

UAPPEAL RULE PROCESS LISTS

August 2023

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Alabama

(Alabama Administrative Procedure Act: Code of Alabama Title 41 Chapter 22)

NOTE: Agencies and rules exempt from the APA are in §44-22-3. They include hunting and fishing seasons and bag and creel limits.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules for the immediate danger to public health, safety, or welfare

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with its reasons or start the rulemaking process below. If the agency's next meeting is past the 60 days, it can extend the deadline by 30 days with written notice.
2. **Drafted** - Rule is drafted.
3. **Notice of Intended Action** - Notice of adoption, amendment or repeal is published in the Alabama Administrative Monthly. A notice must also be posted on the agency website, or if none, an executive branch-controlled website.
4. **Public Comments (Skip to Step 8 if Emergency)** - The public is given between 35 and 90 days to comment on the proposed rule as specified in the bulletin.

Emergency rule can bypass the comment period and hearing.

5. **Public Hearing** - Agency schedules a public hearing on the rule.
6. **Business Economic Impact Statement (If Applicable)** – If agency is notified by a business that it is negatively impacted by the rule, it must prepare a statement.
7. **Comment Consideration** - Agency considers all comments received. It also prepares a statement of reasons for adoption.
8. **Joint Committee on Administrative Regulation Review** – Rule is sent to the Committee for review and approval.
9. **Rule Adoption** - Agency adopts the rule.

10. **Legislative Services Agency, Legal Division** – Agency files the certified adopted rule and any business economic impact statement with agency secretary, which must send it to the Legislative Services, Legal Division within 15 days after receipt or 90 days after completion of the notice.

- FAILS IF: Not send to the Division by the deadline OR not sent with any required business economic impact statement

11. **Notice of Adoption** – Notice of certified rule is published in the Alabama Administrative Monthly.

12. **Joint Committee on Administrative Regulation Review (Skip for Emergency)** – Rule is sent to the Committee for final review before it takes effect. It may hold a public hearing. If the Committee makes amendments, agency may resubmit the rule with amendments. If the agency does not make changes, it is disapproved.

13. **If Disapproved, Lieutenant Governor** – If the Committee disapproves, the agency may appeal to the Lieutenant Governor within 15 days. The Lieutenant Governor has 15 days to hold any hearing and either sustain the disapproval or approve the rule.

- FAILS IF: Lieutenant Governor sustains the Committee disapproval

14. **If Approved, Legislature** – If the Lieutenant Governor approves a rule the Committee disapproves, the legislature may create and pass a joint resolution to disapprove it.

15. **Effective Date** –

- Rules take effect 45 days after the notice, a date specified by statute, a later date in the rule, the later of the date specified or after Committee amendments are filed, or after adjournment of the next legislature if the Committee disapproves and is appealed.
- Emergency rules take effect immediately after filing or a date specified and last 120 days.

16. **Agency Review** - An agency must review a rule every 5 years to determine whether it should continue as is, be amended or be repealed.

Alaska

<https://www.law.state.ak.us/pdf/manuals/DraftingManual-AdminRegs.pdf>

(Alaska Administrative Procedure Act: Alaska Statutes 44.62)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules necessary for the immediate preservation of public health, safety, or general welfare

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt or repeal a rule. The agency has 30 days to either deny the petition in writing or schedule it for a public hearing.
2. **Notice of Public Scoping** – Agency may publish notice to notify public that it intends to change or adopt a rule.
3. **Agency Request for Change** - Agency requests a rule change during a public meeting.
4. **Drafting** - Request goes to the Regulations Attorney who drafts the proposed rule text with the assistance of the Department of Law.
5. **File Opening Request** – Agency files a request with the regulations attorney.
6. **Department of Law Preliminary Review** - Draft goes to the Department of Law, which reviews the agency's authority to adopt it, consistency with statutes, if it is reasonably necessary, and approval under the constitutions. It makes any technical changes.
 - a. Exempt: Board of Game and Board of Fisheries
7. **Agency Approves Draft** - The agency approves the draft changes.
8. **Notice of Proposed Changes** - A notice along with any comment period and public hearing scheduled is published in a newspaper and the Online Public Notice System.
9. **Comment Period (Skip to Step 15 If Emergency)** - The public is given time to comment on the proposed rule by the deadline and in the manner posted in the notice. If the bill is considered an emergency, no notice or comment period or hearing is done.
10. **Public Hearing** - If scheduled, the public is given a chance to testify at a hearing.

11. **Regulations Attorney** - The Regulations Attorney compiles all comments properly received and sends them to the agency.
12. **Supplemental Notice (If Changes)** – Supplement Notice is published in the Online Public Notice System if the rule is changed, a hearing is scheduled, additional comment period is added, errors are corrected, or the rule has not had action recently.
13. **Additional Comment Period (If Changed)** – Agency may hold an additional comment period on the changes.
14. **Department of Law Final Review** - The Regulations Attorney sends the final rule to the Department of Law for review and approval. A paralegal makes sure this law was followed, a legal editor reviews any changes for edits, and the regulations attorney reviews it to make sure all comments were received and it is being filed on time. The regulations attorney reviews the completed adoption or certification order and issues a legal opinion of its approval or disapproval. If approved, the rule and opinion are sent to the Lieutenant Governor.
15. **Rule Adoption** - The agency adopts the rule proposal at a meeting at least 30 days after the notice.
16. **Lieutenant Governor** – Adopted rule is filed with the Lieutenant Governor.
17. **Agency Notification** - Agency is notified that the rule was approved.
18. **Notice of Adopted Changes** - Notice of the rule adoption is published on the Online Public Notice System.
19. **Alaska Administrative Code** - Adopted rule is published in the Alaska Administrative Code.
20. **Effective Date** - Rules usually take effect 30 days after being filed by the Lieutenant Governor unless statute or the rule has a different date.

Arizona

<https://grrc.az.gov/rulemaking>

(Arizona Administrative Procedure Act: ARS 41-1001-41-1093.07)

NOTE: Rules exempt from the APA are found in § 41-1005. They include seasons and bag and possession limits, hunting and fishing license fees and applications, and those that limit licenses and permits for nonresidents.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency or expedited rules
- Emergency Rules – rules that:
 - Protect public health, safety, or welfare,
 - Comply with deadlines in governing statutes or federal programs,
 - Avoid violation of federal law or regulation or state law,
 - Avoid imminent budget reduction, or
 - Avoid serious prejudice to public interest or interested parties.
- Expedited Rules – rules that do NOT increase cost of regulatory compliance, increase fee, or reduce procedural rights of person AND that:
 - Amends or repeals rules for which statutory authority was repealed or superseded,
 - Amends or repeals rules for which statutory authority was found unconstitutional by court and was not replaced,
 - Corrects typographical errors, updates names or addresses, or clarifies language,
 - Incorporates by reference without material change statutes or other agency's rules,
 - Reduces or consolidates steps, procedures, or processes,
 - Amends or repeals outdated, redundant, or unnecessary state government operational rules,
 - Implements without material change action in a five-year review report within 180 days, or
 - Adopts without material change rules of another agency that are being consolidated into the agency.

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with its reasons or start the rulemaking process below. If denied, the petitioner has 30 days to appeal to the governor's regulatory review council.

2. **Governor's Office** – Agency requests approval to start rulemaking from the policy advisor within the Governor's Office.
 - FAILS IF: Policy Advisor disapproves the request
3. **Notice of Rulemaking Docket Opening (Skip for Expedited)** – Notice published in Arizona Administrative Register notifying public that the agency intends to change a rule
 - FAILS IF: agency closes docket OR does not file a Notice of Proposed Rulemaking within a year
4. **Stakeholder Input (Optional)** – Agency may have stakeholder input on the rulemaking and get ideas for changes.
5. **Drafted** - The proposed rule is drafted along with an Economic Impact Statement (Expedited Rules exempt).
6. **Notice of Proposed Rulemaking (Skip to 11 if Emergency)** - Agency prepares and sends a notice of proposed rulemaking (or both a notice of rulemaking docket opening and notice of proposed expedited rulemaking for expedited rules) to the Secretary of State for publishing in the Register to make, amend, renumber, or repeal a rule along with how comments can be made and any public hearing.
 - If an expedited rule, both the notice of proposed expedited rulemaking must be sent to governor, House, Senate, and council and posted on the agency website
 - FAILS IF: Notice of Termination of Rulemaking filed
7. **Public Comment** - The public is given at least 30 days to comment on the proposed rule in the manner and by the deadline listed in the register. For expedited rules, the comment period starts when posted on the agency website.
8. **Public Hearing** – Most agencies schedule a public hearing on the rule, which must be after the comment period. If not, a person may request one, and the agency must publish a Notice of Oral Proceeding and schedule one.
9. **Notice of Supplemental Proposed Rulemaking (Skip if No Changes)** - If substantial changes are approved after hearing comments, a notice of supplemental rulemaking is published. Expedited rules may not be substantially changed; the agency must submit a new rule. Only technical or non-substantial changes are allowed.
10. **Supplemental Public Comments (Skip if No Changes or Expedited Rule)** - Supplemental notices allow for another 30-day public comment period in the manner and deadline posted. After all public comments, the agency closes the record.

11. **Rule Adoption** - Rule is adopted by the agency at a meeting.

12. **Governor's Office** – Agency must send the adopted rule to the policy advisor in the Governor's Office for approval.

13. **Governor's Regulatory Review Council (Skip if Exempt or Emergency Rule)** – Notice of Final Rulemaking and Economic Impact Statement (EIS) is sent to the Council. Staff works with the agency on any necessary changes. Public has 30 days to comment. Staff provides a memorandum for a Study Session. Then the Council holds a meeting and either approves it or returns it within 120 days after receipt. Emergency rules are excluded.

- Exempt: Rules that pertain to seasons, bag and possession limits of wildlife, fees, establishing licenses or fees, and limits of licenses for nonresidents are considered exempt rules along with certain other types of rules
- FAILS IF: Agency does not file final rule within 120 days after the close of record AND 1 year from the Notice of Proposed Rulemaking or Notice of Supplemental Proposed Rulemaking OR GRRC does not respond in time

14. **Attorney General (Emergency Rules Only)** - Rule is sent to Attorney General for review and approval. It has 60 days.

15. **Notice of Final Rulemaking or Notice of Final Expedited Rulemaking** - If approved by the council, notice and EIS are filed with the Secretary of State and published in the register.

16. **Effective Date** –

- Rules become effective 60 days after filing except when the agency requests and is approved to make it take effect immediately. The agency can also provide a later effective date with good cause.
- Emergency rules become effective immediately and last for 180 days unless extended.
- Expedited rules become effective immediately.

Arkansas

(Arkansas Administrative Procedure Act: ACA 25-15-201 et. seq., 10-3-309)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules to address imminent peril to the public health, safety, or welfare or compliance with federal law or regulation

STEPS:

1. **Petition (If applicable)** – Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to deny the petition in writing with its reasons or start the rulemaking process.
2. **Drafted** - Rule is drafted
3. **Notice (May Skip If Emergency Rule)** - Notice is published in a newspaper for 3 days and by the Secretary of State on its website for 30 days with time, location, and manner of public comments.

If the rule is an emergency rule to address imminent peril to public health, safety, or welfare or to comply with federal law or regulation, no advanced notice or public hearing is required. However, the agency may post an abbreviated notice or hold a hearing if it so chooses.

4. **Legislative Council** - Council receives the rule at least 30 days before the comment deadline.
5. **Executive Subcommittee (Emergency Rule Only)** – The Legislative Council sends emergency rules to the Executive Subcommittee where it is reviewed for consistency with state and federal law and legislative intent and considered approved at a meeting. If the subcommittee votes on it, it may vote to approve or disapprove it.
6. **Administrative Rules and Regulations Subcommittee** - The Legislative Council sends the rule to its Subcommittee, where it reviews it for consistency with state and federal law and legislative intent, provides “reasonable opportunity” for public comments on it, and is considered it approved once complete. If the subcommittee votes on it, it may vote to approve or disapprove it.
7. **Legislative Council (Optional)** - The Administrative Rules and Regulations Subcommittee may request the Legislative Council to review and approve it.

8. **Public Comment** - Public is given 30 days to comment on the proposed rule in the manner and by the deadline listed in the notice.
9. **Public Hearing (Optional)** - If 25 people, government agency or an association with at least 25 members request a hearing, the agency must schedule one.
10. **Statement of Reasons** – If requested by an interested person before adoption or within 30 days of adoption, the agency must provide a statement of reasons for and against adoption of the rule.
11. **Rule Adoption** - Rule is adopted by the agency at a meeting.
12. **Adopted Rules and Regulations** - A notice of adoption of a proposed rule is sent to the Secretary of State and posted in the Arkansas Register.
13. **Bureau Of Legislative Research** - The Bureau adds the rule change to the Code of Arkansas Rules.
14. **Effective Date** –
 - Rules take effect 10 days after filing unless a later date is listed.
 - Emergency rules take effect immediately or a later date specified and last for up to 120 days. The agency may adopt a similar one at least 30 days after the expiration of the first.
15. **Agency Review** - The Legislative Council has divided all agencies into 6 groups and schedules a review of 1 every 2 years that starts Oct 1 after the regular legislative session ends and goes until Sep 30 of the next year. During its scheduled review, the agency must submit a rule report that lists each rule and whether it wants to extend or repeal each one. If the Legislative Council declines to extend a rule or accepts the agency decision to repeal it, it is repealed effective when specified by the Council or 180 days after its meeting.

California

https://oal.ca.gov/rulemaking_participation/

(California Administrative Procedure Act: Government Code Title 2, Division 3, Chapter 3.5)

NOTE: Rules exempt from the APA are found in § 11340.9.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules to avoid serious harm to the public peace, health, safety, or general welfare

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reasons or schedule it for a hearing. The person may request a reconsideration of the decision within 60 days.
2. **Drafted** - Rule is drafted.
3. **Notice of Proposed Action** - Notice is published in the California Regulatory Notice Register and on the agency website. The agency can also file emergency rules to avoid serious harm to the public peace, health, safety, or general welfare, where only a brief notice is required.
 - Notice includes the contact person and address, deadline for comments, any public hearing, Express Terms, Initial Statement of Reasons, and Economic and Fiscal Impact Statement.
4. **Public Comments** - The public is given at least 45 days to comment on the proposed rule in the manner and by the deadline listed in the notice.

For emergency rules, comments are due within 5 days of posting and must go directly to the Office of Administrative Law.

5. **Public Hearing (Optional – May Skip If Emergency Rule)** - If a public hearing is not scheduled, a person may submit a written request for one at least 15 days before the comment deadline. If scheduled, a hearing must be scheduled at least 45 days after publishing in the register. No hearing is required for emergency rules.
6. **Proposed Changes (Optional)** - If changes are made to the rule, notice is published. The public is then given at least 15 days to comment.

7. **Final Statement of Reasons (Optional If Emergency Rule)** - The agency must review all comments and include any changes based on each comment or any reason for rejecting the comment in a Final Statement of Reasons. For emergency rules, the agency is not required to review comments, and if it does, it has 8 days from the date of the notice to respond.

8. **Rule Changes** - If the agency substantially changes the rule based on comments, it must post a notice on its website and submit it to those who sent comments, testified at any hearing, or requested notification.

If the substantial changes are not sufficiently related to the original notice, the agency must publish a notice in the California Regulatory Notice Register.

9. **If Changed or New Documents, Additional Public Comment** – Public has at least 15 days to comment on the proposed changes. If not sufficiently related to the original notice, the public has at least 45 days to comment. If the agency adds a new document that it relied on, it must provide a 15-day comment period.

10. **Rule Adoption** - The agency adopts the rule at a meeting.

11. **Office Of Administrative Law (OAL)** - Agency sends the adopted rule to the OAL for review. It has 30 working days (10 days for emergency rules) to review and either approve or disapprove it.

- FAILS IF: Agency does not submit the adopted rule within 1 year of the initial notice

12. **Secretary of State** - OAL submits the rule to the Secretary of State for filing. The agency also posts notice on its website within 15 days and leaves it for 6 months.

13. **Effective Date** –

- Rule becomes effective on Jan 1 if filed Sep 1 – Nov 30, Apr 1 if filed Dec 1 – Feb 29, Jul 1 if filed Mar 1 – May 31, or Oct 1 if filed Jun 1 – Aug 31. The agency can also list a later date, or with good cause, an earlier date.
- Emergency rules take effect immediately upon filing and last up to 180 days unless extended an additional 90 days up to two times. Emergency rules can become permanent if adopted through regular rulemaking during the emergency effective period and a certificate of compliance is filed and approved by OAL

within 30 working days. Permanent emergency rules take effect immediately after filing.

Colorado

<https://coprrr.colorado.gov/rulemaking-and-cost-benefit-analysis>

(Colorado Administrative Procedure Act: CRS 24-4)

NOTE: Rules exempt from the APA can be found in § 24-4-107.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency/Temporary Rules – rules necessary to comply with state or federal law or federal regulation or for preservation of public health, safety, or welfare if following this law would be contrary to public interest

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. If it decides to proceed, it must follow the rulemaking process below.
2. **Stakeholder Group** – Agency is required to establish a representative group of people with an interest in the rule during drafting.
3. **Drafted** - Rule is drafted.
4. **Notice of Proposed Rulemaking** - A notice with rule text is filed with the Secretary of State and published in the Colorado Register. If a permanent rule, the agency must also send the text to the Department of Regulatory Agencies (DORA), which is responsible for notifying those who request it. If the rule increases fees or fines, the agency must notify the legislature at the time of the notice. If a temporary or emergency rule, the notice can be less than 20 days or none if necessary.
 - Notice includes date, time, and nature of hearings, authority for the rule, and substance of the rule.
5. **Colorado Office of Policy, Research & Regulatory Reform (COPRRR)** - Agency sends copy of the proposed rule to the COPRRR.
6. **Cost Benefit Analysis (If requested – Skip for Emergency/Temporary Rules)** - Public may request that DORA require a cost benefit analysis from the agency within 5 days of the notice. Does not apply for emergency or temporary rules.
7. **Regulatory Analysis (If requested)** - Public may request a regulatory analysis from the agency at least 15 days before the hearing.

8. **Cost Benefit Analysis Published (If requested – Skip for Emergency/Temporary Rules) -**
If requested, the cost benefit analysis must be posted to the agency website and DORA website at least 10 days before the hearing.
9. **Regulatory Analysis Published (If requested) -** If requested, regulatory analysis must be published at least 5 days before the hearing.
10. **Public Comment -** Public is given time to comment on the proposed rule in the manner and by the deadline listed in the notice.
11. **Public Hearing (May Skip for Emergency & Temporary Rules) -** Agency holds a public hearing on the rule at least 20 days after the notice.
12. **Rule Adoption -** Agency adopts the rule proposal during a meeting. If an emergency or temporary rule that increases fees or fines, the agency must notify the legislature within 10 days of adoption.
13. **Attorney General -** Adopted rule goes to Attorney General for review for constitutionality and legality.
 - FAILS IF: Not sent to the Attorney General for approval first.
14. **Office of Legislative Legal Services –** The agency sends the adopted rule to the Office within 20 days after the AG approves it. The Office reviews it to make sure it is in proper form and the agency has the authority and has followed this law.
 - FAILS IF: Not submitted to the Office by the deadline
15. **Committee on Legal Services –** After reviewed by the Office, the Office presents its findings to the Committee during a noticed public meeting.
16. **Legislature –** After a vote by the Committee, the rule is sent to the next regular session of the legislature. The legislature may introduce and pass a bill to rescind or delete parts of the rule.
17. **Final Notice -** Adopted rule is sent to the Secretary of State for filing within 20 days of adoption and is published in the Colorado Register.

- FAILS IF: Not submitted to the Secretary of State within 180 days after the hearing.

18. Effective Date –

- Rule takes effect 20 days after filing or a later date listed in the rule.
- Emergency and temporary rules take effect after adoption or a date specified and last up to 120 days.

19. Code of Colorado Regulations – Adopted rule is published in the Code of Colorado Regulations.

20. Expiration – Rules expire on May 15 of the year after adoption unless the legislature passes a bill to postpone it.

21. Agency Review - Agency reviews all its rule as listed on the schedule of the Department of Regulatory Agencies. It posts a notice of the review on its website, allows comments, notifies other impacted agencies, and then determines whether each rule should stay as is, be amended or be repealed. Rules that are to be amended or repealed must follow the rulemaking process above.

Connecticut

<https://eregulations.ct.gov/eRegsPortal/Information/Index/RegulationMaking>

(Connecticut Administrative Procedure Act: 4 CAS Chapter 54)

NOTE: Rules exempt from the APA can be found in § 4-186.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules:
 - That address imminent peril to public health, safety, or welfare
 - By “the Commissioner of Energy and Environmental Protection in order to comply with the provisions of interstate fishery management plans adopted by the Atlantic States Marine Fisheries Commission or to meet unforeseen circumstances or emergencies affecting marine resources”

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reason or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Governor (Emergency Rules Only)** – For emergency rules, Governor must approve the emergency.
4. **Regulatory Flexibility Analysis (Skip if Emergency Rule)** – Agency must prepare a regulatory flexibility analysis and post it on the eRegulations System before or at the same time as the notice below.
5. **Notice of Intent to Adopt a Regulation (Optional if Emergency Rule)** - Notice is published on eRegulations System. If the rule is required due to a new public act, the agency has 5 months after its effective date or the date in the act to post the notice. A fiscal note, or a note with the estimated cost to enforce the rule, is included. Notice is also provided to the relevant legislative committee.
 - Notice includes: public comment period, description, statement of purpose, statutory authority reference, how to obtain the small business impact and regulatory flexibility analysis, and how to present views on the rule

6. **Public Comment Period (Optional if Emergency Rule)** - The public is given at least 30 days to comment on the proposed rule in the manner and by the deadline in the notice.
7. **Public Hearing (Optional if Emergency Rule)** - Agency may schedule a public hearing on the rule. If a hearing request is submitted within 14 days of the notice by at least 15 people, a governmental subdivision or agency, or an association with at least 15 members, the agency is required to schedule a hearing.
8. **Comments Response Summary Document** – Agency must review all comments. It may make changes to the rule. It posts a Comments Response Summary Document to the eRegulations System.
9. **Rule Adoption and Notice of Decision** - Rule is adopted by the agency at a meeting at least 30 days after the notice of intent. Agency posts a Notice of Decision in the eRegulations System along with an Updated Proposed Regulation Version with the final text.
10. **Attorney General (Skip If Emergency Rule)** - The agency sends the adopted rule to the Attorney General, which has 30 days to review it for legality and certify it or it is considered approved. The AG certification is posted on the eRegulations System.
11. **Legislative Regulation Review Committee (LRRC)** - The agency sends the adopted rule to the Legislative Regulation Review Committee for approval. If approved, a notice is published in the eRegulations System.
 - Regular Rules – It can approve, disapprove, or reject it without prejudice at a regular or special meeting within 65 days or it is considered approved.
 - For emergency rules, the LRRC has 15 days to approve or disapprove them at a regular or special meeting or they are considered approved.
 - FAILS IF: Disapproved by LRRC or not sent to the LRRC within 180 days of the notice.
12. **Agency Revision (If Applicable)** - If the LRRC rejects the rule, the agency can amend and resubmit the rule by the 1st Tuesday of the second month after rejection.
13. **General Assembly (If Applicable)** - If the LRRC disapproves a rule, it sends it to the General Assembly by February 15th of the legislative session. The rule is sent to an appropriate committee, which holds hearings and can either sustain or reverse the decision.

