

TIMELINE OF EVENTS AFTER GDTAC MEETINGS

GDTAC is projected to finalize the draft regulations at the December meeting. After finalizing the regulations, the following will happen:

ACTION	REVIEW TIME	DATES
Text sent to DOJ's attorneys to ensure that text is consistent with the law.	2 weeks	12/14/18 – 12/28/18
Text sent to Attorney General (AG) for review.	4 weeks	12/31/18 – 1/28/19
Finalize text of regulations and draft accompanying documents (Notice of Proposed Action, Initial Statement of Reasons, etc.).	2 weeks	1/28/19 – 2/11/19
Rulemaking packages reviewed and approved by CJIS— California Justice Information Services Division (includes BCIS and CJIS Exec review time).	2 weeks	2/11/19 – 2/25/19
Rulemaking packages reviewed for compliance with the Administrative Procedure Act (APA) by the DOJ Regulations Coordinator, government law attorneys, and the AG's office.	5 weeks	2/25/19 - 4/1/19
Notice sent to Office of Administrative Law (OAL) for publication in CA Regulatory Notice Register.	10 days	4/2/19 – 4/12/19
Notice of Proposed Action published in the CA Regulatory Notice Register.		4/12/19
45-day comment period commences. (Held at least 45 days after publication of notice.)		4/12/19 – 5/27/19
Date of public hearing. (Tentative hearing date; actual date to be determined.)		5/28/19
Complete summary of comments and responses.	4 weeks	5/28/19 – 6/24/19
15-day comment period if any substantial but sufficiently related changes made to the text.	15 days	6/25/19 – 7/10/19
Summarize comments and prepare responses to comments received during 15-day comment period and draft the final statement of reasons.	2 weeks	7/10/19 – 7/24/19
Rulemaking packages reviewed and approved by CJIS. (Includes BCIS and CJIS Exec review time.)	2 weeks	7/24/19 – 8/7/19

Rulemaking packages reviewed for compliance with the APA by the DOJ Regulations Coordinator, government law attorneys, and AG's office.	6 weeks	8/7/19 – 9/18/19
Rulemaking packages sent to OAL for review and approval.	6 weeks (30 working days)	9/19/19 – 10/31/19
Rulemaking packages filed with the Secretary of State.		11/1/19
Regulations come into effect.		1/1/20

Function of the Office of Administrative Law (OAL)

The California Legislature created OAL because it recognized the need for an independent office in the executive branch to enforce the rulemaking part of the Administrative Procedure Act (APA). Since 1980, state agencies have been required to submit regulations to OAL for review before the regulations can become effective. OAL reviews regulations and the other rulemaking documents to ensure that the regulations are easy to understand, have a rational basis, are authorized by statute, and are consistent with other law, including the procedural requirements of the APA.

The Rulemaking Process and the APA

The rulemaking process under the APA does not commence until the publication of the Notice of Proposed Action in OAL's California Regulatory Notice Register. Once published, a state agency has one year to complete the rulemaking process successfully. Typically, it takes agencies the full year to go through the rulemaking process successfully. Since the DOJ is working with GDTAC to draft the regulations, it has less than one year to complete the rulemaking process under the APA, so it is important for each of our meetings to be as productive and efficient as possible.

Effective Date of the Regulations

The Legislature intended these regulations to be effective as of January 1, 2020. (Pen. Code § 186.36.) In order to meet this statutory deadline, the DOJ must ensure that OAL approves the rulemaking packages and files them with the Secretary of State on or before November 30, 2019. Even though there is a statutory deadline which mandates the regulations to be effective as of January 1, 2020, if the rulemaking packages are filed with the Secretary of State any later than November 30, 2019, the regulations will not become effective until April 1, 2020. This means that the statutes amended by Assembly Bill 90 cannot be enforced by law enforcement and the DOJ until April 1, 2020.