



Office of the Governor

ARNOLD SCHWARZENEGGER
THE PEOPLE'S GOVERNOR

EXECUTIVE ORDER EXECUTIVE ORDER S-2-03

11/17/2003

WHEREAS, State Government should be dedicated to provide certainty for the regulated communities as well as meaningful and fair public participation in government decisions which impact the cost of doing business in California;

WHEREAS, the express language of the California Administrative Procedure Act declares that "There has been an unprecedented growth in the number of administrative regulations in recent years;"

WHEREAS, the increased costs associated with California's regulatory environment have diminished competition in the national and global marketplaces for the State's goods and services;

WHEREAS, the California Administrative Procedure Act requires that state Agencies proposing to adopt, amend, or repeal any administrative regulation must assess the potential for economic impact on California business enterprises and individuals;

WHEREAS, the California Administrative Procedure Act requires that all adopted regulations be easily understandable, the least burdensome and effective alternative, be consistent with underlying legislative authority and minimize the economic impact to the regulated communities;

WHEREAS, the California Administrative Procedure Act also provides that Agency policy enforced as if it were a regulation, but which has not been adopted, amended or repealed subject to public notice and comment, is contrary to law and public policy because it subverts open government; and

WHEREAS, with the onerous impact of over-regulation on the daily lives of Californians, it is time to reassess the system of State Government that is perceived to work against businesses and inhibit growth and economic prosperity.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this order to become effective immediately:

1. Each Agency, department, board, commission and office of the executive branch (hereinafter referred to as "Agency" or "Agencies") shall:

- a) Subject to any exceptions the Director of the Department Finance allows for emergency or other situations relating to health and safety, request, pursuant to the California Administrative Procedure Act, the immediate return of any proposed regulation, including emergency regulations, for final adoption, amendment, or repeal or other processing by the Office of Administrative Law (OAL) for further review for a period not to exceed 180 days;
- b) Subject to the exceptions described in paragraph 1 a) above, cease processing, pursuant to the California Administrative Procedure Act, any proposed regulatory action, including emergency regulations, for further review for a period not to exceed 180 days;
- c) Pursuant to law and the extent necessary to comply with this Executive Order, suspend or postpone the effective date of any adopted, amended or repealed regulations published in the California Regulatory Notice Register but not yet effective;
- d) Reassess the regulatory impact on business of any proposed regulation for adoption, amendment or repeal described in paragraphs 1 a)-c), above, pursuant to California Government Code section 11346.3 and submit a preliminary report to the Legal Affairs Secretary within 90 days of the date of this Executive Order; and
- e) Submit a report of all regulations adopted, amended or repealed by each Agency since January 6, 1999 to the Legal

Affairs Secretary within 90 days of the date of this Executive Order which specifically addresses the following:

- 1) The impact of the adopted, amended or repealed regulations on California businesses as required by California Government Code section 11346.3;
 - 2) The authority for the adopted, amended, or repealed regulations pursuant to California Government Code sections 11342.1 and 11342.2; and
 - 3) Conformity of the adopted, amended, or repealed regulations with the criteria set forth in California Government Code section 11349.1, of necessity, authority, clarity, consistency, reference and non-duplication.
2. Within 30 days of the date of this Executive Order, each Agency shall assess and identify any present issuance, utilization, enforcement or attempt at enforcement of any guideline, criterion, bulletin, manual, instruction, order, or standard of general application which has not been adopted as a regulation in potential violation of California Government Code section 11340.5(a) and submit its findings to OAL pursuant to California Government Code section 11340.5(b) and the Legal Affairs Secretary;
3. Upon submitting the findings of paragraph 2, above, to OAL and the Legal Affairs Secretary, any Agency utilizing such guideline, criterion, bulletin, manual, instruction, order or standard of general application in the normal course of business until OAL makes its determination to the Governor pursuant to California Government Code section 11340.5(c) shall do so on an opinion-only basis which will not carry the force of law;
4. Within five working days of the date of this Executive Order, the Director of OAL shall submit to the Legal Affairs Secretary a list of all regulations pending 30 day review under California Government Code section 11349.3, as well as any emergency regulations filed within the last 60 days with OAL pursuant to California Government Code sections 11346.1 and 11349.6;
5. The Director of the Office of Administrative Law shall, as soon as is practicable, appoint an advisory body consisting of no more than five (5) persons knowledgeable in regulatory matters to advise the Office of the Governor on how the regulatory process can be improved in California. The term of the advisory body shall expire on or before July 30, 2004; and
6. Agency Secretaries and other Cabinet level positions will be responsible for ensuring compliance with the provisions of this Executive Order. For those departments that do not have Cabinet level representation, the Department of Finance will be responsible for ensuring compliance with the provisions of this Executive Order; and
7. The regulatory relief described herein shall be accomplished through existing resources.

I FURTHER DIRECT that as soon as hereafter possible, this order shall be filed with the Office of the Secretary of State and that widespread publicity and notice be given to this order.



IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this the seventeenth day of November 2003.

/s/ Arnold Schwarzenegger

Governor of California