- FAILS IF: General Assembly sustains the disapproval

14. Notice of Final Approved Regulations - If approved by LRRC, rule is sent within 14 days to the Secretary of State and published on eRegulations System within 10 days. An agency head regulation certification that it is a certified copy is also posted.

- If not sent in time, the agency must notify the SOS with its reasons within 5 days after deadline. The LRRC can either grant the extension with 2/3 vote or require the agency to appear at a meeting. The LRRC can report it to the Governor.

15. Effective Date –

- Rules take effect after being published on eRegulations System or a later date specified or after the statute takes effect.
- Emergency rules take effect after publishing on eRegulations System and last up to 180 days and can be renewed 60 days after approval by LRRC.

16. Regulations of Connecticut State Agencies – Permanent rule is published in the Regulations of Connecticut State Agencies.

17. Agency Review – Agencies must review all their rules every 7 years based on the schedule provided by the legislative committee of cognizance. It must then report to the committee whether each rule is obsolete, has not been used in 7 years, is inconsistent with state statutes or federal law, was the subject of written complaints, or is no longer effective along with the recommendations. The committee then schedules a public hearing within 90 days and provides a copy of the report at least 15 days prior. The committee may then vote to require the agency to start rulemaking to amend or repeal the rules.

Delaware

<https://regulations.delaware.gov/citizen.shtml>

(Delaware Administrative Procedure Act: 29 Del. Laws Chapter 101)

NOTE: The APA only applies to those agencies listed in § 10161. The rest still must follow the basic rulemaking procedure listed and judicial review.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules that address imminent peril to public health, safety, or welfare

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency, at its next meeting, must either deny the petition in writing with its reasons or start the rulemaking process below. If the petition is received less than 5 days before the meeting, it can be decided at the next one.
2. **Drafted** - Proposed rule is drafted.
3. **Notice of Proposed Regulations (Optional for Emergency Rules)** - Notice is filed in the Delaware Register of Regulations. Emergency rules for imminent peril of public health, safety or welfare do not require a notice or public hearing. However, the agency may post an abbreviated notice and have a hearing.
 - Notice Includes: brief synopsis, legal authority reference, reference to other impacted regulations, regulatory impact statement, regulatory flexibility analysis if any, place and deadline for comments, and the date, time, and location of any hearing.
4. **Public Comment** - Public is given at least 30 days to comment on the proposed rule in the manner and by the deadline in the notice.
5. **Public Hearing (Optional for Emergency Rules)** - Any public hearing is held at least 20 days after the notice and must be published in at least 2 state newspapers and posted on a website.
6. **Additional Public Comment** - If a hearing is scheduled, public comment is extended at least 15 days after the hearing.

7. **Revised Rule (Skip If None)** - If the agency makes substantial changes to the rule, the agency must repeat the process.

8. **Rule Adoption** - Rule is adopted by the agency at a meeting within 12 months of the later of the public hearing or comment period.

9. **Register of Regulations** - Adopted rule is published in the Register of Regulations.

10. **Effective Date** –

- Regular rules take effect at least 10 days after publishing.
- Emergency rules take effect after publishing and last up to 120 day or an additional 60 days if extended

11. **Agency Review** – Agencies must review their rules every 4 years to see if any need amended or eliminated. It has 3 months to hold a public hearing in each county with notice, accept written comments, and submit any revisions to the Register of Regulations.

12. **Joint Committee Oversight and Sunset Committee Rule Review** – The Committee may review a rule where it has an information-gathering hearing and possible written comment, and then compiles a list of concerns. Within a week after finishing the information-gathering hearing, the agency must meet and come up with any necessary changes in the rule(s). Then it must work with the agency to come to an agreement. If no agreement is reached, the Committee introduces legislation.

Florida

<https://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf>

(Florida Administrative Procedure Act: FS Title X, Ch. 120)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules addressing imminent danger to public health, safety, or welfare

STEPS:

1. **Petition (If applicable)** – Any interested person may petition an agency to adopt, amend, or repeal a rule. The agency has 30 days to either deny the petition in writing or start the rulemaking process below.
 - If the petition is for an unadopted rule, the agency has 30 days to either initiate rulemaking or publish a Notice of Public Hearing within 30 days. If the agency does not start rulemaking or hold a hearing, it must publish a statement of reasons in the Florida Administrative Register and submit it to JAPC. JAPC may send it to the relevant legislative committees, which may hold a hearing and create a bill to adopt the rule into statute.
 - The Administrative Procedures Committee or any interested person may petition for repeal of a rule because it exceeds rulemaking authority. Agency has 30 days if headed by an individual or 45 days if headed by a group to either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Notice of Rule Development** - Notice published in Florida Administrative Register (FAR) that the agency is drafting a rule.
 - Notice Includes: subject area of rule, purpose and effect, legal authority, and either the preliminary text or how to get any preliminary draft.
 - If the rule was from a petition for an unadopted rule, notice must be submitted within 30 days after the hearing.
3. **Notice of Rule Development Workshop (If applicable)** – Agency may hold public workshops to help with drafting the rule. Notice is published in the Florida Administrative Register at least 14 days prior. Any person may request a public workshop in writing. If denied, the agency must explain why it is unnecessary.
4. **Notice of Negotiated Rulemaking (If applicable)** – Agency may decide to use negotiated rulemaking and form a negotiating committee comprised of a balance of interested persons to draft a proposed rule based on consensus. Notice with a listing of group

members is published in the Florida Administrative Register. Any person who feels they are not properly represented may request to join within 30 days after the notice.

5. **Drafted** – Agency or negotiating committee drafts the proposed rule.
6. **Notice of Emergency Rule (Emergency Rules Only)** – Emergency rules relating to the immediate danger to public health, safety or welfare require notice of emergency rule to be published in the Florida Administrative Register. Notice includes reason for emergency, reason process is fair, summary of rule, contact person, and text.
7. **Notice of Proposed Rulemaking (Skip for Emergency Rules)** – Notice published in the Florida Administrative Register.
 - Notice Includes: purpose and effect of rule, full text, reference to rulemaking authority, reference to specific section of Florida Statutes or Laws of Florida being implemented, summary of statement of estimated regulatory costs and that persons may submit information within 21 days, whether legislative ratification is necessary, how to request a hearing, and the date and place of notice of rule development (except repeals).
 - If the rule was a petition for an unadopted rule, notice must be submitted within 180 days of the notice of rule development unless a reason is filed for not meeting it.
8. **Joint Administrative Procedures Committee (JAPC)** - Agency sends a copy of the rule to the Joint Administrative Procedures Committee for review at least 21 days before it is adopted. The committee reviews it for errors and makes sure it has legislative authority and submits any recommendations to the agency.
 - If JAPC objects, its staff works with the agency to resolve the issues.
 - If not resolved, a formal objection is sent to the full committee, and a meeting is held that the agency may appear before and defend the rule (rare). If JACP disagrees, it can vote to object it. It must notify the agency and leaders of the legislature of its objection within 5 days.
 - The agency has 30 days to respond if headed by an individual and 45 days if headed by a group. It can either agree or refuse to modify or withdraw the rule.
 - If the agency refuses, a footnote with the objection is published in the FAR.
 - If the agency agrees to modify or withdraw the rule, it must publish a notice of change with the modifications or a notice of withdrawal in the FAR.

- If the agency does not respond, the rule is withdrawn and notice of withdrawal is published in the FAR.
- If agreed and the agency fails to initiate action within 60 days or does not finish action, the JACP may request a bill be introduced in the next legislature to address it and notify the agency in 5 days. It can also request the agency suspend it while the bill is pending.
- The agency has 30 days if headed by an individual or 45 days if a group to either agree or refuse to suspend it.
 - If no response is given, it is considered a refusal.
 - If it agrees, it publishes a notice of the suspension in the FAR.

9. **Public Comment** – Public has at least 21 days after the notice or until the end of any public hearing to submit comment on the proposed rule.

10. **Public Hearing** – Agency may schedule a public hearing. Public can request a hearing within 21 days after notice. If so, the agency posts a Notice of Meetings, Workshops, and Public Hearings in the Florida Administrative Register at least 7 days prior. For emergency rules, agency may hold an emergency public hearing.

11. **Administrative Law Judge (If applicable)** – A substantially interested person may petition for a hearing to challenge the validity of a rule with the administrative law judge of the Division of Administrative Hearings. The administrative law judge holds a hearing within 30 days (14 days for emergency rules). Within 30 days (14 days for emergency rules) after the hearing, the administrative rule judge issues an order for or against it. This may be appealed in a district court.

- FAILS IF: Administrative Law Judge finds rule invalid.
- Petition must be sent within 21 days after the notice of proposed rulemaking, within 10 days after the final public hearing, within 20 days after the statement of estimated regulatory costs or revised statement, or within 20 days of any notice of changes or corrections.

12. **Notice of Change, Correction, and Withdrawal (Skip if none)** - If the rule is changed based on the JACP or public hearing, notice of change or correction is published in the Florida Administrative Register and with JACP at least 21 days before adoption. It can also file a notice of withdrawal to withdraw the rule.

- FAILS IF: Agency files a Notice of Withdrawal.

13. Joint Administrative Procedures Committee (JAPC) – If no or just technical changes to the rule, the agency notifies the JAPC at least 7 days before adoption and after all hearings or the time to request one expires. JAPC certifies with the Department of State that all comments and inquiries were addressed by the agency.

- FAILS IF: Agency withdraws the rule after JAPC objection.

14. Filing for Adoption - Agency submits the rule for adoption to the Department of State. It is considered adopted after filing.

- Filing Includes: Adopted rule, materials incorporated by reference, summary of rule, summary of any hearings, and statement of facts and circumstances justifying it.
- Filing must be 28 – 90 days after the notice of rulemaking, 21 days after a notice of change, 14 days after the final public hearing, 21 days after statement of estimated regulatory costs is sent to those who sent cost alternative, and after any decision by an administrative law judge if challenged.
- If notice of change is published before the filing deadline, deadline is extended another 45 days.
- If notice of public hearing is published before the deadline, deadline is extended to the later of 45 days after final hearing, 21 days after material submission deadline, or 21 days after the receipt of final transcript.
- FAILS IF: Not submitted within 90 days of the notice

15. Legislative Ratification (If applicable – Skip for Emergency Rules) – Rules that either 1) have adverse impact on economic growth, 2) adverse impact on business competitiveness, or 3) increase regulatory costs of over \$1 million in 5 years need ratification by the legislature.

- FAILS IF: Agency withdraws the rule at least 90 days after adoption without ratification.

16. Effective Date –

- Rules take effect 20 days after filing, as specified in the rule, after the statute takes effect, or after any ratification.
- Emergency rules take effect after filing or a date less than 20 days listed and last up to 90 days.

17. **Florida Administrative Code** - Adopted rule is published in the Florida Administrative Code.

18. **Administrative Law Judge (If applicable)** – A substantially interested person may petition for a hearing to challenge the validity of an existing rule with the administrative law judge of the Division of Administrative Hearings. The administrative law judge holds a hearing within 30 days. Within 30 days after the hearing, the administrative rule judge issues an order for or against it. This may be appealed in a district court.

Georgia

(Georgia Administrative Procedure Act: O.C.G.A. Title 50, Ch. 13)

NOTE: Agencies and rules exempt from the APA are found in § 50-13-2 under the definitions of “Agency” and “Rule”.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules addressing imminent peril to public health, safety, or welfare

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with the reasons or start the rulemaking process below.
 - FAILS IF: Agency denies petition.
2. **Drafted** - Rule is drafted.
3. **Small Business Impact (If applicable)** – If a rule has an economic impact on small businesses, agency must reduce economic burden by either establishing differing compliance and reporting for small businesses or simplifying the requirements, establishing performance instead of design standards, or exempting small businesses.
4. **Charitable Organization Impact (If applicable)** – If a rule places administrative burdens on charitable organizations, agency must not impose any annual filing or reporting requirements on an organization exempt under Title 43, Chapter 17 that are more burdensome than that act unless there is a compelling state interest. It may send notice to the standing committees in the legislature.
5. **Notice (Optional for Emergency Rules)** - Notice of the rule is provided. Emergency rules for imminent peril of public health, safety or welfare do not require notice or a hearing, but the agency may publish an abbreviated notice or have a hearing.
 - Notice Includes: synopsis with a statement of purpose, main features of the rule, and any changes; rule text; time and place to comment; date to be adopted; and authority.
6. **Legislative Council** – Notice is also given to the Legislative Council at least 30 days before adoption. Within 3 days, the Legislative Council submits the notice to the leaders of the House and Senate, which send it to the appropriate standing committee.

- Either committee may file an objection to the rule before adoption.
 - If objected and agency adopts it anyway, agency must notify the committees within 10 days of adoption and the objecting committee may introduce a resolution to override the rule during the first 30 days of the legislative session.
 - If the resolution is not passed, the rule takes effect.
 - Both the House and Senate may adopt the resolution with 2/3 vote and the rule fails.
 - Both may adopt it by less than 2/3 vote, and it goes to the Governor who can either veto it and let it take effect or not veto it and make it fail.
 - Both committees may by 2/3 vote file an objection before adoption if at least 48 hours public notice was provided before the hearing. The rule is then stayed until after the next legislative session.
 - If objected and the agency adopts it anyway, a resolution to override it may be introduced during the first 30 days of the legislative session.
 - If the resolution is not passed, the rule takes effect.
 - If adopted by 2/3 vote in the House and Senate, the rule fails.
 - If adopted by less than 2/3 vote, it goes to the Governor who can either veto it and let it take effect or not veto it and make it fail.
 - If neither committee files an objection, the rule may be adopted.
7. **Public Comments** - Public is given time to comment on the proposed rule in the manner and by the deadline in the notice.
 8. **Public Hearing (Optional for Emergency Rules)** – Any hearing is held at least 30 days after the notice. For substantial rules, if a hearing is requested by 25 directly affected people, a government subdivision, or an association with at least 25 members, the agency must schedule a hearing.
 9. **Comment Review** - The agency review comments. It can file a rule change.
 - FAILS IF: Agency withdraws rule.
 10. **Statement of Reasons** – If requested before adoption or within 30 days of adoption, the agency must post a statement of reasons for and against the rule and why it overruled any consideration against adoption.

11. **Judiciary Committee (Emergency Rules Only)** - Emergency rules must be sent to the House or Senate Judiciary Committee, which can vote to override it.
12. **Rule Adoption** - Agency adopts the rule at a meeting at least 30 days after the notice. For emergency rules, it can vote to override the veto.
13. **Judiciary Committee (Emergency Rules Only)** - If an agency adopts an emergency rule over the committee's objections, the committee can vote to override it. If overridden, it fails. If vote is less than majority, the bill goes to the governor who can either not veto it and allow it to fail or veto it and allow it to pass.
14. **Secretary of State** - Adopted rule goes to Secretary of State for publishing in the Georgia Monthly Bulletin.
15. **Rules and Regulations of the State of Georgia** - Adopted rule is published in the Rules and Regulations of the State of Georgia.
16. **Effective Date** -
 - Rules take effect 20 days after publishing or a later date specified in the rule.
 - Emergency rules take effects immediately or less than 20 days after filing and last up to 120 days.

Hawaii

(Hawaii Administrative Procedure Act: 8 HRSA Chapter 91, Chapter 201M; Governor's Administrative Directive # 18-02)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules addressing imminent peril to public health, safety, or morals, to livestock and poultry health, or to natural resources

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. It has 30 days to either deny the petition in writing with the reasons or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Legislative Reference Bureau (Optional)** – Agency may send the draft to the Bureau to review it for form.
4. **Notice of Public Hearing (Optional for Emergency Rules)** - Notice is published. If emergency rule regarding imminent peril to public health, safety, or morals, to livestock and poultry health, or to natural resources, no notice or hearing is required. However, the agency may post an abbreviated notice or have a hearing. The agency can also adopt emergency rules in regards to new federal legislation or federal or state court decisions.
 - Notice Includes: copy of the rule; statement that a copy will be mailed to any interested person; when, where and what times the rule may be viewed in person; and date, time, and place of the public hearing.
5. **Department of Budget and Finance (BUF)/Department of Business, Economic Development, and Tourism (BED)** – Agency must send the notice to the BUF and BED. The BUF submits comments if the rule has fees or any fiscal impact. The BED submits comments if the rule has an economic or small business impact.
6. **Pre-Public Hearing Small Business Impact Statement (If applicable)** – If the rule impacts small business, the agency must file an impact statement to the Small Business Regulatory Review Board (SBRRB) before the hearing. Emergency rules are exempt.

7. **Public Comments** - Public is given time to comment on the proposed rule in the manner and by the deadline in the notice.
8. **Public Hearing (Optional for Emergency Rules)** - Agency schedules a public hearing on the rule. At least 30 days' notice is required for the hearing.
9. **Post-Public Hearing Small Business Impact Statement (If applicable)** – If the rule impacts small business, the agency must also submit an impact statement to the SBRRB and the Departmental Advisory Committee on Small Business after the hearing. Emergency rules are exempt.
10. **Rule Adoption** - Rule is adopted by the agency at a meeting or at the public hearing.
11. **Governor** - Adopted rule must be approved by the governor.
12. **Lieutenant Governor** - Approved rules are sent to the Lieutenant Governor for filing.
13. **Effective Date** –
 - Rules take effect 10 days after filing or a later date up to 30 days.
 - Emergency rules take effect immediately and last up to 120 days unless renewed.
 - Emergency rules for federal law or court decisions may be effective until the adjournment of the next regular legislature session.
14. **Small Business Agency Rule Review** – The agency must file a report of all rules that affect small business to the Small Business Regulatory Review Board by June 30 of odd-years along with a list of any rules needing amended or repealed due to statute change. The Board must provide a list to the agency of any relevant rules that received complaints, that conflict with, overlap, or duplicate statute, or that exceed statutory authority. The agency has 45 days to respond in writing. The Board may hold a meeting on the agency report. It then submits an evaluation report to the legislature in even years.
15. **Small Business Objection Petition** – A small business may petition to object to a rule for reasons listed. The petition is sent to the Board. The agency has 60 days to determine if the impact statement or public hearing addressed the impact on small business and submit its decision to the Board. The agency can either start the rulemaking process or deny it. If denied, the petitioner can request review by the Board, which holds a hearing and then determines whether rulemaking should occur. If it recommends rulemaking, it

sends the Board evaluation and agency response to the legislature, which may request rulemaking. If not, it notifies the small business.

Idaho

https://adminrules.idaho.gov/rulemaking_templates/RuleWriterManual.pdf

(Idaho Administrative Procedure Act: 67 Idaho Code Chapter 52; Executive Order # 2020-01)

TYPES OF RULES:

- Permanent Rules – all APA rules not temporary rules
- Temporary Rules – rules that Governor finds are for:
 - protection of public health, safety, or welfare,
 - Compliance with deadlines to governing law amendments or federal programs, or
 - Confer a benefit.

STEPS:

1. **Petition** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 28 days to either deny the petition and state its reasons in writing or start the rulemaking process below.
2. **Zero-Based Regulations** – Executive Order 2020-01 requires all agencies amending a rule to repeal the existing chapter and use zero-based regulations (ZBR), meaning they must rewrite them and not just readopt them. This is based on a review schedule for 2020-2026 by the Division of Financial Management. After that, agencies may only amend a rule by reviewing and renewing the rule chapter.
3. **Repeal of Existing Chapter (If ZBR)** – If amending a rule during the initial rule review, the agency must first repeal the existing chapter the rule is in.
4. **Administrative Rules Request Form (ARRF)** – Agency must first request approval from the Governor’s office and Division of Financial Management by sending the form with the brief synopsis of the rule and any costs estimates for implementation. This includes emergency and temporary rules. The request may be approved or denied.
 - FAILS IF: Denied by Governor’s office or DFM.
5. **Notice of Intent to Promulgate Rules – Negotiated Rulemaking (Skip to Step 7 If Temporary)** – Whenever feasible, agencies must use negotiated rulemaking to involve interested parties in the rule drafting process. Notice is sent to the Rules Coordinator and published in the Idaho Bulletin. For ZBR, a Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking is used.

