *or advisory interpretation* is restricted by statute to a designated group or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in Article 5 (commencing with Section 11346) *or of an advisory interpretation as provided in Article 10 (commencing with Section 11360.010)*. This petition shall state the following clearly and concisely:

(a) The substance or nature of the regulation, *advisory interpretation*, amendment, or repeal requested.

(b) The reason for the request.

(c) Reference to the authority of the state agency to take the action requested.

Comment. Section 11340.6 is amended to permit a petition to an agency to adopt, amend, or repeal an advisory interpretation. See Article 10 (commencing with Section 11360.010).

Gov't Code § 11340.7 (amended). Agency response to petition for adoption, amendment, or repeal

SEC. _____. Section 11340.7 of the Government Code is amended to read:

11340.7. (a) Upon receipt of a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346) *or of an advisory interpretation pursuant to Article 10 (commencing with Section 11360.010)*, a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition indicating why the agency has reached its decision on the merits of the petition in writing or schedule the matter for public hearing *comment* in accordance with ~~the applicable~~ notice and hearing requirements ~~of that article~~.

(b) A state agency may grant or deny the petition in part, and may grant any other relief or take any other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of this action.

(c) Any interested person may request a reconsideration of any part or all of a decision of any agency on any petition submitted. The request shall be submitted in accordance with Section 11340.6 and include the reason or reasons why an agency should reconsider its previous decision no later than 60 days after the date of the decision involved. The agency's reconsideration of any matter relating to a petition shall be subject to subdivision (a).

(d) Any decision of a state agency denying in whole or in part or granting in whole or in part a petition requesting the adoption, amendment, or repeal of a regulation pursuant to Article 5 (commencing with Section 11346), *or of an advisory interpretation pursuant to Article 10 (commencing with Section 11360.010)*, shall be in writing and shall be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date. The decision shall identify the agency, the party submitting the petition, the provisions of the California Code of Regulations requested to be affected, reference to authority to take the action requested, the reasons supporting the agency determination, an agency contact person, and the right of interested persons to obtain a copy of the petition from the agency.

Comment. Section 11340.7 is amended to permit a petition to an agency to adopt, amend, or repeal an advisory interpretation. See Article 10 (commencing with Section 11360.010).