- Notice Includes: description of subject matter and purpose, statutory authority, principal issues involved, time to respond, agency contact person, agency website with rulemakings, date, time, and place of any negotiated meetings, and instructions on how to contact agency to participate if applicable.
6. **Negotiated Meetings (Optional)** – Agency may hold negotiated meetings to assist it in the drafting process. ZBR requires at least 2 public hearings.
 7. **Negotiated Public Comments** – If the agency does not hold meetings, it instead includes instructions for how to contact the agency to participate in the process.
 8. **Preliminary Drafts (Optional)** – Agency may post any preliminary drafts of the rule on its website.
 9. **Drafted** – Formal proposed rule is drafted.
 10. **Notice of Rulemaking – Proposed Rule** – Notice of the proposed rule is published in the Idaho Bulletin and posted on the agency website. If a temporary rule, a Notice of Rulemaking – Temporary Rules is used OR a Notice of Proposed Rulemaking – Temporary and Proposed Rule if both are being filed at the same time. No rulemaking other than temporary rules may be filed during the legislative session.
 - Notice Includes: rule text; statutory authority; statement of substance of rule and any fees; description of any negative fiscal impact greater than \$10,000; cost-benefit analysis if amending or creating a fee or charge; location, time, and date of any public hearings; manner and deadline of public comments; manner to request a hearing; an explanation why negotiated rulemaking was not feasible, if applicable; and any material incorporated by reference.
 - Temporary rules are for the prevention of immediate danger of public health, safety, or welfare, compliance with changes to deadlines in law or federal programs, or to confer a benefit. They can be adopted with little notice.
 11. **Germane Joint Subcommittees (When Legislature is Adjourned)** – When the legislature is adjourned, germane joint subcommittees review the proposed rule. The Legislative Service Office prepares an analysis of the issues of the rule. The subcommittee may hold a hearing within 42 days of receipt of the analysis and notify the LSO within 14 days of receipt. It then either approves or objects to the rule and files a report with the agency and for the next legislative session.

12. **Public Comments (Skip for Temporary Rules)** - Public is given at least 21 days to comment on the notice in the manner and by the deadline listed in the notice.
13. **Public Hearing (Skip for Temporary Rules)** – Agency may hold a public hearing. If requested by 25 people, a political subdivision, or agency within 14 days of the notice, the agency must publish a Notice of Public Hearing in the Idaho Bulletin and hold a public hearing on the rule.
14. **Rulemaking Record** - Agency prepares a rulemaking record with all testimony and comments and any other documents used in the process.
15. **Notice of Rulemaking – Vacation of Proposed Rulemaking (If applicable)** – If the agency decides to withdraw a rule, the agency publishes notice in the Idaho Bulletin.
16. **Rule Adoption** - Rule is adopted by the agency at a meeting. Rules adopted but not reviewed by the legislature are considered pending rules.
17. **Notice of Rulemaking – Adoption of Pending Rule** - Notice is published in the Idaho Bulletin no sooner than 7 days after the comment period. For temporary rules, a Notice of Rulemaking – Adoption of Temporary Rule is used.
 - Notice Includes: any changes to the original text, the effective date, reason for adoption, statutory authority, whether the rule has a fee or charge, and any negative fiscal impact to the state general fund of more than \$10,000.
18. **Notice of Correction to Pending Rule (If applicable)** – If errors are found before legislature review, notice is published in the Idaho Bulletin to correct them.
19. **Legislature Review** - Pending rule goes to germane committees in the legislature for review that it meets legislative intent. Temporary rules only get reviewed if adopted before the legislative session convenes. The legislature can introduce and pass a concurrent resolution to reject it.
 - FAILS IF: Concurrent resolution adopted.
20. **Notice of Rulemaking – Final Rule** – If the legislature rejects part of the rule, notice is published in the Idaho Bulletin showing what was approved.
21. **Effective Date** –

- Rule takes effect no sooner than the date the legislature that reviewed it adjourns or a later date specified.
- Temporary rules take effect before legislative approval and expire at the end of the next legislative session unless extended.

22. **Omnibus Notice of Legislative Action** – Rules Coordinator publishes a notice in the Idaho Bulletin at the end of the legislative session listing all temporary and pending rules reviewed by the legislature.

23. **Idaho Administrative Rules** - Adopted rule is sent to Administrative Rules Coordinator for publishing in the Idaho Administrative Rules.

24. **Expiration** –

- Rules expire on July 1 of the year after they take effect unless extended by statute each year.
- Temporary rules adopted during a legislative session expire after the next legislative session, a date specified, or as required by law.
- Temporary rules adopted before the legislative session must have a concurrent resolution passed to extend them past that session.
- Agency may also rescind a temporary rule by publishing a Notice of Rulemaking -
- Recission of Temporary Rule in the Idaho Bulletin.

25. **Legislature Review** – The legislature may review final rules to ensure the rule still meets the legislative intent of the statute. If not, it may introduce and pass a concurrent resolution to reject all or part of it.

26. **ZBR Initial Review** – Initial ZBR regulations must be reviewed within 5 years after adoption by sine die. The Rules Coordinator provides the review date in the cover of each chapter.

Illinois

<https://www.ilga.gov/commission/jcar/ILRulemakingProcess.pdf>

(Illinois Administrative Procedure Act: 5 ILCS 100)

NOTE: Rules exempt from the IAPA can be found in § 1-5.

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency or peremptory rules
- Emergency Rules – rules addressing threat to public health, safety, or welfare
- Peremptory Rules – rules that implement federal regulations, collective bargaining agreements, or court orders

STEPS:

1. **Petition (If applicable)** – Any interested person may petition an agency to adopt, amend, or repeal a rule. The agency has 30 days to either deny the petition or start the rulemaking process below. If not acted on in 30 days, it is considered denied.
2. **Regulatory Agenda** – Agency must file a regulatory agenda on January 1st and July 1st of the rules it is considering proposing.
 - Agenda Includes: description of rule; statutory authority; schedule of dates for hearings, meetings, or opportunities for public participation; date the first notice is expected; agency contact person; statement of any affect on small businesses, not-for-profit corporations, and small municipalities; and any other important information.
3. **Drafted** - Proposed rule is drafted.
4. **Regulatory Flexibility Analysis** – Either before or during the first notice, the Business Assistance Office must prepare an analysis when requested by 25 interested people, an association with at least 100 interested members, the Governor, a unit of local government, or the Joint Committee on Administrative Rules. The Office analyzes the rule to determine its impact on small businesses, small municipalities, and nonprofit organizations.
5. **Small Businesses, Not-for-Profit Corporations, and Municipalities** – Before or during the first notice, the agency must allow small businesses, not-for-profit corporations, and small municipalities to participate in the process. It must either 1) have an advance notice of rulemaking with a statement that it may affect such entities, 2) publish a notice of rulemaking in publications related to these entities, 3) directly notify such

entities, 4) hold a hearing on its impact on such entities, or 5) hold a special hearing or comment period to reduce the cost or complexity of such entities to participate.

6. **First Notice (Skip for Emergency and Peremptory Rules)** - The Secretary of State publishes the proposed rule in the Illinois Register.
 - Notice Includes: text; statutory citation; subjects and issues involved; title or description of any research used; initial regulatory flexibility analysis; and time, place, and manner to submit views on it.
7. **Public Comments (Skip for Emergency and Peremptory Rules)** - Public is given at least 45 days to comment on the proposed rule in the manner and by the deadline posted in the register. Emergency and peremptory rules do not require public comment or hearing.
8. **Public Hearing (Skip for Emergency and Peremptory Rules)** – Agency may hold a hearing. If 25 interested people, an association with at least 100 interested persons, the Governor, JCAR, or a unit of local government request a hearing within 14 days of the notice, the agency must post a notice of public hearing and schedule one at least 20 days later. Hearings must be at least 5 days before the second notice.
9. **Changes (If applicable)** – The agency may make changes to the rule until it files a second notice.
10. **Second Notice/Joint Committee on Administrative Rules (JCAR) (Skip for Emergency and Peremptory Rules)** - Agency must submit the second notice to JCAR for review. The second notice period lasts 45 days unless extended 45 days.
 - Notice Includes: text and location of any changes since the first notice; final regulatory flexibility analysis; and analysis of economic and budgetary effects if requested by JCAR within 30 days of the first notice.
11. **JCAR Meeting (Skip for Emergency and Peremptory Rules)** - JCAR accepts the second notice and schedules a meeting within 45 days. May be extended 45 days. New changes can only be made with both JCAR and agency approval. Any comments are sent to JCAR.
12. **JCAR Action (Skip for Emergency and Peremptory Rules)** - JCAR can:
 - 1) vote no objection and issue a Certificate of No Objection allowing the rule to be adopted,

- 2) make a Recommendation for the agency to respond to in 90 days,
- 3) issue a Notice of Objection if it violates statute, affects entities under the regulatory flexibility analysis or fails a standard and must be responded to in 90 days or it fails, or
- 4) issue a Filing Prohibition due to a threat to public health, safety or welfare which requires the rule to be amended to have it withdrawn and can last up to 180 days. If not withdrawn by then, the rule fails.

16. **Rule Adoption** - If JCAR issues a Certificate of No Objection or a Recommendation addressed within 90 days, the agency can adopt the rule along with any second notice changes at a meeting. Agencies have one year from the First Notice to adopt the rule or its fails unless under a Filing Prohibition.

17. **Third Notice** - The adopted rule and its effective date are published in the Illinois Register. For emergency rules, a notice of emergency rulemaking is published.

18. **Effective Date** –

- Rules take effect after filing, a later date listed, or date in statute.
- Emergency rules take effect immediately or within 10 days and last up to 150 days.
- Peremptory rules take effect immediately.

19. **JCAR Review (Emergency and Peremptory Rules Only)** – JCAR review of emergency and peremptory rules takes place after they take effect. JCAR can issue:

- 1) a Recommendation which has no impact on the rule,
- 2) an Objection if it violates statute, affects the entities in the regulatory flexibility analysis, or fails an administrative procedure standard, or not sufficient reason for such rule, which requires the agency to respond and amend it within 90 days, or
- 3) a Suspension if it is contrary to public health, safety or welfare or no legitimate reason for the type of rule. Suspensions prevent the rule from passing unless removed and last up to 180 days, and if not removed by that time become permanent.

20. **Illinois Administrative Code** - Adopted rule is published in the Illinois Administrative Code.

21. **Joint Committee Review** - The Joint Committee must review each agency's rules every 5 years.

Indiana

<https://www.in.gov/omb/rule-approval-process/>

(Indiana Administrative Procedure Act: IC 4-21.5, 4-22; Executive Order 13-03)

NOTE: Exemptions from the APA are found in §§ 4-21.5-2-4, 4-21.5-2-5, 4-22-2-13.

NOTE: In 2013, the Governor signed Executive Order 13-03 which creates a “Regulatory Moratorium” on passing any new rules unless they meet one of the exceptions listed and are approved by the Office of Management and Budget.

NOTE: Starting July 1, 2023, significant changes were made to the law including replacing emergency rules with provisional rules and adding interim rules.

Provisional rules are for:

- 1) imminent and substantial peril to public health, safety, or welfare,
- 2) imminent and material loss of federal funds for a program,
- 3) imminent and material deficit,
- 4) imminent and substantial violation of state or federal law or federal agreement or program,
- 5) injury to business or interests of people or public utility,
- 6) imminent and substantial peril to domestic animals or wildlife health, safety, or welfare, or
- 7) spread of invasive species, pests, or plant diseases.

Interim rules are to implement:

- 1) “a new state or federal law or program, rule of another state agency, federal regulation, or federal grant or loan agreement, or (if used by the agency to carry out the agency's responsibilities) a building, an equipment, a firefighting, a safety, or a professional code adopted by a nationally recognized organization;”
- 2) “a change in a state or federal law or program, rule of another state agency, federal regulation, federal grant or loan agreement, or (if used by the agency to carry out the agency's responsibilities) a building, an equipment, a firefighting, a safety, or a professional code adopted by a nationally recognized organization; or”
- 3) “a category of rule authorized under IC 4-22-2.3 to be adopted as an interim rule”.

1. **Rule Development** – Agency may request public comments to help it draft the rule.
2. **Drafted** – Official proposed rule is drafted.

3. **Budget Committee Review (If applicable)** – If the rule increases or expands a fee, fine, or civil penalty, the rule must be approved by the Budget Committee before it gets approved by the OMB and SBA below. This applies to provisional & interim rules.

New for July 1, 2023, agencies must also include circumstances for accessing such fee, fine or penalty with either a dollar amount, a formula, or a range unless there is a specific amount in statute AND must make fees reasonable.

- Excluded are 1) rules effective before 1/1/2023, 2) rules set by an agency before 1/1/2023, reviewed by the budget committee before 12/31/23 for certain agencies including the natural resources commission and DNR or 7/1/24 for the rest, and becomes effective by 12/31/24 for certain agencies include natural resources commission and DNR or 7/1/25 for all others, OR 3) rules withdrawn before 12/31/23 for certain agencies including natural resources commission and DNR OR 7/1/24 for all others.
4. **Regulatory Analysis** – New for July 1, 2023, agency must complete a regulatory analysis that proves compliance with various requirements.
 - Compliance Items Include: cost benefit requirements; minimizing expenses to regulated entities, taxpayers, and consumers; use of least restrictive manner of achieving goal; avoidance of duplicating standards; be easily comprehended; have practicable enforcement; meet the fees, fines, and civil penalty requirements above under Budget Review; annual economic impact on small businesses statement; any other requirements; and a statement justifying costs or requirements not expressly required by the authorizing statute or state or federal law.
 5. **Office of Management and Budget (OMB)** – Any proposed rule must be approved by the Office of Management and Budget per Executive Order No. 13-03. It can return it to the agency for additional information, authorize the request with or without changes, or disapprove it.

A rule will only be approved if it:

- 1) fulfills an objective related to job creation and increase investment in the state or improves workplace quality,
- 2) repeals an existing rule or reduces its regulatory impact,
- 3) implements a federal mandate with no permitted waiver,

- 4) avoids violation of a court order or federal law that would result in sanctions against the state,
- 5) address control, mitigation, or eradication of waste, fraud, or abuse within a state agency or wasteful or abusive activities perpetrated against it,
- 6) reduce state spending, or
- 7) has a main purpose of addressing an emergency or health or safety (includes provisional rules).

NOTE: Most, if not all, animal rules would be introduced under the last option.

OMB review is governed by Financial Management Circular 5.1 OMB Review of Agency Rulemaking. The OMB determines whether an exception applies and notice may be filed or an exception does not apply, which makes the rule fail under EO 13-03.

- Required Information: detailed summary of rule with history and background, reasons, statutory authority for the rule and agency, regulatory analysis, existing legal framework on the subject, existing requirements on the subject in policies, manuals, guidance, and more; Regulatory Moratorium exceptions; Fiscal Impact Analysis; Cost-Benefit Analysis; any rule draft; changes made to current law marked; any comments received; and agency contact.
6. **State Budget Agency (SBA)** – SBA review is governed by Financial Management Circular 5.2 SBA Review of Agency Rulemaking. It can return it to the agency for additional information, authorize the request with or without changes, or disapprove it.
 - Required Information: Fiscal Impact Analysis; Cost-Benefit Analysis with statement of need, evaluation of costs and benefits, and examination of alternatives; Notice of Intent (sent to SBA same time as for Register); Small Business Economic Impact Statement; and proposed rule.
 7. **Changes (Where applicable)** – If the agency changes the rule any time after the OMB and SBA approve it, the changes and a revised regulatory analysis must be sent to them for approval.
 8. **Governor (Provisional & Interim Rules Only)** – Provisional and interim rules need approval from the Governor. Agency sends the rule text, statement of need, and any other required information.
 9. **Notice of Public Comment Period for Interim Rules (Interim Rules Only)** – Starting July 1, 2023, notice is filed with the Publisher to be published in the Indiana Register.

- **Must Submit:** full text; Governor’s approval; agenda for budget committee meeting, if it includes an increase or expanded fee, fine, or civil penalty; and documents of materials incorporated by reference.
- **Notice Includes:** general description of subject matter; full text; statement of justification for requirement or cost imposed on a regulated agency that is not expressly required by statute or other federal or state law; where, when, and how to inspect data for the statement of justification and any materials incorporated by reference; and where, when, and how to submit comments.

10. Public Comment Period (Interim Rules Only) – Public has at least 30 days to comment on an interim rule in the manner and by the deadline in the notice.

11. Notice of Intent to Adopt a Rule/Notice of First Public Comment Period (Skip if Provisional or Interim Rules) - Starting July 1, 2023, the Notice of Intent to Adopt a Rule is being replaced with the Notice of First Public Comment Period. The Publisher assigns the notice a document control number and publishes it in the Indiana Register.

- **Must Submit:** date, time, and place of hearing and how to attend remotely; full text of the rule and documents of materials incorporated by reference; latest regulatory analysis; SBA and OMB determinations; agenda of budget committee meeting that the rule was reviewed, if it increases or expands a fee, fine, or civil penalty; and notice of the first comment period.
- **Notice Includes:** description of the subject matter; intent and scope and statutory authority; latest regulatory analysis; when, where, and how to submit comments; when, where, and how to inspect the regulatory analysis and documents incorporated by reference; and a statement that if no substantive comment during the comment period or hearing, the agency may adopt the rule.

12. First Public Comment Period (Skip if Provisional or Interim Rules) - Public can submit comments on the proposed rule in the manner and by the deadline posted in the register.

13. Office Of Management and Budget (If Applicable – Skip If Provisional or Interim Rule) - At least 50 days before a public hearing, the agency sends any proposed rule with a total estimated economic impact of more than \$500,000 to the Office of Management and Budget to prepare a fiscal impact statement within 40 days.

14. **Public Hearing (Skip If Provisional & Interim Rule)** - The public hearing must be at least 30 days after the first comment period notice.
15. **Small Business Ombudsman (If Applicable – Skip If Provisional & Interim Rule)** - The Small Business Ombudsman reviews proposed rules that make requirements or costs for small businesses. It may make suggestions to reduce the burden on such businesses, and the agency must respond to it.
16. **Notice of Second Public Comment Period (If applicable – Skip if Provisional or Interim Rules)** – New for July 1, 2023, agency must hold a second comment period if it received substantial comments or the rule has more stringent requirements than federal law. It sends it to the Publisher who assigns it a document control number and publishes a notice in the Indiana Register.
 - Must Submit: full text; incorporation by reference documents if not submitted already; notice of second public comment period.
 - Notice Includes: date, time, and place of public hearing; general description of the subject matter of the rule; comment received and agency responses; the latest version of the regulatory analysis or a statement that no changes were made; differences between the first comment period and second comment period texts; where, when and how to submit comments; when, where, and how to inspect the regulatory analysis and documents incorporated by reference; notice that this is for the second of two comment periods and the agency may adopt the rule afterwards.
17. **Second Comment Period (If applicable – Skip for Provisional Rules)** – New for July 1, 2023, public is given time to comment on the proposed rule again.
18. **Second Public Hearing (If applicable – Skip if Provisional or Interim Rules)** – New for July 1, 2023, agency holds another public hearing at least 30 days after the second comment period notice.
19. **Document Control Number (Provisional Rules Only)** – Agency must request and receive a document control number from the publisher before adoption.
 - Must Submit: rule text, statement of need, governor approval, and incorporation by reference documents.

20. **Legislators and Legislative Committees** – Publisher sends the text to the legislators and legislative committees.

21. **Rule Adoption** - The agency adopts the proposed rule during a meeting. Provisional rules for the DNR, Natural Resources Commission, Department of Environmental Management, or a Board under IC 13 must wait 10 days after being sent to the legislators before adoption.

22. **Attorney General (Skip If Provisional or Interim Rule)** - The agency sends the adopted rule to the Attorney General for review. If the rule involves taking of property, the governor and agency head must be advised. AG has 45 days to approve it or disapprove it or it is considered approved. If it does not meet requirements below, AG can either disapprove it or return it to the agency to make changes. If returned, the AG has 45 days to review after the response.

- Can be Disapproved IF: it lacks statutory authority, does not comply with this process, does not comply with the adoption process, or violates another law.

23. **Governor (Skip If Provisional or Interim Rule)** - If approved by the Attorney General, the rule goes to the Governor for approval. The Governor must approve or disapprove it within 15 days, which can be extended to 30 days if the Governor announces it within the first 15 days. If no action, it is deemed approved.

- FAILS IF: Not approved by the Governor within 1 year of the notice of first comment period or the expected date of approval in the notice to the Publisher.

24. **Final Rule** - The adopted rule is sent to the Publisher to be filed in the Indiana Register.

25. **Effective Date**

- Rules take effect on the latest of:
 - effective date of statute delegating authority to adopt the rule,
 - 30 days after filing,
 - date in the rule, or
 - date of compliance with any laws required as prerequisite.
- Provisional and interim rules take effect on the latest of:
 - effective date of statute delegating authority to adopt the rule,
 - date accepted for filing,
 - date in the rule,

- date of compliance with any laws required as prerequisite, or
- any statutory effective date.

26. Attorney General or Governor Objection (Provisional & Interim Rules Only – If applicable) – The Attorney General or Governor may file an objection to a provisional or interim rule within 45 days after filing. Attorney General can only object if the rule does not have statutory authority or did not comply with the provisional rulemaking law.

27. Expiration –

- Rules expire on January 1 of the 5th year after adoption.
- Provisional rules expire within 180 days unless extended once by adopting another rule.
- Interim rules expire within 425 days.

28. Initial Notice of Readoption (If readopted) – New for July 1, 2023, by January 1 of the 4th year after adoption, the agency can readopt a rule by sending a notice to the legislators and legislative committees. **The agency may also follow normal rulemaking (required if changes in conformity).**

29. Agency Review (If readopted rule) – New for July 1, 2023, readopted rules must be reviewed.

- Review Includes: 1) reviewing previous cost benefit, economic impact, fiscal impact, and regulatory burden statements, 2) minimizing expenses to regulated entities, taxpayers, and consumers; using least restrictive manner of achieving goal; avoiding duplicating standards; being easily comprehended; having practicable enforcement; and 3) meeting the fees, fines, and civil penalty requirements above under Budget Review.

30. Notice of Proposed Readoption (If readopted rule) – New for July 1, 2023, notice must be sent to the Publisher by September 1 of the year prior to rule expiration for publication in the Indiana Register.

- Notice Includes: general description of the subject matter of the rules; listing of all rules being readopted by title and subtitle; how to submit written comments; request for comments on whether the readoption should follow the normal rulemaking; summary of agency's findings during its review; and any other required information.

31. **Readoption Comment Period (If readopted rule)** – New for July 1, 2023, public has at least 30 days to submit comments on the proposed readoption in the manner in the notice.
32. **Additional Comments Periods (If readopted rule – If applicable)** – New for July 1, 2023, agency may hold additional public comment periods by publishing notice of additional public comment periods.
33. **Rule Readoption (If readopted rule)** – New for July 1, 2023, agency readopts the rule.
34. **Publisher (If readopted rule)** – New for July 1, 2023, readopted rule is immediately filed with the Publisher.
35. **Effective Date** - New for July 1, 2023, readopted rules take effect the later of 30 days after final filing, date specified in the rule, or date of any compliance with any laws as a prerequisite.

Iowa

<https://rules.iowa.gov/info/detailed-overview>

(Iowa Administrative Procedure Act: I Iowa Code 7-17, Chapter 17A; Executive Order #9, 1999)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules:
 - Required to have earlier effective date by statute,
 - Conferring benefit or removing restriction, or
 - Necessary because of imminent peril to public health, safety, or welfare

STEPS:

1. **Regulatory Plan** – Executive Order #9 requires each agency to prepare a regulatory plan with a list of rules under development or active consideration. It must be published on the agency website by August 1st. If a regulatory plan of another agency conflicts with the agency policies or rules or vice versa, the Administrative Rules Coordinator must notify the agency. Public may comment on the plan.
 - Plan Includes: agency's regulatory objectives and priorities and the relation to the obligations by statute or the Governor; description of each action and estimate of costs and benefits; summary of legal basis; statement and any reduction of risk to public health, safety, or welfare; schedule for action; and agency contact person.
2. **Petition (If Applicable)** - Any citizen may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with the reasons or start the rulemaking process below. It must send its decision to the administrative rules review committee.
3. **Drafted** - Proposed rule is drafted.
4. **Fiscal Impact Statement (If applicable)** – For any rule that requires additional annual expenditures of \$100,000 or more or combined expenditures of \$500,000 or more, the agency must prepare a fiscal impact statement to be published with the notice and sent to the legislature committees below. This includes emergency rules.
5. **Jobs Impact Statement** – Agency must minimize adverse impact on jobs and development of new job opportunities. It must prepare a jobs impact statement that is included in the notice of intent. It must also allow public comments. This includes emergency rules.

6. **Administrative Rules Review Committee (Emergency Rules Only)** – Emergency rules must either be provided by statute or approved by the Committee. The Committee must find “good cause that notice and public participation would be unnecessary, impracticable, or contrary to the public interest.”
7. **Administrative Rules Coordinator Number (Skip to Step 12 for Emergency Rules)** - A notice of intended action is sent to the Administrative Rules Coordinator to get an ARC number.
8. **Notice of Intent to Adopt Rules** – Notice is sent the Administrative Code Editor to be published in the Iowa Administrative Bulletin. It is also mailed to any state office of a trade or occupational organization that registered with the agency.
 - Notice Includes: statement of terms or substance of intended action OR description of subject or issues AND the time, place, and manner of how public can respond. Notice includes a preamble with principal reason for the action, reasons for not providing a waiver to the rule, if applicable, and the jobs impact statement.
9. **Legislature Committees** - The notice is also sent to the appropriate committees of the legislature for study.
10. **Regulatory Analysis** –
 - If requested by the Administrative Rules Review Committee or the Administrative Rules Coordinator within 32 days of the notice, the agency must prepare a regulatory analysis and publish it in the Iowa Administrative Bulletin. For emergency rules, the analysis is due 7 days after the request.
 - Analysis Includes: description of classes of people affected; description of probable quantitative and qualitative impact upon affected classes; probable costs to that and other agencies to implement and enforce it; comparison of probable costs and benefits; whether less costly or intrusive methods exist; and description of alternative methods considered but rejected and why.
 - If the rule has a substantial impact on small business and requested by Administrative Rules Review Committee, Administrative Rules Coordinator, 25 people with small businesses, or an organization with at least 25 small business

members within 32 days of the notice, the agency must prepare a regulatory analysis and publish it in the Iowa Administrative Bulletin. For emergency rules, the analysis is due 7 days after the request.

- Analysis Includes Whether It is Practicable and Feasible To: establish less stringent compliance or reporting requirements or schedules or deadlines for such requirements for small businesses; consolidate or simplify such requirements; establish performance standards instead of design or operational ones; or exempt small businesses.

11. **Public Comment** - Public is given at least 20 days to comment on the proposed rule in the manner and by the deadline in the notice. If a regulatory analysis is published in the Bulletin, comment period is at least 20 days after that notice.
12. **Public Hearing** – Agency may hold a public hearing. If 25 interested people, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association with at least 25 members requests a hearing, the agency must publish notice in the Bulletin and schedule one at least 20 days after the notice. If a regulatory analysis is published in the Bulletin, public hearing may be requested within 20 days of the notice and must take place at least 20 days after.
13. **Statement of Principal Reasons** – If requested by an interested person before adoption or within 30 days after, the agency must provide a statement of principal reasons with reasons for and against it and reasons for overruling a consideration against adopting it. This must be done during adoption or within 35 days after receipt.
14. **Rules Unreasonable, Arbitrary, Capricious, or Beyond Authority (If applicable)** – The Administrative Rules Review Committee, the Governor, or the Attorney General may object to a rule that is unreasonable, arbitrary, capricious, or beyond authority. They must notify the agency (unless emergency rule) and send the objection to the administrative code editor for publishing in the Iowa Administrative Bulletin. The rule is then subject to judicial review. This process can happen with proposed rules and adopted rules.
15. **Rule Adoption or Termination** – Agency has 180 days of publishing in the Bulletin or within 180 of the last public hearing to adopt or terminate a rule. Adoption must be at least 30 days after the notice of intended action. If terminated, a notice of termination is published in the Iowa Administrative Bulletin.
16. **Revised Jobs Impact Statement** – An agency may revise the jobs impact statement after the notice. If so, a revised jobs impact statement is published with the notice below.

17. **Adopted and Filed Notice** - An adopted rule is published in the Iowa Administrative Bulletin.

18. **Administrative Rules Review Committee** - The adopted rule goes to the Administrative Rules Review Committee who reviews the rule. It can object to the rule with a 2/3 vote.

19. **Effective Date** –

- Rules take effect 35 days after publishing in the bulletin or as specified in the rule.
- Emergency rules, rules with dates provided by statute, and rules that confer a benefit or remove a restriction take effect immediately after filing or a specified date less than 35 days.

Delays and Suspensions:

- Rules may be delayed until the adjournment of the next regular legislative session with 2/3 vote of the Administrative Rules Review Committee.
- Emergency rules, rules with dates provided by statutes, and rules that confer benefit or remove restriction may be suspended until the adjournment of the next regular legislative session with 2/3 vote of the Administrative Rules Review Committee IF done within 35 days of the notice.

If delayed or suspended under this part, rule goes to appropriate standing committees of the legislature. The committees have 21 days to either 1) sponsor a joint resolution to nullify it, 2) propose legislation, or 3) refuse to do either. If not nullified during the legislature session, rule takes effect after adjournment.

70 Day Delays:

- Rules may be delayed an additional 70 days beyond their effective date with 2/3 vote of the Administrative Rules Review Committee.
- Emergency rules, rules with dates provided by statutes, and rules that confer benefit or remove restriction may be delayed an additional 70 days beyond their effective date with 2/3 vote of the Administrative Rules Review Committee IF done within 35 days of the notice.

20. **Objections (If applicable – Emergency Rules Only)** - If either the Administrative Rules Review Committee with 2/3 vote, the Governor, or the Attorney General file an

objection to an emergency rule with the Administrative Code Editor, the rule stops being effective 180 days after filing. The Administrative Rules Review Committee may also by 2/3 vote, suspend a rule until the date it is no longer effective.

21. **Governor May Rescind (If applicable - Regular Rules)** - The governor has the option to rescind a rule by executive order within 70 days after the effective date.
22. **Iowa Administrative Code** - Adopted rule is published in the Iowa Administrative Code.
23. **Agency Review** - An agency must review all its rules every 5 years to determine if any should be amended or repealed. It writes a plan of review, and then submits a results summary to the administrative rules coordinator and Administrative Rules Review Committee when completed.
24. **Administrative Rules Coordinator** – Executive Order #9 requires the Administrative Rules Coordinator to meet annually with local governments to identify rules that may significantly affect them. It must also annually meet with businesses, non-governmental organizations, and the public to discuss regulatory issues of concern.

Kansas

https://admin.ks.gov/media/documents/regmanualjune2018_25E50CCBCF4FD.pdf

(Kansas Rules and Regulations Act KSA 77-415 et. seq.)

TYPES OF RULES:

- Permanent Rules – all APA rules not temporary rules
- Temporary Rules – rules for preservation of public peace, health, safety, or welfare

STEPS:

1. **Drafted** - Proposed rule is drafted.

Also Need:

- An economic impact statement that includes its impact on governmental agencies or units, persons subject to the rule, and the general public.
 - An environmental benefit statement IF it is a rule of Secretary of Agriculture, Secretary of Health and Environment, or State Corporation Commission that protects the environment OR a rule of the Secretary of Wildlife, Parks, and Tourism related to endangered or threatened species.
 - A taking report IF the proposed rule could be considered a taking of private property. The report must identify the public health, safety, or welfare risk that exists, how the rule will protect against that, facts to justify it, likelihood the rule constitutes a taking, alternatives identified, and demonstrate that conditions imposed on a permit relate to such public health, safety, or welfare purpose, advance that purpose, and are authorized. Goes to Governor and Attorney General.
2. **Director of Budget** - Proposed rule and economic impact statement must be sent to the Director of Budget. Includes temporary rules.
 - If the rule does **NOT** result in compliance or implementation costs of over \$1 million through June 30, 2024 or over \$3 million on or after July 1, 2024 for businesses, local governments, or individuals in a 2-year period, the Director is **NOT** required to review or approve the statement.
 - If it does result in such costs, the Director reviews the statement for accuracy and completeness.
 - If the rule is from a federal mandate, the Director is **NOT** required to review it.

- Director must send a report of rules it approves to the legislature and Joint Committee by the first day of each legislative session and immediately submit a report for rules that result in compliance or implementation costs of over \$1 million through June 30, 2024 or over \$3 million on or after July 1, 2024 for businesses, local governments, or individuals in a 2-year period.
3. **Secretary of Administration** - Proposed rule must be approved by the Secretary of Administration, which checks for organization, style, spelling, and grammar. Includes temporary rules.
 4. **Attorney General** - Proposed rule must be approved by the Attorney General, which checks for legality issues. Includes temporary rules.
 5. **Notice of Hearing (Optional for Temporary Rules)** - Agency sends a notice of hearing at least 60 days before the hearing to Secretary of State for publishing in the Kansas Register. This includes a permanent regulation being adopted with a temporary one. A copy of the notice goes to the Joint Committee on Administrative Rules and Regulations and the Legislative Research Department.
 - Must Submit: Notice of Public Hearing, copy of the rule, and copy of the complete economic impact statement.
 - Notice Includes: regulation number and summary of substance of rule; summary of economic impact statement; summary of any environmental benefit statement; address where the full rule, economic impact statement and environmental benefit statement may be obtained; time and place of the public hearing; and statement that the notice includes a 60-day comment period (30 days for wildlife seasons and limits) and the manner to submit them.
 - NOTE: Temporary rules (rules for the preservation of public peace, health, safety, or welfare) do not need notice, comments, or a hearing.
 6. **Public Comments (Optional for Temporary Rules)** - Public is given 60 days to comment on the proposed rules in the manner in the notice. For rules for wildlife seasons and limits, the public only has 30 days to comment.
 7. **Joint Committee on Administrative Rules and Regulations** - The Joint Committee on Administrative Rules and Regulations reviews the rule with the agency and comments on it during the comment period. Agency does not respond until after adoption and filing the Secretary of State.

8. **Public Hearing (Optional for Temporary Rules)** – Agency holds a hearing at least 60 days after the notice. This includes a permanent regulation being adopted with a temporary one. The economic impact statement must be updated with the date and time of the hearing, how many attended, and any changes.
9. **Initiate New Rulemaking Proceedings (If Applicable)** – They agency must initiate new rulemaking proceedings if the rule differs in subject matter or effect of the original AND is not a logical outgrowth of comments.
10. **Revisions (If Applicable)** - Agency may revise the proposed rule. Approval is again needed per Steps 2-4 AFTER the public hearing. The agency must prepare a concise statement of the principal reasons for amending the rule.
11. **Rule Adoption** - Agency adopts the proposed rule at a meeting. It must prepare a concise statement of the principal reasons for adopting the rule with reasons for not accepting substantial arguments and reasons for any substantial changes.
12. **State Rules and Regulations Board (Temporary Rules Only)** - Adopted temporary rule is sent to the State Rules and Regulations Board, where the agency must appear and justify needing a temporary rule.
13. **Secretary of State** - Adopted rule is sent to the Secretary of State to be published in the Kansas Register.
 - Must Submit: original and copy of adopted rule; updated economic impact statement including a statement of date and time of the hearing and number that attended; environmental benefit statement, if applicable; takings assessment, if applicable; and roll call vote.
14. **Agency Response to Joint Committee on Administrative Rules and Regulations** - Agency must respond to the Joint Committee with all comments received, agency responses, and any changes to the rule.
 - The Joint Committee may hold a hearing and involve the agency.
 - The Joint Committee may voice concerns on the rule and recommend changes or revocation of the rule, which may be added to their minutes.
 - Agency sends a letter of any changes it will adopt and the timeframe or why it does not agree.
 - If agency does not agree, Joint Committee may introduce a concurrent resolution or bill.

- Joint Committee may recommend statutory changes to change the agency's scope of rulemaking, revise the law to require changes to regulations, or create statutory provisions for regulations.

15. Effective Date –

- Rules take effect 15 days after publication or after the effective date of any new statute or changes.
- Emergency rules take effect immediately after filing or the date listed and last up to 120 days unless renewed an additional 120 days.

16. Legislature Revocation (If applicable) – Legislature can adopt a concurrent resolution to request revocation of a rule before the legislature adjourns.

17. Kansas Administrative Rules – Adopted rule is published in the Kansas Administrative Rules.

18. Agency Review - All of a state agency's rules must be reviewed every 5 years per a schedule depending on the agency. The agency must submit a report to the Joint Committee on Administrative Rules and Regulations by July 15th of that year with a statement of whether each rule should remain, can be revoked, or should be amended.

If it is to be revoked, the agency must hold a public hearing if requested, submit a notice of revocation to the Attorney General for review and approval, submit it to the Joint Committee on Administrative Rules and Regulations and attend a hearing if requested, and publish a notice of revocation in the register. The revocation takes effect 15 days after publication.

Kentucky

(Kentucky Administrative Procedure Act: KRS Chapter 13A)

TYPES OF RULES:

- Ordinary Regulation/Rule – any rule not an emergency or promulgated by statute
- Emergency Regulation/Rule – a rule:
 - addressing an imminent threat to public health, safety, or welfare,
 - preventing imminent loss of federal or state funds,
 - meeting an imminent deadline for creating a rule established by statute or federal law; or
 - complying with an executive order.
- Rule/Regulation in Contemplation of a Statute – rules authorized or directed by a new statute that are filed after it becomes law but before it takes effect – follows normal process except must wait for statute to take effect before being adopted.

STEPS:

1. **Drafted** - Proposed rule is drafted.
2. **Notice in Administrative Register** - Proposed rule is sent to the Regulations Compiler. The rule is published in the Administrative Register of Kentucky and on the agency's website. The agency notifies the Regulations Compiler within 5 working days of any errors. If the rule creates or increases fees, the agency must notify each state association, organization or other body affected within 5 working days.
 - FAILS IF: Not approved by agency head or official.
 - Filing Requirements: notice below; regulatory impact analysis; tiering statement; fiscal note; federal mandate comparison, if applicable; and summaries of materials incorporated by reference.
 - Notice Includes: cabinet, department, and division of the agency; type of regulation; number and title of the rule; relates to (statutes or other documents it is in relation to); statutory authority; brief statement of necessity for the rule, functions required, and conformity; statement that head or official reviewed the rule and the signature and date, if applicable; signature and date of the agency; public hearing and public comment period; and agency contact person.
 - Regulation Types: New Administrative Regulation, Amendment, or Repealer.

Emergency rules are also published in the Administrative Register. They are considered adopted upon filing.

- Filing Requirements: Statement of Emergency, public hearing and comment period, regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference, evidence of need for emergency rule, and other required information.
 - Statement of Emergency Includes: nature of emergency; reasons why ordinary rule is not sufficient; whether it will be replaced by an ordinary rule, or reasons if not; if being replaced by ordinary rule, "The ordinary administrative regulation (is or is not) identical to this emergency administrative regulation.;" and explanation of how the rule differs from a previous rule, if it has the same number, title, or subject.
3. **Public Comments** - Public can comment on the rule up to the last day of the month after the month published in the register. Emergency rules are due the last day of the same month.
- FAILS IF: Public comments requirements and deadlines not followed.
4. **Public Hearing** - Public hearing is scheduled between the 21st day and the last workday of the month after the month the public comments end. If no notification to attend the hearing is submitted by the 5th workday before the hearing, it may be cancelled.
- Emergency rule hearings must take place between the 21st day and the last workday of the same month the comments end.
- FAILS IF: Public hearing requirements and deadlines not followed.
5. **Comment Review** – The agency must review all comments received, including reports by the Commission on Small Business Innovation and Advocacy and local governments and comments about any major economic impact.
6. **Rule Changes** - An agency may amend an emergency or ordinary rule after public comments. The amended rule is published in the Administrative Register as an amended after comments rule OR as an amended in-process emergency rule.

7. **Extended Comment Period (If applicable)** – The agency may hold an additional public comment period if it receives a significant number of public comments IF it notifies the Regulations Compiler by the 15th day of the month after the original comment period.
8. **Statement of Consideration** – After all comment periods, agency must file a notice of consideration with Regulations Compiler by the 15th day of the month after the comments close (15th day of the second month after comments closed if extended comments). The statement includes whether the hearing was cancelled, if any comments were received, and any amended after comments version of the rule.
 - FAILS IF: Statement or amended after comments version NOT filed by the deadline.
 - Filing Requirements If Amended: amendments made; statement of consideration; and regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government as amended.
 - Filing Requirements if NOT Amended: statement of consideration only.
 - Statement Requirements: rule number and agency; either “Not Amended by Comments,” “Emergency Not Amended by Comments,” “Amended After Comments,” or “Emergency Amended After Comments;” statement of date, time, and place of any hearing, list of attendees or those who submitted comments, and agency representative; summary of comments received and agency responses; summary of actions taken as a result of comments; any amendments made to the rule after comments; and full text if amended.
9. **Rule Adoption (Skip for Emergency Rules)** - Rule is adopted by the agency at a meeting. For rules in contemplation of a statute, they may not be adopted until the statute takes effect.
10. **Administrative Regulation Review Subcommittee** - Adopted rule is reviewed by the Administrative Regulation Review Subcommittee during one of its monthly meetings with the meeting agenda published in the Administrative Register. The agency is required to attend, and if an agency representative with authority to amend the rule is not present, the Subcommittee can defer it to the next meeting. If a representative does not appear, the Subcommittee may either defer it or make a determination. It can determine that it is deficient or needs amended or repealed. Its findings are published in the Administrative Register.

- May Be Found Deficient If: wrongfully promulgated; in conflict with statute; no statutory authority; stricter or more burdensome requirements than required by federal mandate WITHOUT justification; does not use tiering when applicable; in excess of their authority; unreasonable burden on government and/or small business; is an emergency rule without justification; those who registered to be notified of the rule were not notified; no adequate cost analysis; or any other deficiency.
- Deferral on Subcommittee Action: An agency may defer action on a rule by submitting a letter to the Regulations Compiler before the Subcommittee meeting, and for emergency rules, also getting approval from the co-chairs. If requested during the meeting, it is up to the Subcommittee whether to approve it. The Subcommittee may also request deferral from the agency. If deferred, it is placed on the next meeting agenda. Only 12 deferrals are allowed.
- FAILS IF: Public comments requirements and deadlines not followed.

11. **Legislative Research Commission** – Subcommittee sends its findings to the Legislative Research Commission.

12. **Legislative Committee** – Commission sends the rule to a legislative committee. The committee informs it if it will hold a meeting and any date, time, and place. The committee may hold a public meeting within 90 days after being noticed on the committee calendar. The committee, by majority vote may make amendments or find it deficient just like the Subcommittee or defer it. Its findings are published in the Administrative Register. If the committee does not take action 1) after the rule is placed on its agenda, 2) after it was placed on a standing committee agenda and was previously on the other committee's agenda, or 3) after the 90 days if it does not meet or place it on the agenda, the rule is considered adopted. The Committee also reviews emergency rules amended after comment.

- Deferral on committee Action: An agency may defer action on a rule by submitting a letter to the Regulations Compiler before the committee meeting and getting approval from the chairs. If requested during the meeting, it is up to the committee whether to approve it. The committee may also request deferral from the agency. If deferred, it is placed on a subsequent meeting agenda.
- Reasons to No Longer Find Deficient: 1) agency files an amendment, committee makes motion that it corrects the deficiency, and any other legislative committee that reviews it finds it not deficient; 2) committee reconsiders its

determination and approves a motion that it is not deficient; 3) deficiency was found by Subcommittee and amended to correct it during the committee meeting and Subcommittee approves a motion that it is no longer deficient, or 4) deficiency was from an amendment and the agency withdrew it before the Governor's determination.

- NOTE: If the rule goes to interim committee and the legislature convenes during the review, it goes to a standing committee. If it is in a standing committee and the legislature adjourns during the review, it goes to an interim committee.
- FAILS IF: Found deficient and Governor determines it should be withdrawn.

13. Legislative Committee Meeting Amendments – Both the agency and the Legislative Committee may make amendments during the committee meeting with the consent of the other AND IF it was 1) an issue at the public hearing, 2) raised from the public comment period or by the Commission on Small Business Innovation and Advocacy or a local government, or about major economic impact by agencies, local governments, or regulated entities, or 3) raised during the committee meeting. Amendments approved at the meeting are published in the Administrative Register except that if it just was for formatting and drafting requirements, a statement is made to that effect.

- Requirements If Agency Requests: approval by agency head; letter to committee with the agency, number and title of rule, and date in the form requested that is submitted at least 3 workdays before meeting; and amendment.
- Requirements if Committee Requests: just the committee amendments in the form listed.

14. Governor (If rule found deficient by committee) – If the committee finds an ordinary or emergency rule deficient, it submits the deficiency and related findings and a request to the Governor and Regulations Compiler to either withdraw it, amend it at a committee meeting to conform it, or become or remain effective. The Governor sends the determination to the Commission and Regulations Compiler.

15. Effective Date –

- Unless deferred or deficient, rule takes effect earlier of after adjournment of the committee meeting if the rule was on the agenda or 90 days after referral if no action taken.

- If deficient, rule takes effect after the Governor review and determination that it should become effective OR after the legislative committee later finds it not deficient.
- Emergency rules without changes take effect immediately after filing or another listed date.
- Emergency rules with changes take effect after filing or after any meeting of the legislative committee during which they are approved.
- Emergency rules last up to 270 days or until an ordinary rule replacing it is adopted.
- If an ordinary rule replacing an emergency rule is withdrawn, the emergency rule expires on the date of withdrawal.

16. **Kentucky Administrative Regulations** – Adopted rule is published in the Kentucky Administrative Code by the Legislative Research Commission.

17. **Administrative Regulation Review Subcommittee** – An effective rule may be reviewed by the Administrative Regulation Review Subcommittee during one of its monthly meetings IF it is requested by one of the subcommittee members. It can again determine whether the rule is deficient and whether it needs amended or repealed.

- **Deferral on Subcommittee Action:** An agency may defer action on a rule by submitting a letter to the Regulations Compiler before the meeting and getting approval from the co-chairs. If requested during the meeting, it is up to the Subcommittee whether to approve it. The Subcommittee may also request deferral from the agency. If deferred, it is placed on the next meeting agenda. Only 12 deferrals are allowed.

At its last monthly meeting before December 31st, the Subcommittee staff prepares a report of all rules found deficient and not withdrawn or no longer deficient. Report allows a committee chair or legislator to request a bill to find any of the rules void or amend a statute to conform.

18. **Agency Review** - Rules expire 7 years after their effective date unless during the 12 months before expiration the agency reviews the rule and files a certification letter with the Regulations Compiler that the rule should be amended, should stay in effect without amendment, or needs amendment and one was filed. If it needs amended and one has not been filed, the agency must file the amendment under the procedure above with the Regulations Compiler within 18 months of the certification letter or it expires.

Louisiana

<https://www.doa.la.gov/media/bkfdxshe/apa-guide-timetable-noi-and-emr.pdf>

(Louisiana Administrative Procedure Act: LRS 49:950 – 49:999.25)

NOTE: Exemptions to the APA can be found in §954.

TYPES OF RULES:

- Proposed Rules/Rules – all other rules other than emergency rules
- Emergency Rules – rules to:
 - prevent an imminent peril to public health, safety, or welfare;
 - avoid sanctions or penalties from the US;
 - avoid budget deficit for medical assistance program;
 - secure new or enhanced federal funding; or
 - administer provisions of law related to imposition, collection, or administration of taxes due to congressional, legislative, or judicial time restraints.
 - Also allows Department of Wildlife and Fisheries and Wildlife and Fisheries Commission rules for hunting seasons, trapping seasons, alligator seasons, shrimp seasons, oyster seasons, and finfish seasons and size limits

STEPS:

1. **Petition (If Applicable)** - Any citizen may petition an agency to adopt, amend or repeal a rule. The agency has 90 days to deny the petition in writing with its reasons or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Legislative Fiscal Office (Skip to Step 13 for Emergency Rules)** - Fiscal and economic impact statement must be approved by the Legislative Fiscal Office.
4. **Notice of Intent** - Notice and fiscal statement are sent to the State Register. Notice is also published on the agency website.
5. **Notice of Intent Publishing** - Notice of intent is published in the Louisiana Register on the 20th of the month.
 - Notice Includes: preamble with statutory authority, basis and rationale for the action, and the action being taken (adopt, amend, repeal); rule text; agency contact person; family impact statement; poverty impact statement; small

business regulatory flexibility analysis and small business impact statement if required; provider impact statement; where, when, and to whom to send comments; where and when any public hearing will take place; and fiscal and economic impact statement.

6. **House And Senate Standing Committees** – Agency must submit a report to the House and Senate leaders and relevant standing committees at the same time it is sent to the State Register for publishing.
 - NOTE: It is sent to the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources if the agency is the Department of Natural Resources, Wildlife and Fisheries Commission or the Department of Wildlife and Fisheries.
 - Report Includes: rule text and statement of amount of fee to be adopted, increased, or decreased; statement of whether the rule is for adoption, amendment, or repeal and a brief summary of the content or change; citation authorizing it; statement of circumstances for the rule or fee; and a statement of fiscal and economic impact approved by the Legislative Fiscal Office.
7. **Public Comments** – Public may comment on a proposed rule in the manner and by the deadline in the notice.
8. **Public Hearing** – If a public hearing is requested by 25 people, a governmental subdivision or agency, an association with at least 25 members, or a legislative committee to which the rule has been referred within 20 days after notice, the agency must publish a Potpourri Notice of Public Hearing in the Louisiana Register and hold one between 35-40 days after notice.
9. **Potpourri Notice of Public Hearing (If substantial changes)** – If the agency makes substantial changes to the rule, it must publish a Potpourri Notice in the Louisiana Register and hold a public hearing at least 30 days after the notice.
 - Potpourri Notice Includes: Agency statement with basis and rationale for changes, and citation of where to view the original notice along with the volume and page number; rule text with changes; and where and when the public hearing takes place.

10. **House And Senate Oversight Subcommittees** - A summary report is sent to House and Senate Oversight Subcommittees. Notice of its delivery is posted on the agency website.

- Report Includes: testimony at public hearing; comments received, agency responses, and any tentative or proposed actions from the comments; any revisions to the rule or a statement that no changes were made; and a concise statement of principal reasons for and against adoption.

11. **Oversight Subcommittee Hearing** - Any hearing must be scheduled at least 5 days but not more than 30 days after the summary report is received. After any hearing, the subcommittee may find the acceptable or unacceptable. If unacceptable, the agency sends a written report to the Governor, agency, and Louisiana Register within 4 days.

12. **If Unacceptable, Governor** - Governor has 10 days to approve or disapprove any unacceptable subcommittee report. If the Governor does not disapprove the report, the agency may not adopt it until 1) the rule is changed by the agency and found acceptable by the subcommittee, 2) approved by the standing committee, or 3) approved by the legislature with concurrent resolution.

13. **Rule Adoption** - If acceptable report from the committee or governor disagreement with an unacceptable report, the agency adopts the rule at a meeting at least 90 days after the notice of intent. For emergency rules, agency notifies the Governor, Attorney General, leaders of the House and Senate and Office of State Register within 5 days of adoption.

- Emergency Notice Includes: preamble with nature of emergency, basis and rationale for the action, effective date, and rulemaking authority; and rule text.

14. **Rule Publishing** - Adopted rule is published in the Louisiana Register at least 90 days after the notice. Emergency rules are published as a declaration of emergency and must be published the month after they are adopted.

- Notice Includes: preamble with statutory authority, basis and rationale for the action, and that it has been amended or adopted; rule text with changes.
- FAILS IF: Final rule is not published in the Louisiana Register within 1 year of notice of intent.

15. **Effective Date** -

- Rule takes effect either immediately after publication or as specified in the rule.
- Emergency rules take effect upon adoption or a later date specified in the rule up to 60 days and last up to 180 days (until the season ends for wildlife seasons and limits).

16. **Oversight Committee (Emergency Rules)** – Within 60 days after the agency notifies the leaders of the House and Senate of the adoption of an emergency rule, an oversight committee may hold a hearing and determine if the rule is an emergency, conforms to intent of enabling legislation, conforms to laws and the constitution, whether the rule has merit, and whether the rule is acceptable or unacceptable. If unacceptable, it notifies the Governor, agency, and Louisiana Register within 4 days. The agency may not adopt a similar rule within 4 months.

- FAILS IF: Committee finds emergency rule to be unacceptable.

17. **Governor Veto or Suspension (If Applicable)** - Governor may veto or suspend a rule within 30 days after adoption. For emergency rules, the Governor has 60 days after adoption to find an emergency unacceptable, and 4 days after the determination to send a report to the agency and Louisiana Register.

- FAILS IF: Governor finds an emergency rule to be unacceptable.

18. **District Court Review (If Applicable)** - District court may invalidate a rule that violates the constitution, exceeds statutory authority, or violates this administrative process. For emergency rules, judges can declare rule invalid if not sufficient evidence for an emergency.

19. **Legislature (If Applicable)** - The legislature can adopt a concurrent resolution to suspend, amend or repeal a rule. Emergency rules have 60 days to nullify them. Any adopted resolution is published in the Louisiana Register within 45 days.

20. **Louisiana Administrative Code** – Adopted rules are published in the Louisiana Administrative Code.

21. **Agency Review** - An agency must review its rules every 6 years. It must publish a notice in the Louisiana Register and hold a hearing at least 30 days after. If it decides to make changes, it must follow the procedure above.

Maine

<https://www.maine.gov/sos/cec/rules/guide.html>

(Maine Administrative Procedure Act: 5 MRSA §8001 - §11008; Executive Order 4-A FY 19/20, updated 3/29/2023)

TYPES OF RULES:

- Emergency Rules – rules to avoid an immediate threat to public health, safety, or general welfare
- Routine Technical Rules – “establish standards of practice or procedure for the conduct of business”
- Major Substantive Rules – rules that either:
 - require significant agency discretion or interpretation while drafting OR
 - are expected to cause significant increase in cost of doing business, significant reduction in property values, or loss or significant decrease in government benefits or services, impose state mandates on local government, or other significant burdens on the public or units of local government.

STEPS:

1. **Petition (If Applicable)** - Any citizen may petition an agency to adopt or amend a rule. The agency has 60 days to either deny it and list the reasons in writing or start the rulemaking process below. If the petition is from at least 150 voters, the agency must start the rulemaking process.
2. **Regulatory Agenda** – Between the beginning of a legislative session and 100 days after adjournment, the agency must send a regulatory agenda to the joint standing committee and Secretary of State. Agendas are reviewed at a joint standing committee meeting.
 - Agenda Includes: list of rules agency wants to propose between agendas and whether consensus-based rule development will be used; statutory or other basis; purpose of rule; schedule for adoption; identification of benefited and regulated parties; and a list of all emergency rules adopted.
3. **Consensus-Based Rule Development (Optional)** – Agencies may use consensus-based rule development where it establishes a represented group of people with an interest in the subject that operate under mutually accepted rules to discuss the topic and write the rule draft.

4. **Consensus-Based Rule – Representative Group Meetings (Optional)** – If consensus-based rule development is used, the representative group holds meetings. The agency must give prior notice of all meetings to the group and interested parties.
5. **Drafted** - Proposed rule is drafted. Executive Order 4-A recommends agencies confer with the Governor while developing the rule. It also allows agencies to post the notice of rulemaking proposal and get comments without Governor pre-approval.
6. **Attorney General Pre-Review** – Per Executive Order 4-A, agencies must use “best efforts” to provide the Attorney General with the draft of the proposed rule before publishing the notice in Step 8. The OAG does a pre-review of the draft to identify early issues with it. If the agency finds that it cannot due to circumstances, it should discuss it with the OAG.
7. **Fact Sheet** – Agency must prepare a fact sheet on the rule.
 - Fact Sheet Includes: statutory authority; principal reasons for rule; comprehensive description of the rule; fiscal impact estimate; rule analysis; summary of information considered during development; and if fiscal impact over \$1 million: description of economic impact and nonmonetary effects, examples of individuals, major interest groups, and businesses affected and how affected, and rule benefits.
8. **Notice of Rulemaking Proposal** - Notice of Rulemaking Proposal along with fact sheet, rule text, and hearing and comment information is sent to Secretary of State. It posts the proposal in the Weekly Rulemaking Notice on its website.
 - Notice Includes: statutory authority; time and place of any public hearing or how to request one; manner and time to submit comments; agency contact person; terms or substance of the rule and how to request a copy; state or federal law implemented; how to obtain a copy of the statement of impact on small business; and if the rule is a routine technical or substantive rule.
9. **Executive Director of Legislative Council** - Agency sends Fact Sheet to the Executive Director of the Legislative Council 1-2 days after filing notice. For emergency rules, it is filed within 10 days of adoption.
10. **Newspaper Notice** - Notice of Proposed Rulemaking is published in select newspapers at least 1 week before any public hearing.

- Newspaper Notice Includes: date and time of any hearing or how to request one; manner and time to submit comments; agency contact person; brief and general summary of the rule substance; website address of the long notice; where to obtain a copy of the statement of impact on small business; impact on municipalities or counties, if financial impact; and whether it is a routine technical or major substantive rule.
11. **Public Hearings (Optional)** - Public hearings, if scheduled, take place 17-24 days after the notice. If 5 people request a hearing, if required by statute, or if a substantial rule, the agency must hold a hearing.
 12. **Public Comments** - Public has at least 30 days to comment on the proposed rule in the manner and by the deadline listed in the notice. If a hearing is held, the public has at least 10 days after the hearing to comment.
 13. **Information Consideration** – An agency is required to consider all relevant information available, including “economic, environmental, fiscal and social impact analyses and statement and arguments filed” before adopting any rule.
 14. **Factual and Policy Basis Statement** – During adoption of a rule, the agency must prepare a factual and policy basis statement and send it to the Secretary of State.
 - Statement Includes: list of all persons that submitted comments, their organizations, and a summary of their comments; statement of concern regarding the rule and reasons for adopting any changes, not adopting suggested changes, or recommendations that differs from it.
 15. **Additional Public Comments (If applicable)** – If the agency makes substantial changes to a proposed rule, it must submit a notice of request for public comments with the Secretary of State and hold another public comment period.
 16. **Rule Adoption** - Agency adopts the rule within 120 days after the comment period ends or 30 days after any additional public comment period. Major substantive rules other than emergency rules are considered provisionally adopted until after their legislative approval.
 17. **Attorney General** - Adopted rule (or provisionally adopted rule for major substantive rules) is sent to Attorney General, which has 150 days from the end of the final comment period to review it for form and legality.

18. Notice of Rule Adoption or Provisional Adoption- Notice is sent to the Secretary of State. It is then published in newspapers and in the Weekly Rulemaking Notice.

- Submitted Items: Notice of Rule Adoption (or Provisional Adoption); rule text with and without marked changes; basis statement; comments and responses; fact sheet with 3 primary sources of information used; and checklist.

19. Legislative Review (Major Substantive Rules Only) – Major substantive rules other than emergency rules are sent to the Executive Director of the Legislative Council after provisional adoption.

- Materials Required: full text of provisionally adopted rule; concise summary of the content and description along with a copy of any rule it amends; statement of circumstances for rule; statement of economic impact; and any other required information.
- Reviews If Rule: exceeds scope of statutory authority; does not conform to legislative intent; conflicts with other law or rule; is necessary for the objectives of statute; is reasonable; could be made less complex or more readily understandable; complies with this rule process; and if it significantly increases property values, whether it has sufficient variance to prevent an unconstitutional taking or is necessary for public health, safety, or welfare.
- If rule is sent during the legislative acceptance period (July 1st before session to 2nd Friday in January), the Director has the Revisor of Statutes draft a legislative instrument to be reviewed during the legislative session. If outside this period, the Legislature chooses whether to act on it.
- Legislative instrument is placed on the Advance Journal and Calendar.
- Secretary of the Senate and Clerk of the House of Representatives recommend a relevant joint standing committee and place it in Advance Journal and Calendar by the next legislative day after receipt.
- Senate and House send the legislative instrument to joint standing committee.
- Secretary and Clerk send rule and information to that committee.
- Joint committee must schedule a meeting for which the agency is notified and then review the rule.
- Committee may hold public hearings.
- Committee recommends the legislature either authorizes adoption of the final rule, authorizes adoption of part of the rule, authorizes adoption with amendments, or not authorize adoption and includes a statement of reasons.
- Joint committee sends report to Legislature at least 30 days before it adjourns.

20. **Final Rule Adoption (Major Substantive Rules Only)** - Agency adopts a final rule approved by the Legislature within 60 days of the effective date of the legislation or after adjournment of the Legislature for a rule for which no final action was taken before adjournment.
21. **Notice of Final Adoption (Major Substantive Rules Only)** – Agency sends the final adopted rule to the Secretary of State to be published in the Weekly Rulemaking Notice.
22. **Effective Date** -
- Rules take effect 5 days after filing or a later date listed in the rule.
 - Major substantive rules take effect 30 days after the final rule filing or a later date specified.
 - Emergency rules last up to 90 days.
 - Major substantive emergency rules are effective up to 12 months or until the Legislature completes review.
23. **Adopted Rules List** – Secretary of State sends a list of adopted rules from the prior year to the Executive Director of the Legislative Council by February 15th each year. The Director sends it to a joint standing committee. The committee may require the agency to appear and may pass legislation that changes the rulemaking authority of those rules.

Maryland

(Maryland Administrative Procedure Act: Maryland Code State Government Title 10, Subtitle 1)

NOTE: Exemptions to the APA can be found in §10-102.

TYPES OF RULES:

- Rule – all rules not emergency rules
- Emergency Rule – rules that need to be adopted immediately

STEPS:

1. **Petition (If Applicable)** - Any citizen may petition an agency to adopt a rule. The agency has 60 days to either deny it and list the reasons in writing or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Attorney General** - Rule is sent to Attorney General to review for legality.
4. **Significant Small Business Impact (If applicable)** – If the rule has a significant small business impact, the agency must 1) create an electronic registry for interested parties to receive notice when rule or scope is published in the agency website, 2) post the rule or scope on its website 15 days before submission required in Step 5 and allow public comments, 3) notify those registered of its posting, and 4) create and post on the website a clear compliance guide in English to help small businesses comply that is updated as needed.
5. **Joint Committee on Administrative, Executive, And Legislative Review (AELR) and Department of Legislative Services** – Rule goes to the AELR and Department of Legislative Services at least 15 days before publication in the Maryland Register.
 - Also Required as Applicable:
 - explanation of any increase or decrease in fee, if for license to practice business activity, business, or health occupation or business or health profession;
 - if increase if fee for such license - money needed to operate effectively or eliminate imbalance between revenue and cost, last year it increases fees, whether it retains the fee or passes it to a national organization or association, measures taken to avoid the fee increase, circumstances of activities and responsibilities creating need for fee increase, consideration of hardship on licensees, and actions to elicit opinions;
 - if emergency rule, fiscal impact statement

6. **Joint Committee/AELR Preliminary Review** - If approved by Attorney General, rule goes to the AELR for preliminary review.

If emergency rule, the Committee determines whether to approve the rule. If requested, the Committee must hold a public hearing. If vote is not done at hearing or shortly after, a 1-week notice is required for any voting meeting. Adoption must be at least 10 business days after receipt unless to protect public health and safety.

7. **Notice of Proposed Action on Regulations (Skip to Step 14 for Emergency Rules)** - The rule then goes to the Department of Legislative Services. The Department checks the rule for style and format and codification errors. It then publishes a notice of proposed action in the Maryland Register. It is also published on the agency website within 3 business days.

- Notice Includes: estimated economic impact (impact on revenues/expenses of state and local government and groups); statement of purpose (why they are proposing it); economic impact on small businesses (and if any, an economic impact analysis); compliance with Human Services Article; and an opportunity for public comment that includes the date, time and place of any hearing and phone number and address for public comments.

8. **Public Comments** - Public has at least 30 days to comment on the proposed rule in the manner and by the deadline in the register.

9. **Public Hearing (Optional)** - If the agency holds a hearing, it must wait at least 15 days after publishing in the register.

10. **AELR Review Period** - The AELR Committee has 45 days after publishing (may be extended to the later of the 30th day after a continuation notice or 105 days after publishing in the Register) to review the rule on the statutory authority to adopt the rule and compliance with the legislative intent of such statute. If the Committee plans to oppose the rule, it must notify the leaders of the House and Senate at least 2 weeks before unless waived, and then notify the Governor and the agency within 5 working days of opposing it. The agency can either withdraw the rule, modify it, or submit a statement of justification to the Governor.

11. **Governor (If Applicable)** - If statement of justification is sent to the Governor, the Governor may have the agency withdraw the rule, have the agency modify it, or approve the rule. The Governor must approve it before it can be adopted.

12. **Substantial Changes (If Applicable)** - If the agency makes substantial changes to the rule, it must repropose it or withdraw it and submit a new one.
13. **Rule Adoption** - After the review period, the agency adopts the proposed rule during a meeting at least 45 days after the notice and within 1 year. Emergency rules can be adopted right after approval from the AELR Committee.
 - FAILS IF: Agency does not adopt a rule within 1 year of publishing in Register.
14. **Attorney General (Skip for Emergency Rules)** - The adopted rule goes to the Attorney General to make sure all changes made to the original proposed rule are nonsubstantial. If so, the rule receives Attorney General Certification.
15. **Notice of Final Action on Regulations** - The Administrator publishes a notice along with the Attorney General Certification in the Maryland Register. For emergency rules, a notice of emergency action is published in the next register.
16. **Effective Date** –
 - Rules take effect 10 days after the notice of adoption or a later date specified in the rule.
 - Emergency rules take effect when the AELR Committee states and last for as long as the Committee allows up to 180 days.
17. **Code of Maryland Regulations** - Adopted rule is published in the Code of Maryland Regulations.
18. **Agency Review** - An agency must review its rules every 8 years unless they were substantially amended during that time. A schedule of regulations to be reviewed is sent to the Governor and Committee. Then the agency must develop a work plan and an evaluation report. If it decides a rule needs amended or repealed, it must follow the procedure above.

Massachusetts

<https://www.sec.state.ma.us/spr/sprpdf/manual.pdf>

(Massachusetts Administrative Procedure Act: Mass. General Laws, Part I, Title III, Chapter 30A; 950 CMR 20.00; Executive Order #145)

NOTE: Exceptions to the APA can be found in §1A to 1D.

TYPES OF RULES:

- Permanent Rule/Regulation – all rules not emergency rules
- Emergency Rule – rules “necessary for the preservation of the public health, safety or general welfare, and that observance of the requirements of notice and a public hearing would be contrary to the public interest”

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. Each agency has their own process to respond.
2. **Drafted** - Proposed rule is drafted.
3. **Local Government Advisory Committee (LGAC)** – Per Executive Order #145, notice is given to the LGAC 14 days before the notice in Step 4. LGAC has 20 days to notify the agency whether the rule will have significant impact on local government or it is considered to not have significant impact. The agency, LGAC, and Department of Community Affairs must hold a meeting to discuss the significant impact.
 - Notice Includes: brief statement of the agency’s proposed action with emphasis on elements affecting local government and preliminary estimated costs; rule draft.
4. **Notice of Public Hearing or Notice of Comments** – Agency is required to either hold a public hearing if required or have a comment period, not both. A notice is published in a newspaper of general circulation and sent to the State Secretary at least 21 days before the public hearing or end of the public comment period for publishing in the Massachusetts Register. Emergency rules do not require notice or a hearing or comments unless a permanent rule to replace it is being adopted.
 - Notice Includes: statutory authority; text or summary of the rule; the date, time, and place of any hearing; person and place to send comments and deadline; person and place to obtain copies; and a small business impact statement.

5. **Public Comments (If Applicable)** - Public may comment on the proposed rule in the manner and by the deadline posted in the notice. Comment period lasts at least 21 days after published in a newspaper and 7 days after published by the State Secretary.
6. **Public Hearing (If Applicable - Skip to Step 8 for Emergency Rules)** - A public hearing is required if the rule has a violation punishable by fine or imprisonment, such hearing is required by the enabling legislation authorizing them to pass a rule, or if there is a constitutional right to a hearing. Hearings must take place at least 21 days after being published in the newspaper and at least 7 days after published by the State Secretary.
7. **Amended Small Business Impact Statement** - The agency must file an amended small business impact statement with the State Secretary.
8. **Rule Adoption** - The agency adopts the proposed rule at a meeting.
9. **Filing and Publication Form** - Adopted rules are published in the Massachusetts Register. If an emergency rule is being adopted as a permanent rule, a Notice of Compliance is filed if no changes from the hearing or comments; If changes, a Regulation Filing Form is filed.
 - Form Includes: chapter number and title; agency name; concise summary of the rule in plain language; name and phone number of agency contact person; statement of fiscal effect during the 1st and 2nd years and the first 5 years; date of filing of amended small business impact statement; attestation; and any other required information.
10. **Effective Date** –
 - Rules take effect after being published in the register or as specified in the rule.
 - Emergency rules take effect after filing with the State Secretary and last up to 3 months.
11. **Code of Massachusetts Regulations** – Adopted rules are published in the Code.
12. **Rule Review** – Rules must be reviewed every 12 years to make sure they minimize impact on small business. Agency files a small business impact with continued need for rule, complaints or comments received, rule complexity, extent it overlaps/duplicates/ conflicts with federal, state, and local government laws, length of time since any changes, and degree that technology and economic conditions have changed.

Michigan

<https://www.michigan.gov/lara/bureau-list/moahr/admin-rules>

(Michigan Administrative Procedures Act of 1969: Act 306 of 1969)

NOTE: Exceptions to the APA can be found in §24.244 and 24.315.

TYPES OF RULES:

- Regular Rules – rules other than emergency rules
- Emergency Rules – rules for the preservation of public health, safety, or welfare

STEPS:

1. **Petition** - Any person may petition an agency to promulgate a rule. The agency has 90 days to deny the petition in writing with its reasons or start the rulemaking process below.
2. **Request For Rulemaking (RFR)/MOAHR** - Agency files RFR to the Michigan Office of Administrative Hearings and Rules (MOAHR), also known as the Office of Regulatory Reinvention. It either approves or denies the request based on whether it is appropriate and necessary and has legal basis. MOAHR sends copy of the request to the Joint Committee on Administrative Rules (JCAR) upon receipt, and sends a weekly list of rules approved or denied.
 - Request Includes: statutory or other basis; problem being addressed; assessment of its significance; and decision record from advisory committee or entity created by statute, if the agency receives comments or recommendations.
3. **Drafted** - If approved by the MOAHR, rule is drafted by the agency.
4. **MOAHR** - Agency sends the draft to the MOAHR, which reviews the statutory authority of the rule and if it complies with drafting guidelines. The agency must then approve a hearing on the rule. MOAHR must immediately send a copy of any rule approved for hearing to JCAR.
5. **Legislative Service Bureau (LSB)** – MOAHR sends the draft to the LSB to be reviewed and corrected for formatting and style. If the LSB recommends changes, the agency prepares a corrected draft.
6. **If Draft Revised, MOAHR** – If the agency makes LSB changes, it submits the revised draft to MOAHR for review.

7. **Regulatory Impact and Small Business Impact Statement** - The agency prepares a regulatory impact statement at least 28 days before any hearing, which must be approved by MOAHR, and published on the agency website at least 10 days before the hearing.

If small businesses are disproportionately affected, the agency must either exempt them or reduce the impact using the methods listed, and submit a small business impact statement.

8. **Notice of Public Hearing (Skip for Emergency Rules)** - Notice is published in 3 newspapers with 1 in the Upper Peninsula at least 10 days nor more than 60 days before the hearing. The notice is also published in the Michigan Register by MOAHR. MOAHR must also send a notice to the JCAR within 7 days of receipt, which may meet and provide an informal response.

- Notice Includes: statutory authority reference; time and place of hearing and manner to submit comments; and statement of terms and substance of rule, description of the subjects and issues, and proposed effective date.

9. **Public Comments (Skip for Emergency Rules)** - Public may comment on the proposed rules in the manner and by the deadline listed in the notice.

10. **Public Hearing (Skip for Emergency Rules)** - A public hearing is held as specified in the notice.

11. **Agency Report** - Agency must prepare an agency report with a synopsis of comments, request for rulemaking, the regulatory impact statement, and any rule changes.

12. **Legislative Service Bureau** – Proposed rule is finalized and is sent to the Legislative Service Bureau to determine whether the rule is proper in form, classification, and arrangement. If approved, it issues a Certificate of Approval within 21 days. It can also send it back to the agency, which must resubmit it. The Legislative Service Bureau then has the rest of the 21 days or 6 days, whichever is longer, to approve it.

13. **MOAHR** - MOAHR then certifies the adopted rule for legality. It then submits the JCAR package to JCAR.

- Package Includes: the rule; agency reports; regulatory impact statement with many required items; certificates of approval; request for rulemaking and response; and small business impact statement.

14. **JCAR (Skip to Step 18 If Emergency)** - JCAR has 15 legislative session days to respond to the package. It can either file a notice of objection, request a change, introduce bills to enact the subject of the rule into law, or waive the remaining days.

- May Object If Rule: lacks statutory authority; exceeds the scope of statutory rulemaking authority; creates an emergency to public health, safety, or welfare; conflicts with state law; has a substantial change in circumstances; is arbitrary or capricious; or is unduly burdensome to the public or licensees.

If Committee Objects:

- Committee approves notice of objection and files with MOAHR.
- Members of the Committee introduce bills in both the House and Senate to either rescind the rule on its effective date, repeal the statutory authority, or stay (delay) the effective date of the rule for 1 year.
- Legislature is given 15 session days to pass it.
- If not passed, rule may be filed with Secretary of State.
- If passed and Governor vetoes it, rule may be filed with Secretary of State.
- If passed and Governor does NOT veto it, rule fails.
- If Committee rescinds its notice of objection, rule may be filed with the Secretary of State.

If Committee Requests a Change:

- Rule is returned to agency with the suggested changes.
- Agency has 30 days to either change it or make no changes.
- If NOT changed, agency notifies the Committee, which has 15 session days to respond and again take one of the actions listed.
- If changed, agency withdraws rule and resubmits it with changes (15 session days is placed on hold).
- After being resubmitted, agency sends a request to promulgate a rule with MOAHR with the text changes.
- MOAHR must review the regulatory impact or impact on small businesses to see if the changes are more burdensome.
- If more burdensome, agency must prepare a new agency report and hold another public hearing.
- After determination by MOAHR, agency sends a supplement to the agency report that includes the determination and whether a new report and hearing is required and explanation for the rule changes.
- Committee again reviews it and takes one of the actions listed.

If Committee Introduces Bills to Enact It:

- Committee prepares bills with the subject of the proposed rule.
- Committee chair and alternative chair introduces bills in the House and Senate.
- Legislature has 270 days to pass it (Rule is placed on hold during this time).
- If passed and Governor vetoes it, rule may be filed with Secretary of State.
- If passed and Governor does NOT veto it, rule fails.

If Committee Waives the Remaining Days:

- Committee immediately notifies MOAHR of the waiver.
- May be filed with Secretary of State.

If Committee Takes No Action:

- May be filed with Secretary of State.

15. **Rule Adoption** - Agency adopts the proposed rule during a meeting.

16. **Governor (Emergency Rules Only)** - Emergency rules go to the Governor who must certify that the rule is an emergency.

17. **Secretary of State** - If JCAR does not act by the deadline, JCAR waives the remaining days, the legislature fails to pass bills under an objection within 15 days, or JCAR rescinds an objection, the rule is sent to the Secretary of State for filing in the Michigan Register. If JCAR decides to introduce bills, and they are not passed within 270 days, the agency can send the rule to the Secretary of State for filing.

18. **Effective Date** –

- Rules take effect immediately after filing or a later date specified in the rule.
- If the Committee objects or introduces bills to pass it and Governor vetoes it, the rule takes effect 7 days after filing or a later date specified.
- Emergency rules take effect immediately and last up to 6 months or a date specified and can be extended 6 months.

19. **Michigan Administrative Code (Skip for Emergency Rules)** – Adopted rule is published in the Code.

20. **Legislative Review (If Applicable)** – JCAR, a standing committee, or a legislator that finds a rule is unauthorized, not within legislative intent, or expedient, they can introduce a bill during a regular legislative session (and special session if in Governor proclamation) to amend or rescind it.

21. **JCAR Suspension (If Applicable)** – JCAR may suspend a rule introduced between legislative sessions if a concurrent resolution is passed authorizing it. It must notify the agency, Secretary of State, and MOAHR. The rule may be suspended until the end of the next regular legislative session.
22. **Annual Regulatory Plan** – Agency must complete an annual regulatory plan with the rules it expects to review in the next year, rules it expects to process, mandatory statutory rule authority not used, and rules it plans to rescind. It is submitted for approval to MOAHR by July 1st, sent to JCAR, and then sent to relevant standing committees of the legislature.
- Rule Review Includes: whether there is still a need, summary of complaints or concerns received, complexity of rule, if the rule conflicts with or duplicates rules of the federal or local governments, and date of last evaluation with changes to technology, economic conditions, or other factors since.

Minnesota

https://www.revisor.mn.gov/revisor/pubs/arule_drafting_manual/ruleguide.htm

(Minnesota Administrative Procedure Act: Minnesota Statutes Chapter 14; MN Administrative Rules Chapter 1400)

NOTE: Exceptions to the APA can be found in §14.03.

TYPES OF RULES:

- Rules Adopted Without a Hearing – regular rules for which a hearing is NOT held
- Rules Adopted With a Hearing – regular rules where a hearing IS held

- Exempt Rules – rules that either are exempt by statute from the APA or from the definition of rule that have their own special process
 - Exempt Rules Excluded from Process: 1) rules exempt under 14.03; 2) game and fish rules relating to seasons and areas, tagging and registering game and fish, take to protect a species, prevent or control wildlife disease, night bow fishing waters, regulate import, transport, and possession of wild animals, prohibited and regulated invasive species and unregulated nonnative species along with emergency rules; 3) experimental and special management waters, 4) game refuges; and 5) natural resources transaction fees for licenses, permits, stamps, registrations or transfers.

- Good Cause Exemption Rules – when good cause that the rule process is unnecessary, impracticable, or contrary to public interest AND are for 1) serious and immediate threat to public health, safety, and welfare, 2) compliance with court order or federal law, 3) incorporate changes in statutes, or 4) make changes that do not change sense, meaning, or effect

- Expedited Rules – process to pass a rule more quickly – used when a statute authorizing a rule either requires or allows this process to be used

STEPS FOR RULES WITH AND WITHOUT A HEARING AND EXPEDITED RULES:

1. **Petition (If Applicable)** - Any citizen may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to make a decision and respond in writing. It can deny the petition or approve it and start the rulemaking process below.

A unit of local government may petition an agency to amend or repeal all or a part of a rule. The petition must demonstrate significant new evidence relating to its need or reasonableness or less costly or intrusive methods.

- Agency must respond in writing in 30 days and state that it will review it within 90 days and either send notice of intent to adopt under expedited process or that it will not start the process and has requested the Office of Administrative Hearings to review it.
 - If review is requested, it goes to an administrative law judge.
 - Anyone has 10 days to submit documents for them.
 - If petition complies with requirements, administrative law judge gives notice of a hearing.
 - Hearing is held and agency presents facts.
 - Administrative law judge makes decision within 120 days of receipt.
 - Judge may dismiss the petition if petition did not comply with the requirements, rule complies with court order, or rule is required for federal law or for federal program.
 - Decision is sent in 30 days to chairs of House and Senate government operations committees and relevant agency committees.
 - If found to not be a continued need for or reasonableness, rule is no longer effective within 90 days of decision unless agency publishes notice of intent to amend or repeal it.
 - If agency intends to amend or repeal it, it uses the expedited process and must complete it within 90 days of the decision if no hearing and 180 days if hearing is held.
2. **Agency Rulemaking Docket** – Agency must maintain a rulemaking docket on rules it plans on proposing from start to finish.
- Docket Includes: subject matter; citation to all published notices; where to inspect written comments; time for written comments; persons who requested a public hearing, where to inspect request, and date of hearing; current status and agency determinations; timetable for actions; date of adoption; date filed with Secretary of State; and when rule becomes effective.
3. **Notice Of Comment Period (Skip for Expedited Rules)** - A Notice of Comment Period is published in the Minnesota Register at least 60 days before the notice of intent or notice of hearing (may be reduced to 30 days with good cause) and within 60 days of the effective date of any new or amended law requiring it.
- Notice Includes: description of subject matter; groups and individuals affected; where, when, and how to comment; and how to obtain any drafts.
4. **Advisory Committees (Optional)** – Agency may appoint advisory committees.

5. **Drafted** - Rule is drafted by the agency or with the help of the Revisor of Statutes. The Revisor reviews proposed rule and approves it.
6. **Commissioner of Agriculture (Farming Operation Rules Only)** – If a rule affects farming operations, a copy is sent to the Commissioner of Agriculture at least 30 days before the notice of intent or notice of hearing.
7. **Statement Of Need and Reasonableness (If No Hearing; Skip for Expedited Rules)** - Agency must prepare a statement of need and reasonableness, which must be available to the public and sent to the Legislative Reference Library by the time the notice of intent is published.
 - Statement Includes: description of classes of people affected, including its costs and benefits; costs for implementation and enforcement to agencies and effect on state revenue; determination of any less costly or intrusive methods available; alternative methods seriously considered and why not used; probable costs of compliance including for specific classes; probable costs or consequences for not adopting the rule including for specific classes; assessment how the rule differs from federal regulations and need and reasonableness for each one; and assessment of cumulative effect on other relevant state and federal regulations; how the rule supports performance-based regulatory systems; the additional efforts to notify those classes impacted by a rule or why it was not done; and how to request a hearing and submit comments.
8. **Revisor of Statutes** – Rule goes to the Revisor for approval of its form.
9. **Notice Of Proposed Expedited Rules (Expedited Rules Only)** - For expedited rules, the rule must be approved by the governor before a notice of proposed expedited rules is published in the Minnesota Register.
10. **Notice Of Intent to Adopt Rules Without a Hearing (If No Public Hearing; Skip to Step 17 for Expedited)** - If the agency does not plan to hold a hearing, a Notice of Intent to Adopt Rules without a Public Hearing is published in the Minnesota Register. Notice and statement of need and reasonable must also be sent to the chairs and ranking members of the relevant policy and budget committees. If the rule is within 2 years of authority granting legislation, the rule and statement must be sent to the chief authors of the bill or chief authors of the amendment granting it. Notice is also sent to those who request it. Additional notice is sent to significantly impacted persons or classes through newsletters, newspapers, other publications, or other means.

- FAILS IF: not published within 18 months of any law requiring the rule.
- Notice Includes: proposed rule; summary of its effect; statutory authority; statement of how to register to receive notices; statement advising public that it
 - 1) may comment in support or opposition,
 - 2) date comments are due of at least 30 days,
 - 3) that comments must identify the portion addressed, reasons, and any changes,
 - 4) that public hearing will be held if requested by 25 or more people during the comment period,
 - 5) that name and address, portion of rule objected to or if the entire rule, and that if missing information it does not count,
 - 6) that proposed changes to the rule are encouraged,
 - 7) how to submit comments or requests for a hearing,
 - 8) that if hearing is held, the hearing procedure must be followed,
 - 9) that if no hearing, rule goes to the Office of Administrative Hearings for legality,
 - 10) that comments on the legality must be within the 30-day comment period,
 - 11) that request may be made to be notified when the rule goes to the OAH for review,
 - 12) that proposed rules may be modified to support data and views,
 - 13) if no hearing, notice of receipt by administrative law judge will be mailed to those who request it,
 - 14) citation to the parts of the APA the agency must follow,
 - 15) that proposed rule is attached or how to obtain it,
 - 16) if an entire rule is being repealed with citation, and
 - 17) that statement of need of and reasonableness is available and where; and date comment period ends.

Public Comments (If No Public Hearing) – Public has 30 days to comment on the proposed rule in the manner and by the deadline in the notice. This includes expedited rules.

If a request for public hearing is requested within the 30-day comment period, then Steps 11-16 are followed. Otherwise, skip to Step 17.

11. **Administrative Law Judge (If Public Hearing Scheduled or Requested)** - The administrative law judge must be sent the Notice of Public Hearing or Dual Notice for approval. The administrative law judge can approve it or request changes within 5 working days. The administrative law judge also schedules the hearing and determines how many must be held.
12. **Statement Of Need and Reasonableness (If Hearing)** - Agency must prepare a statement of need and reasonableness by the time it publishes the notice of hearing below, which must be available to the public and sent to the Legislative Reference Library.

- Statement Includes: same information required if no hearing per STEP 7 other than the information to request a hearing.

13. Notice Of Hearing (If Hearing) - The Notice of Public Hearing OR Dual Notice: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received is published in the Minnesota Register at least 30 days before the hearing and at least 60 days after comments requested. Notice and statement of need and reasonableness are sent to the chairs and ranking members of the relevant policy and budget committees. If the rule is within 2 years of authority granting legislation, they must be sent to the chief authors of the bill or chief authors of the amendment granting it. Notice is also sent to those who request it at least 30 days before the hearing. Additional notice is sent to significantly impacted persons or classes through newsletters, newspapers, other publications, or other means.

- Notice Includes: rule text; summary of its effect; specific statutory authority; place, date, and time of public hearing; statement that anyone may register to receive notifications about rules; notice of intent to adopt a rule; how all interested persons have an opportunity to participate and present their views at the hearing; procedure for submitting written materials after hearing; that persons may ask the administrative law judge procedural questions and their information; that a person may request to be notified when the judge's report is available; that a person may request notification when the agency adopts the rule and files it with Secretary of State; that lobbyists must register with Campaign Finance and Public Disclosure Board; that a hearing is ordered; that the agency intends to adopt the rule and the APA that must be followed; that rule is attached or where to get it; if an entire rule is being repealed and citation; statement of need and reasonableness and location; that modifications may be made based on comments; and any other required information.

- FAILS IF: not published within 18 months of any law requiring the rule

14. Public Hearing (If Hearing) - Public hearing is held. If 25 people request a hearing under a dual notice, the agency must schedule one at least 10 days after the request period. Agency must share facts of need and reasonableness during the hearing. If a rule affects farming operations, one hearing must be scheduled in an agricultural area.

15. Additional Comments (If Hearing) - Public may comment on the proposed rule 5 working days after the hearing ends, and it may be extended to 20 days by the

administrative law judge. Then there is a 5 working day rebuttal period for the public to respond to comments.

For expedited rules, agency must send any changes to Office of Administrative Hearings for review and approval.

16. Administrative Law Judge Report (If Hearing) – The administrative law judge has 30 days after the comment period ends to prepare a report.

- Report Includes: 1) facts, conclusions, and recommendations; and 2) how much the agency documented its statutory authority, fulfilled procedural requirements, and demonstrated need for and reasonableness of rule.

If Substantially Different or Does Not Meet Procedure for Rule with A Hearing:

- Rule is reviewed by chief administrative law judge.
- If chief administrative law judge agrees, the agency and revisor of statutes are notified of corrective actions.
- Agency must make the corrections or show that the procedure for a substantially different rule was followed before adopting the rule.

If Need or Reasonableness Not Established:

- If not corrected, rule is sent to Legislative Coordinating Commission and to House and Senate policy committees over state governmental operations for advice.
- Agency must wait until advice is received or for 60 days and consider any advice before adopting the rule.

17. Rule Changes (If Applicable) – Agency may make changes to the rule if they are not substantially different from the notice or if they are in the scope of matter in the notice, are a logical outgrowth of comments, and notice warned that such changes could take place. Agency must get rule approved for form by Revisor of Statutes and send it to the administrative law judge for review for legality and if substantially different. If substantially different, agency must make recommended changes or comply with procedure to adopt a substantially different rule.

Procedure for Substantially Different Rule:

- Agency sends each person that commented on the rule or requested to be notified at the hearing the substantially different rule AND a statement of such, explanation of changes, and that comments are being accepted and deadline.
- Public has 15 days to comment on the substantially different rule.

- Agency considers comments and sends the copy of the rule, statement, and responses received to the chief administrative law judge.
- Chief judge has 10 days to approve or disapprove it based on whether these requirements were met, the changes were based on comments, rule complies with review requirements, and whether it is fair to adopt the rule without a new proceeding.
- If approved, agency may adopt it within 5 working days.
- If disapproved, agency must start a new rulemaking.

18. Committee Vote to Delay (If Applicable) – If at any time after the notice is published, standing committees in both the House and Senate vote that the rule should not be adopted, the rule may not be adopted until after the adjournment of the next legislative session. Committee must notify agency, Revisor of Statutes, and chief administrative as soon as possible and publish it in the Register.

19. Rule Adoption – If administrative law judge finds no defects or issues are corrected, agency adopts rule at a meeting.

20. Legislative Approval (If Applicable) – Before the close of the hearing record or before being sent to the administrative law judge, an agency must determine if the cost in the first year will exceed \$25,000 for 1 business with less than 50 full-time employees or 1 statutory or home rule charter city with less than 10 full-time employees. The administrative law judge then reviews it. If agency finds it will exceed it or administrative law judge disagrees that it will not, then those businesses or cities may file a written statement for a temporary exemption from the rule that expires after a law is enacted.

- Exempt: rule from a specific federal statutory or regulatory mandate; rule under good cause exemption or other exempt rule; Public Utilities Commission; or with a Governor waiver

21. Delay for Local Implementation (If Applicable) - Before the close of the hearing record or before being sent to the administrative law judge, agency determines whether the rule will require a local government to amend or adopt an ordinance to comply. If agency finds it will or administrative law judge disagrees that it will not, then the rule effective date is delayed.

- Exempt: rules under good cause exemption, expedited rules, and rules repealing an obsolete rule; rules required to be adopted by law before the delayed date;

rules from a specific federal statutory or regulatory mandate; exempt rules; or with a Governor waiver.

22. **Administrative Law Judge** – A rule adopted with or without a hearing is sent to Chief Administrative Law Judge, which requests certification of the form from the Revisor of Statutes. Revisor must receive it within 5 weekdays (5 working days if rule with hearing) or notice that the form is not approved along with a corrected version of the rule.

If No Hearing:

- The administrative law judge has 14 days to approve or disapprove a rule.
- If disapproved, recommendations to correct it are made.
- Sent to chief administrative law judge for approval.
- If chief administrative law judge approves the administrative law judge disapproval, it notifies agency, Legislative Coordinating Commission, House and Senate policy committees for state governmental operations, and Revisor of Statutes.
- Agency has 30 days to amend it, have the form approved by the Revisor, and then resubmit it.
- Chief Administrative Law Judge either approves or disapproves the changes.

If No Hearing and Need or Reasonableness Not Established:

- If not corrected, rule is sent to Legislative Coordinating Commission and to House and Senate policy committees over state governmental operations for advice.
- Agency must wait until advice is received or for 60 days and consider any advice before adopting the rule.
- FAILS IF: No hearing and rule is not sent to administrative law judge within 180 days unless rejected and resubmitted.
- FAILS IF: Rejected again after resubmitted.

For expedited rules, the ALJ has 14 days to review it for legality.

23. **Secretary of State** - Office of Administrative Hearings files adopted rule with Secretary of State.

24. **Revisor** - Revisor prepares notice of adoption or notice of adopted expedited rules.

25. Notice of Adoption or Notice of Adopted Expedited Rules - Notice of adopted permanent rules or adopted expedited rules published in the Minnesota Register.

- Notice Includes: any changes made, description, explanation and why they are not substantially different or meet the requirements to adopt one; that all procedures were followed; if no hearing, number that requested one and number that withdrew request; number that requested to be notified when the rule went to the OAH; statement of need and reasonableness; and statement of adoption.
- FAILS IF: Agency does NOT submit notice within 180 days of the administrative law judge's or the chief administrative law judge's report. Excludes administrative law judge review required by law, days it cannot be adopted due to the legislative review under Step 20, or days it cannot be adopted due to committee vote to delay under Step 18.

26. Effective Date –

- Rules take effect 5 working days after published or a later date in the rule.
- Rules that are delayed due to impact on local governments take effect on the next January 1 or July 1 after notice of adoption or a later date in the rule.

27. Governor Veto – Governor can veto an adopted rule that exceeds the agency's authority by submitting a veto notice to Minnesota Register within 14 days. Veto takes effect immediately. This includes rules adopted with or without a hearing, expedited rules, and repealing obsolete rules.

28. Agency Rulemaking Docket – Agency sends its rulemaking docket for all rules adopted in the past year and records by January 15th each year to the chairs and ranking members of the relevant policy and budget committees.

29. Agency Review – Agency must submit a list of obsolete, unnecessary, or duplicative rules and their reasons annually by December 1st to the Governor, Legislative Coordinating Commission, policy and funding committees, and divisions with jurisdiction over the agency. Agency must have a timetable for repeal or develop a bill to introduce in the policy committees to repeal it with authorization to use expedited procedures.

STEPS FOR EXEMPT AND GOOD CAUSE EXEMPT RULES:

1. **Drafted** - Rule is drafted by the agency or with the help of the Revisor of Statutes. The Revisor reviews proposed rule and approves it.
2. **Revisor of Statutes** – Rule goes to the Revisor for approval of its form.
3. **Governor** – Rule needs approval from the Governor.
4. **Rule Adoption** – Exempt rule is adopted by the agency.
5. **Office of Administrative Hearings/Administrative Law Judge** - Exempt rules are sent to the Office of Administrative Hearings and assigned an administrative law judge to be reviewed for legality within 14 days. For good cause exemption rules, if disapproved, agency may have chief administrative law judge review it.
6. **Secretary of State** – Adopted exempt rule is sent by the OAH to the Secretary of State, who forwards a copy to the Governor.
7. **Notice of Adoption** – Adopted exempt rule is published in the Minnesota Register.
8. **Effective Dates** –
 - Exempt rules take effect after publishing in the Register and last up to 2 years.
 - Exempt rules for public health, safety, and welfare or to comply with a court order or federal law take effect after publishing and last up to 2 years.
 - Exempt rules to incorporate changes in statute or make technical changes take effect after publishing.
9. **Governor Veto** – Governor can veto an adopted rule that exceeds the agency's authority by submitting a veto notice to Minnesota Register within 14 days. Veto takes effect immediately.

Mississippi

(Mississippi Administrative Procedure Law: Miss. Code Ann. Title 25 Chapter 43)

NOTE: Exceptions are found in § 25-43-1.102 under the definition of rule.

TYPES OF RULES

- Permanent Rules – all rules not temporary rules
- Temporary Rules – rules addressing imminent peril to public health, safety, or welfare

STEPS:

1. **Small Business Regulatory Review Committee Petition (If Applicable)** – The Committee may petition an agency to amend, revise, or revoke a rule impacting small businesses. The agency has 60 days to make a determination. If approved, it must start the rulemaking process below. If disapproved, the Committee has 30 days to submit new data.
 - Petition Must Address: continued need; complaints or comments received; rule complexity; extent rule overlaps, duplicates, or conflicts with federal, state, and local laws; and length of time since last evaluation and how changes to technology, economic conditions, and other factors have changed pertaining to the rule.
2. **Rulemaking Docket** – Agency must keep a rulemaking docket of all proposed rules.
 - Docket Includes: subject matter; citation to notices; where to view written comments or requests for hearings; time for written comments; where and when any public hearing is held; where to inspect economic impact statement; current status; any date of adoption; and effective date.
3. **Comment Period (Optional)** – Agency may hold a public comment period on the subject matter of a proposed rule by publishing a notice in the Mississippi Administrative Bulletin with the subject matter and how to comment.
4. **Committees (Optional)** – Agency may also appoint a committee of members of the public to comment on the subject matter. A list of members is published in the Mississippi Administrative Bulletin.
5. **Drafted** - Proposed rule is drafted.
6. **Economic Impact Statement (Skip for Temporary Rules)** – If a rule is new or has a significant amendment of at least \$100,000 in total costs AND imposes a duty,

responsibility, or requirement on a person, agency must determine the economic impact and benefits and file an economic impact statement with the Secretary of State.

- Extra Requirements: estimate of number of small businesses subject to the rule; compliance reporting, recordkeeping, and other administrative costs and skills for preparation of records; statement of effect on impacted small businesses; and less intrusive or costly methods.

7. **Small Business Regulatory Review Committee** – If an economic impact statement shows an economic effect on small businesses, agency sends the proposed rule and economic impact statement to the Small Business Regulatory Review Committee. The Committee then reviews and comments on it during the public comment period.

If no economic impact on small businesses or agency does not file an economic impact statement, Committee may file its own with the Secretary of State. If the rule has not been adopted and filed, the Committee then has 60 days from the time it files the statement to comment on the rule.

8. **Notice Of Proposed Rule Adoption (Optional for Temporary Rule)** - Notice is published in the Mississippi Administrative Bulletin. Notice must also be sent within 3 days to those who requested it. Notice is not required for temporary rules, but the agency may publish notice.

- Notice Includes: explanation of purpose and reasons; specific legal authority; reference to rules amended, repealed, or suspended; rule text; when, where, and how to submit comments; and where, when, and how to request a hearing if not provided.

9. **Public Comment (Optional for Temporary Rules)** - Public may comment on the proposed rule for at least 25 days (and at least 20 days after the economic impact statement is published) in the manner and by the deadline listed in the notice. Comment period not required for temporary rules, but the agency may hold one.

10. **Public Hearing (If Applicable)** - Agency holds a public hearing at least 20 days after the notice if scheduled. If a political subdivision, agency or 10 people request one within 20 days of the notice, it must schedule one at least 20 days after publishing notice in the Bulletin, and must also notify those who request it within 3 days.

11. **Rule Changes (If Applicable)** – Agency may make changes to the rule if the changes are within the scope and issues in the notice, are a logical outgrowth of the public comments, and notice warned that the outcome could be the changes.

12. **Rule Adoption** - Rule may be adopted by the agency at a meeting no sooner than 25 days after the notice.

13. **Secretary of State** - Adopted rule goes to the Secretary of State for certification and filing.

14. **Effective Date** –

- Rules take effect 30 days after filing or a later date specified by statute or in the rule.
- Rules 1) required by Constitution, statute, or court order, 2) only conferring a benefit or removing a restriction, 3) that delay effective date of another rule, or 4) due to imminent peril of public health, safety, and welfare take effect upon filing or a date specified less than 30 days.
- Emergency rules take effect immediately or a date less than 30 days as specified in the rule and last up to 120 days plus an additional 90 days if renewed.

15. **Agency Review** - The agency must review its rules every 5 years to see if they need amended or repealed or a new one adopted. If so, it must follow the procedure above.

- Extra Factors to Consider: continued need; complaints or comments received; rule complexity; extent rule overlaps, duplicates, or conflicts with federal, state, and local laws; and length of time since last evaluation and how changes to technology, economic conditions, and other factors have changed pertaining to the rule.

Missouri

<https://www.sos.mo.gov/adrules/manual/manual>

(Missouri Administrative Procedure and Review: RSMo Title XXXVI, Chapter 536; Executive Order 96-18; 4 CSR 262-1.010 and 262-1.020)

TYPES OF RULES:

- Proposed Rules – brand new rules
- Proposed Amendment – rules that amend an existing rule
- Proposed Recission – rules that repeal an existing rule
- Emergency Rules – rules that address an immediate danger to public health, safety, and welfare or “preserve a compelling governmental interest”

STEPS:

1. **Petition (If Applicable)** - A citizen may petition the agency to adopt, amend or repeal a rule. The agency must forward it to the Joint Committee on Administrative Rules. The agency must respond in writing within 60 days and notify the Committee of its decision. It can deny the petition or approve it and start the rulemaking process below.
2. **Determine Necessity** – Agency is required to have “substantial evidence on the record” and a finding of necessity for the proposal.
3. **Drafting Comments (Optional)** – Agency may hold a comment period before drafting the rule by publishing a notice of rule under consideration in the Missouri Register.
 - Notice Includes: subject matter being proposed; where, when, and how to comment.
4. **Drafting Committee (Optional)** – Agency may appoint a committee to comment on a subject matter of a potential rule.
5. **Economic Impact on Small Businesses (Skip for Emergency Rules)** – Per Executive Order 96-18, agency must determine whether a rule will have a direct economic impact on small businesses of \$500 or more. If it impacts small businesses, agency must also prepare a small business impact statement.
 - Excludes: emergency rules; rules federally mandated; and rules that substantially codify existing federal or state laws.
6. **Takings Analysis (If Applicable – Skip for Emergency Rules)** – If a proposal will limit or affect use of real property, agency conducts a takings analysis.

- Excludes: emergency rules; rules federally mandated; and rules that substantially codify existing federal or state laws.
7. **Fiscal Note for Public Funds (If Applicable)** – Agency must prepare a fiscal note if rule results in expenditure of public funds or reduction of public revenue for any state agency or political subdivision of more than \$500.
 8. **Fiscal Note (If Applicable)** – Agency must prepare a fiscal note if rule results in expenditure of money or reduction in income for any person, firm, corporation, association, partnership, proprietorship or business entity of more than \$500.
 - Note Includes: estimated number or character by class of such entities affected; classification by type of business entity to provide number and kinds affected; and estimate of cost of compliance.
 9. **Drafted** - Proposed rule is drafted.
 10. **Joint Committee on Administrative Rules (JCAR)** - Notice of proposed rulemaking must be filed with the Small Business Regulatory Fairness Board (if applicable), Joint Committee on Administrative Rules (JCAR), and Administrative Rules of the Office of the Secretary of State. Committee may hold a hearing.

Letter to Secretary of State must include whether the rule will have an economic impact on small businesses and if a takings analysis was done.

For emergency rules, only the text, fiscal note, facts, reasons, and findings are required to be filed and only with JCAR.

11. **If Disapproved by JCAR, Legislature** - If JCAR disapproves the order, it is sent to the House and Senate in a concurrent resolution. The legislature has 30 legislative days during the same session to pass it.

- FAILS IF: both disapprove the rule by the deadline.

For emergency rules, JCAR can submit comments or recommendations to the House Appropriations and Budget Committee or the Senate Appropriations Committee for review. It can also submit them to the Secretary of State for publishing in the register.

12. **Notice of Proposed Rulemaking** – Notice is published in the Missouri Register. For regular rules, the agency must either include a Notice of Public Hearing or Notice to Submit Comments or both.
- Exempt: hunting or fishing seasons or limits; and establish state program under federal education acts or regulations.
 - Notice Includes: explanation and reasons for the rule; legal authority; rule text (summary of extensive); if rescinded, number and subject matter of existing rule; notice of place and time of public comment period of at least 30 days; date and time of any hearing ordered or that none was ordered; and revised fiscal note if changed.
 - FAILS IF: Fiscal notes are not published if required.
13. **Public Comments (Skip for Emergency Rules)** - Public has at least 30 days to submit comments on the proposed rule in the manner and by the deadline in the notice.
14. **Public Hearing (Optional – Skip for Emergency Rules)** - A public hearing is held at least 30 days after the notice. If the agency decides to hold a hearing after the original notice, it must submit a new one and wait 30 days.
15. **Rule Adoption** - Agency adopts the rule at a meeting.
16. **Final Order of Rulemaking Prepared** - Agency writes the final order of rulemaking that includes any comments and responses and explanation of any changes.
17. **Joint Committee on Administrative Rules (JCAR)** - The final order of rulemaking is filed with JCAR and Small Business Regulatory Fairness Board (if applicable). JCAR may hold a hearing on the rule. JCAR has a 30-day review period to either approve or disapprove it. If no action is taken, it is considered approved.
- May Be Disapproved If: no statutory authority; emergency relating to public health, safety, or welfare; in conflict with state law; substantial change in circumstance since law it is based on was enacted; or it is arbitrary or capricious.
18. **If Disapproved by JCAR, Legislature** - If JCAR disapproves the order, it is sent to the House and Senate in a concurrent resolution. The legislature has 30 legislative days during the same session to pass it.

- FAILS IF: both disapprove the rule by the deadline.

19. **Final Order of Rulemaking** - The final order of rulemaking is then filed to be published in the Missouri Register. The agency has 90 days from the end of the comment period or 90 days after any hearing to file it. The deadline is stopped if the rule is under abeyance (temporary suspension) by executive order.

- FAILS IF: agency does not file final order by deadline.
- Order Includes: date and page(s) of notice of proposed rulemaking in Missouri Register publication; explanation and reasons for any text changes; full text of any changes; brief summary of comments received and concise summary of testimony received and agency findings on such information; and legal authority.

20. **Missouri Code of State Regulations** - Adopted rule is published in the Missouri Code of State Regulations.

21. **Effective Date** –

- Rules take effect 30 days after publishing in the Code or a later date specified.
- Rules for hunting and fishing seasons and limits that require compliance with federal law or are necessary due to population changes take effect 10 days after publishing in the Code.
- Emergency rules take effect 10 business days after filing with Secretary of State or later date specified and last up to the longer of 180 days or 30 legislative days.

22. **Adjusted Fiscal Note (If Applicable)** – If cost of a rule at the end of the first full fiscal year exceeds the estimated cost by 10% or more or exceeds \$500, notice with both costs is published in the Missouri Register within 90 days at the end of the fiscal year.

- FAILS IF: Agency does NOT file notice when required.

23. **Agency Review** - The agency must review the rules every 5 years to determine if any of them need amended or repealed and publish a notice of agency review in the Register. It must then prepare a report of its results and send it to JCAR and Small Business Regulatory Fairness Board by June 13th of the year after publication. If report is not filed on time, JCAR notifies Secretary of State for publishing in the Register. Rule is then void after the 60th day of the next legislative session unless the agency corrects it within 90 days of publication. If rules need amended or repealed, the agency follows the procedure above.

- Notice Includes: CSR titles under review; notice that comments are accepted for 60 days; notice that comments must contain commenter, specific rule, and relevant comments; and agency contact person.
- Report Includes: whether each rule is still necessary by looking at purpose, scope, and intent; whether rule is obsolete due to length of time since last change or changes to technology, economic conditions, or other factors; whether rule overlaps, duplicates, or conflicts with state law or federal or local laws; whether a less restrictive, more narrow, or alternative rule could accomplish same purpose; whether rule needs amended or rescinded to reduce regulatory burdens on individuals, businesses, and political subdivisions; whether rule has material incorporated by reference and its compliance with this law; if it affects small business, specific public purpose or interest or justification for rule; and comments received and agency responses on the rule.

Montana

https://sosmt.gov/Portals/142/ARM/ARM_flow_chart.pdf?dt=1526399982123

(Montana Administrative Procedure Act: Montana Code Ann. Title 2, Chapters 4 & 5)

NOTE: Exceptions are found in § 2-4-102 under the definitions of “agency” and “rule”. Includes seasonal hunting, fishing, and trapping rules.

TYPES OF RULES:

- Permanent Rules – rules not temporary or emergency
- Temporary Rules – rules that implement a statute passed before October 1
- Emergency Rules – rules addressing imminent peril to public health, safety, or welfare

STEPS:

1. **Petition (If Applicable)** – Any interested person or a legislator for an interested person (if legislature is not in session) may petition the agency to create, amend or repeal a rule. The agency must respond within 60 days and either deny the petition and list its reasons or approve it and start the rulemaking process below.
2. **Sponsor (If Applicable)** - If drafting a rule that initially implements legislation, the agency must contact the primary sponsor to obtain comments and must include known dates of each step of the process and time periods sponsor may comment on it.
3. **Need for Negotiated Rulemaking Committee (If Applicable)** – Agency may determine whether there is a need for a negotiated rulemaking committee and may appoint one. Notice of the committee is published in the Montana Administrative Register along with newspapers and other publications as applicable.
 - Need Determination Based on Whether: there is a need for rule; limited number of interests significantly affected; committee can have balanced representation of those who represent those interests and are willing to negotiate; there is likelihood of reaching consensus; procedure will unreasonably delay notice; agency has resources for that committee; and the agency will use consensus for rule.
 - Notice Includes: announcement of wanting to appoint a negotiated rulemaking committee; description of subject and scope of rule and issues; list of interests significantly impacted; list of persons to represent those interests and the agency; schedule for completing committee work; and how to apply for or nominate someone for the committee.

4. **Negotiated Comment Period (If Applicable)** – Public has 30 days to comment on the negotiated rulemaking and to apply to be on the committee.
5. **Negotiated Rulemaking Committee (If Applicable)** - After considering comments and applications, agency decides whether to appoint a negotiated rulemaking committee. If it decides not to, agency notifies those who commented or applied and publishes notice in the Montana Administrative Register along with newspapers or other publications.

If appointed, Committee meets to work on a consensus on proposed rules or issues. If consensus is reached, Committee sends report of proposed rule to agency. If not, report is sent to agency with areas where consensus was reached and those unresolved.

- Membership Expansion: Committee may contact and add members through consensus that it feels are important. Any person significantly affected that does not have their interested represented may petition or nominate someone to be on the Committee.
6. **Advisory Committees and Conferences (If Applicable)** – Agency may appoint advisory committees of experts and interested persons to get advice during the drafting process. It may also hold conferences to get advice on a rule being drafted.
 7. **Drafted** - Proposed rule is drafted.
 8. **Economic Impact Statement (If Applicable)** – Agency must prepare an economic impact statement if requested by a majority of the members of the administrative rule review committee OR upon written request of 15 legislators.
 9. **Small Business Impact Analysis** - Agency must determine if the rule will significantly and directly impact small businesses. If so, it must prepare a small business impact analysis unless it has an economic impact statement.
 10. **Notice of Proposed Action Written (Optional for Emergency Rules)** - Agency must write a notice of proposed action. Notice is not required for emergency rules, but the agency may publish one. Abbreviated notice may be used for temporary rules.
 - Notice Includes: statement of terms or substance of action and subjects and issues; reasonable necessity for rule; time, place, and manner to submit comments; date and manner that primary sponsor was contacted, if relevant; if new or change in fee, cost, or benefit, estimate of cumulative amount for all persons and number affected; and how to request a hearing.

11. **Departmental Review of Notice (For Emergency Rules, Only if Applicable)** – Each agency has a paralegal, attorney, or other person to review notices before submission to Secretary of State and signs them if approved.

- Review Includes Whether: statement of reasonable necessity is adequate and action is necessary; statutory authority is properly cited; correctness of code section(s) citations; action is contrary to such code section(s); and, for initial law implementation, action is contrary to sponsor comments.

12. **Secretary Of State (For Emergency Rules, Only if Applicable)** - Notice is sent to the Secretary of State to review the format. It then publishes the notice in the Montana Administrative Register. Agency also sends notice to the administrative rule review committee at the same time. Notice is also sent within 3 days after publication to the primary sponsor of the authorizing legislation and those that request it.

13. **Administrative Rule Review Committee** - Secretary of State sends the proposal to the Administrative Rule Review Committee for review. If a majority of members of the Committee notify the presiding officer of their objection to the rule, the Committee notifies the agency that it will be discussing it at the next meeting. The agency must respond within 14 days. The Committee can withdraw its objection or modify its objection if changes are made.

For emergency rules, agency must provide special notice to each Committee member and their staff before adoption with the findings of emergency, rule text, and estimated adoption date.

14. **Legislative Poll** – When the legislature is between sessions, the Committee may poll all legislators to determine if a rule meets legislative intent. It also polls them if at least 20 legislators object to the rule. Agency has a chance to submit written justification for the rule. If poll shows the legislature objects to it, it may be considered not meeting legislative intent upon judicial review.

15. **Public Comments (Optional for Emergency Rules)** - Public is given at least 28 days to comment on the proposed rule in the manner and by the deadline listed.

16. **Notice Of Public Hearing (May Be Included in Original Proposal)** – Notice of public hearing may be published separately in the Montana Administrative Register.

17. **Public Hearing (If Applicable)** - If scheduled, agency must hold a public hearing at least 20 days after the notice. If not scheduled, hearing must be scheduled if requested by

lesser of 10% or 25 people directly affected, by a governmental subdivision or agency, by the administrative rule review committee, or by an association with at least 25 directly affected members. If a matter of significant public interest, agency must hold a hearing.

18. **Comment Extension (If Applicable)** - If the agency decides to extend the comment period, it must file a notice of extension of comment period on proposed action in the Montana Administrative Register.
19. **Comment Review and Statement of Principal Reasons** – Agency must review all comments including those by the sponsor. It must prepare a concise statement of principal reasons for and against adoption with reasons for overruling any reasons against adoption, rule differences not published, and, if implementing initial legislation, comments from the sponsor or why they were not included. Statement is not required if no comments or hearing testimony.
20. **Rule Adoption** - Rule is adopted by the agency at a meeting at least 30 days after the notice and not more than 6 months after the notice of proposed action or 6 months after an amended or supplemental notice.

Rules (other than emergency rules) may not be adopted between October 1 and December 31 of the year prior to the regular legislative session.

Rules for which notice of proposed action is objected to by majority of Committee members before a meeting may not be adopted until the last Register issue before the 6-month expiration period unless the Committee changes its objection at its meeting.

21. **Departmental Review of Notice** – Each agency has a paralegal, attorney, or other person to review notices before submission to Secretary of State and signs them if approved.
 - Review Includes Whether: statement of reasonable necessity is adequate and action is necessary; statutory authority is properly cited; correctness of code section(s) citations; action is contrary to such code section(s); and, for initial law implementation, action is contrary to sponsor comments.
22. **Secretary of State** - Notice of adoption or notice of adoption of emergency rule is sent to the Secretary of State for review for format. For emergency rules, notice must include date and manner that notice was provided to the Committee and staff.

23. **Administrative Rule Review Committee** - Secretary of State sends the notice to the Administrative Rule Review Committee for review. It can again object to the rule in the same manner as for proposed rules. If not withdrawn or modified, the objection is published in the Montana Administrative Register with the notice of adoption.
24. **Notice of Adoption Published** - Notice of adoption is published in the Montana Administrative Register.
25. **Effective Date** –
- Rules take effect after publishing in the register or a later date provided by statute or in the rule.
 - If the Committee meets and objects to the rule before adoption, it does not take effect until final adjournment of the regular legislature session that begins after the proposal notice unless withdrawn or changed.
 - Emergency rules take effect immediately after filing with the Secretary of State or later date specified and last up to 120 days.
 - Temporary rules take effect immediately after filing with the Secretary of State or a later date specified and last until October 1.
26. **Legislative Review** – Legislature may introduce and pass a joint resolution to repeal the rule that was adopted after adjournment of the last regular legislative session. If a resolution is not introduced and passed during the legislative session, it may not be repealed by joint resolution.
27. **Administrative Rules of Montana** - Adopted rule is sent to the Administrative Agency to be added to Administrative Rules of Montana.
28. **Secretary of State** - Secretary of State reviews the format of the added rule.
29. **Agency Review** - Agencies must biannually review their rules to see if any of them need amended or repealed. If so, it follows the procedure above.
30. **Legislative Review of Existing Rules** – Legislature may introduce and pass a bill to repeal any existing rule. Such bill must pass before the legislature adjourns.

Nebraska

<https://sos.nebraska.gov/regulations/overview-regulation-process>

(Nebraska Administrative Procedure Act: Nebraska Rev. Stat. 84-901 et. al.)

TYPES OF RULES:

- Permanent Rules – rules not emergency rules
- Emergency Rules – rules addressing an emergency such as for imminent peril to public health, safety, or welfare or unforeseen loss of federal funding for an agency program

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Negotiated Rulemaking Committee (If Applicable)** – Agency may determine whether a negotiated rulemaking committee is in the public interest and may appoint one. If agency decides to appoint one, it must notify the Secretary of State and publish in a newspaper of general circulation.
 - Determination Based on Whether: there is a need for rule; limited number of interests significantly affected; committee can have balanced representation of those who represent those interests and are willing to negotiate; there is likelihood of reaching consensus; procedure will unreasonably delay notice; agency has resources for that committee; and the agency will use consensus for rule.
 - Notice Includes: announcement of wanting to establish a negotiated rulemaking committee; description of subject and scope of rule and issues; list of interests significantly impacted; list of persons to represent those interests and the agency; schedule for completing committee work; and how to apply for or nominate someone for the committee.

Any person may petition an agency to use a negotiated rulemaking committee. Agency has 60 days to deny the petition in writing or start the negotiated rulemaking process.

3. **Negotiated Comment Period (If Applicable)** – Public has 30 days to comment on the negotiated rulemaking and to apply to be on the committee.
4. **Negotiated Rulemaking Committee (If Applicable)** - After considering comments and applications, agency decides whether to appoint a negotiated rulemaking committee. If

it decides not to, agency notifies those who commented or applied and publishes notice in newspapers of general circulation.

If appointed, Committee meets to work on a consensus on proposed rules or issues. If consensus is reached, Committee sends report of proposed rule to agency. If not, report is sent to agency with areas where consensus was reached and those unresolved.

- **Membership Expansion:** Committee may contact and add members through consensus that it feels are important. Any person significantly affected that does not have their interested represented may petition or nominate someone to be on the Committee.

5. **Drafted** - Proposed rule is drafted.
6. **Notice of Rulemaking Hearing (Skip for Emergency Rules)** - Notice is published on the Secretary of State website with the date, time, and place of the hearing. Notice is also published in a newspaper of general circulation. Emergency rules do not require 30-day notice or a hearing.
7. **Governor Review** – Agency sends the Governor the rule and information for review at least 30 days before the public hearing. This includes emergency rules for approval.
 - **Information Includes:** description of rule and entities impacted; explanation of necessity including specific bill or statute; statement that rule is consistent with legislative intent; statement whether rule was from state mandate on local governmental subdivision and if funded; statement of fiscal impact on state agencies, political subdivisions, and regulated persons; statement that public comments will be solicited before hearing; and statement whether the agency used the negotiated rulemaking process.
8. **Executive Board of the Legislative Council** – Agency must send copy of the hearing notice, rule draft, and information provided to the Governor above to the Executive Board of the Legislative Council for review and to Secretary of State at least 30 days before the public hearing. This includes emergency rules for approval. Board sends the information to the chair of the relevant standing committee of the legislature and the primary sponsor of the bill or amendment authorizing the rule. Committee may submit oral and written comments at the hearing or to the agency and Secretary of State if emergency rule.
9. **Public Comments** - Agency allows public comments.

10. **Public Hearing (Skip for Emergency Rules)** - The agency holds a hearing on the rule at least 30 days after the notice. If the rule is because of a new legislative bill, the hearing must take place within 12 months after the effective date of the bill.

11. **Concise Explanatory Statement** – Agency must prepare a concise explanatory statement.

- Statement Includes: reasons for adopting rule; changes between the original and adopted rule; and why model rules were impracticable, if different from procedure used.

12. **Written Report (Skip for Emergency Rules)** – Agency prepares a written report with the summary of the testimony, specific issues presented by comments or testimony, and agency responses. Report is sent to the Executive Board of the Legislative Council. Board sends it to the relevant standing committee and primary sponsor of bill or amendment that granted the authority.

13. **Legislator Complaint (If Applicable)** – Any member of the legislature may file a complaint against a rule with the Chairperson of the Executive Board of the Legislative Council. The Chairperson sends it to the relevant standing committee of the legislature and the primary sponsor of the bill or amendment that authorized the rule. If found to have merit, they request response from the agency. Agency has 60 days to respond.

- Complaint May Be Made If: 1) aggrieved by a rule; 2) rule exceeds statutory authority, is unconstitutional, is inconsistent with legislative intent, or creates significant burden that outweighs benefits; 3) circumstances have changed; or 4) rule overlaps, duplicates, or conflicts with federal, state, or local law.
- Agency Response Includes: 1) description of rule; 2) if applicable, description of legislative intent and how it is within authority, is constitutional, is within legislative intent, or is not an undue burden; 3) if #2 does NOT apply, why the rule is necessary; and 4) explanation of extent and how public comment was taken into consideration.

14. **Rule Adoption** - The agency adopts the proposed rule at a meeting.

15. **Attorney General (Skip for Emergency Rules)** - The adopted rule is sent to the Attorney General to review the statutory and constitutional authority of the rule and to determine if there are substantial differences to the text.

16. **Governor** - If approved by the Attorney General, the rule goes to the Governor for final approval. If rule applies to a specific geological area, Governor must determine whether adequate notice was given to that area and the area had reasonable opportunity for comment.
17. **Secretary of State** - If approved by the Governor, the adopted rule is sent to the Secretary of State.
18. **Effective Date** –
 - Rules take effect 5 days after filing with the Secretary of State.
 - Emergency rules take effect after approval of the Governor and last up to 90 days unless renewed for another 90 days.
19. **Legislative Performance Audit Committee** – By July 1 of each year, agency must notify the Legislative Performance Audit Committee of all rules required by law that have not been adopted yet with reasons.

Nevada

<https://dcur.nv.gov/uploads/CD-Documents/Rulemaking-Manual-Complete.pdf>

(Nevada Administrative Procedure Act: Nevada Rev. Stat. Chapter 233B)

NOTE: Exceptions are found in § 233B.038 under the definition of “regulation.” Includes rules classifying wildlife and hunting, fishing, and trapping seasons. Exceptions also found in § 233B.039.

TYPES OF RULES:

- Permanent Regulations/Rules – rules not temporary or an emergency
- Temporary Regulations/Rules –
 - rules an agency wants to adopt between July 1 of even-year and July 1 of odd-year
 - rules that only last up to 120 days and are not an emergency rule
- Emergency Regulations/Rules – rules for unforeseen circumstances that require immediate action such as natural disasters and impairment to public health or safety

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Workshop (Optional)** – Agency may hold a workshop on a proposal before it is drafted.
3. **Drafted** - Proposed rule is drafted by the agency. It is considered an initial draft and is published in the Register of Administrative Regulations with the initial I.
4. **Legislative Council Bureau (Skip for Emergency and Temporary Rules)** - The proposed rule is sent to the Legislative Council Bureau for review of its language at least 30 days before the notice of intent. It must also go to the State Librarian. The LCB has 30 days to review it (unless it is received between July 1st of the even-year and July 1st of the odd-year). The LCB adds a digest of the differences between existing laws and rules and the draft, renames it the LCB proposed draft, and publishes it and any recommended changes in the Register of Administrative Regulations with the initial P.

Temporary rules skip this step but must follow the rest of the process.

5. **Governor (Emergency Rules Only)** - Emergency rules go to the Governor who must approve the statement of emergency. If approved, they can be adopted.

6. **Small Business Impact (Skip to Step 15 for Emergency Rules)** - The agency must determine whether the rule will have a direct and significant economic burden on small businesses or directly restricts formation, operation, or expansion of small businesses. If so, it must consult with such businesses, conduct an analysis of its impact, consider methods to reduce the burden, create a small business impact statement at least 15 days before the workshop, and create a statement of the methods used to determine the impact and reasons for the conclusions. If the agency fails to prepare such statement or severely underestimates the rule's impact, a small business can file a petition with the agency within 90 days.

7. **Notice of Workshop** - The agency must post a notice of workshop on its website. It also sends it to the Legislative Council Bureau for posting in the Register of Administrative Regulations with the initial NW. It also sends it to those that request it and provides notice to general public and businesses affected.
 - Notice Includes: small business impact statement, if applicable.

8. **Workshop** – Agency holds a workshop on the rule to give the public a chance to discuss it at least 15 days after the notice.

9. **Notice of Intent to Act Upon a Regulation** - A notice of intent to adopt, amend or repeal a regulation is sent to the Legislative Council Bureau and published in the Nevada Register of Administrative Regulations. Usually this is combined with the notice of hearing and published with the initial NH.
 - Notice Includes: statement of need and purpose; if temporary rule, either text or description and subjects and issues; if permanent, statement where to find the text; estimated economic effect; statement of methods to determine impact on small business; estimated enforcement cost; other state and local laws that the rule overlaps or duplicates and why; if it overlaps or duplicates federal law, name of federal agency; citation and description of any federal law that requires the rule; summary of any provisions more stringent than federal law; date, place, and manner to submit views; if temporary, addresses where rule text may be viewed; concise reasons for and against the rule and why it overruled them; and statement whether rule creates or increases a fee.

10. **Public Comments** - Public is given time to submit written comments on the proposed rule in the manner and by the deadline provided in the notice.

11. **Legislative Commission (If Applicable)** - The Legislative Commission may choose to review a rule before it is adopted, which takes place after the notice and before the public hearing.
12. **Notice of Hearing** – If not combined with the notice of intent or if additional hearings are scheduled, agency posts a notice of hearing on its website at least 3 working days before the hearing and sends it to the Legislative Council Bureau to be published in the Register of Administrative Regulations with the initials NH.
13. **Public Hearing** – Agency holds a hearing on the proposed rule. Agenda must include any small business impact statement.
14. **If Changed, Legislative Council Bureau** - The agency must consider all comments and testimony. If the rule is changed, it must go back to the Legislative Council Bureau for review for language. LCB returns the rule with any proposed revisions within 30 days (unless received between July 1st of even-year to July 1st of odd-year). The revised rule is published in the Register of Administrative Regulations with the initials RP1.
15. **Rule Adoption** - Agency adopts the proposed rule during a meeting. It can also adopt the rule at the public hearing. Rules must be adopted within 2 years after initial submission to the Legislative Council. Adopted rule is published in the Register of Administrative Regulations with the initial A.
16. **Statement of Principal Reasons (If Requested)** – If requested before adoption or within 30 days of adoption, agency must provide a concise statement of principal reasons for and against the rule and reasons for overruling any opinions against it.
17. **Informational Statement** – Agency must prepare an informational statement. Emergency rules do not need to comply with the comment and hearing and rule changes requirements. Such statement is sent to the Legislative Council with the other information, if applicable, or to the Secretary of State. Informational statement is published in the Register of Administrative Regulations with the initials NI.
 - Statement Includes: explanation of need for rule; description how public comment was solicited and summary of responses received and how to obtain a copy; number who attended and testified at the hearing(s) and submitted comments; name, phone number, business address and phone number, email address, and entity or organization represented for each person that submitted comments or testified; how comment was solicited from businesses and a summary of their response and how to obtain it; summary for adoption without change, if applicable; estimated economic effect on impacted businesses and the

public; estimated cost of agency enforcement; other state or government agency rules it overlaps or duplicates and why; federal agency, if it overlaps or duplicates federal law; summary of any provisions more stringent than federal law; and total annual amount expected to be collected and its use, if rule increases or creates a fee.

18. **Legislative Council** – Agency must submit small business impact statement and statement of methods for determining it and reasons and information statement to the Legislative Council Bureau. The LCB endorses it and sends it to the Legislative Commission.
19. **Legislative Commission** - Legislative Commission reviews the adopted rule to make sure it complies with the legislative authority and intent, and if said to be required by federal law, that it really is required. For temporary rules, Commission reviews a temporary rule adopted but not in effect for legislative authority and intent upon request by a legislator. If required by federal law and rule exceeds agency's statutory authority or has more stringent requirements than state statute, agency must include statement that it was required by federal law.
 - If request is received more than 10 working days before the Commission meeting, Commission considers it at the meeting after providing 3 working days' notice. If not, it is sent to Subcommittee to Review Regulations.
 - If emergency exists and rule needs adopted before Commission meeting, agency notifies the Legislative Council, which refers it to the Subcommittee to Review Regulations.
 - If Commission or Subcommittee approves the rule, Legislative Council notifies the agency, and the agency may file it with the Secretary of State.
 - If Commission or Subcommittee object, it returns it to the agency with its reasons.
 - May Object If: not required by federal law; exceeds legislative authority or intent; small business impact statement is inaccurate or incomplete, except temporary rules; or information statement is insufficient or incomplete or does not explain need, except temporary rules.
 - Agency has 60 days to revise the rule to comply.
 - Commission or Subcommittee reviews the revised rule.
 - If approved, Legislative Council notifies agency that it may be sent to Secretary of State.
 - If objected, rule is again returned to the agency.
 - Agency has 30 days to continue to revise it and return it for review until approved for filing.

- If approved by the Commission, Legislative Council Bureau publishes the approved rule in the Register of Administrative Regulations with the initials AP.

20. **Secretary of State** - If approved by the Legislative Commission, the adopted rule is sent by the Legislative Council Bureau to the Secretary of State for filing. Temporary rules may not be filed until 35 days after adoption.

21. **Effective Date** –

- Rules take effect immediately after filing or a later date specified.
- Emergency rules take effect immediately after filing and last up to 120 days.
- Temporary rules for adoptions from July 1 of even-year to July 1 of odd-year take effect immediately and last until Nov 1 of the odd year.
- All other temporary rules only last up to 120 days.

22. **2nd Workshop (Temporary Rules Being Adopted as Permanent Only)** - Temporary rules the agency wants to become permanent before they expire must have a 2nd workshop.

23. **2nd Notice of Hearing (Temporary Rules Being Adopted as Permanent Only)** - Temporary rules adopted for which the agency wants to become permanent must have a 2nd notice.

24. **2nd Hearing (Temporary Rules Being Adopted as Permanent Only)** - Temporary rules adopted for which the agency wants to become permanent must have a 2nd hearing.

25. **Legislative Council (Temporary Rules Being Adopted as Permanent Only)** - Permanent rule replacing a temporary one must be approved by the Legislative Council.

26. **Rule Adoption (Temporary Rules Being Adopted as Permanent Only)** - The agency can adopt the permanent rule to replace a temporary one at a meeting.

27. **Legislative Commission (Temporary Rules Being Adopted as Permanent Only)** - The Legislative Commission or its Subcommittee must approve the adopted rule.

28. **Nevada Administrative Code** – Permanent rules are published in the Nevada Administrative Code.

29. **Agency Review** - An agency must review a rule every 3 years. It must submit a statement to the Secretary of State of the review and any changes made.

An agency must also review all its rules every 10 years to see if any need amended or repealed. It must submit a report to the Legislative Council Bureau within 30 days of completing the review. It is then sent to the legislature for its next session.

New Hampshire

<https://gencourt.state.nh.us/rules/manual/amendedmanualeffective5-1-16amended8-1-19.pdf>

(New Hampshire Administrative Procedure Act: New Hampshire Stat. 541-A; Rules of JLCAR)

NOTE: Exceptions are found in § 541-A:21.

TYPES OF RULES:

- Permanent Rule – rules not an interim or emergency rule
- Emergency Rules – rules that address imminent peril of public health or safety or prevent substantial fiscal harm to state or citizens
- Interim Rules – rules that:
 - Conform with a new or amended statute or session law,
 - Conform with a court decision,
 - Must comply with federal requirement before the normal rulemaking process,
 - Keep a rule from expiring before a permanent rule can be introduced, or
 - Minimize time between expiration and readoption

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days (or 30 days after its next meeting if board, commission, or group) to respond to the petitioner with its decision in writing. It can either deny the petition with its reasons or start the rulemaking process below by requesting a fiscal impact statement and drafting the rule within 120 days.

If JLCAR petitions an agency to adopt, amend, or repeal a rule, and the agency does not start rulemaking within 1 year or file the final proposal within 2 years, the Committee may introduce legislation to remove or reduce the agency's rulemaking authority.

First Stage:

2. **Request for Advance Public Comment on Subject Matter of Possible Rulemaking (Optional)** – Agency may decide to solicit public comments on the proposal during drafting by publishing a notice in the NH Rulemaking Register.
3. **Pre-Process Hearing (Optional)** – Agency may decide to hold a public hearing to help it in the drafting process.
4. **Drafted** - Proposed rule is drafted.
5. **Pre-Process Hearing and Rule Redrafted (Optional)** – Agency may hold another hearing to get input on its draft. It may make changes before starting the official process.

6. **Fiscal Impact Statement** - The agency shall provide information to the Legislative Budget Assistant so it can create a fiscal impact statement. This includes interim rules other than those to address expiring existing rules.
7. **Notice of Proposed Rules (Optional for Interim & Emergency Rules)** - Notice is sent to the Office of Legislative Services (OLS) with the fiscal impact statement and is published in the NH Rulemaking Register.
 - Notice Includes: rule number and title; agency name and address; statutory authority; federal authority citation, if applicable; type of action; summary and analysis of rule; deadline for public comments; date, time, and place of public hearing; people, enterprises, and government agencies affected; agency contact person; fiscal impact statement; NH Constitution Part 1, Article 28-A statement; and any cross-reference table.

Interim rules must either have a notice published in the NH Rulemaking Register at least 14 days before the JLCAR meeting OR notice published in a newspaper of statewide daily circulation and file cover sheet and rule with OLS. If only newspaper is used, agency must send notice to JLCAR within 3 days. If interim rule to conform with statute, notice must be published within 180 days of its effective date.

- Notice Includes: agency name and address; citation to statutory or other authority; citation to federal authority, if applicable; type of action; rule number and title; concise summary of effect; list of people, enterprises, and government agencies affected; summary of effect upon state if not adopted; name, address, and phone number of agency contact person; date to be filed with OLS; and expected date of committee review.
- Cover Sheet Includes: agency name and address; citation of statutory authority; citation of federal authority, if applicable; type of action; rule number and title; signed and dated statement from adoption authority explaining necessity of rule with evidence; list of people, enterprises, and government agencies affected; and name, address, and phone number of agency contact person.

For emergency rules, agency can file abbreviated notice and skip most of the steps.

- Cover Sheet Includes: agency name and address; statutory authority; federal authority, if applicable; type of action; rule number and title; signed and dated statement from adoption authority of basis for emergency and effect if not

adopted; people, enterprises, and government agencies impacted; and name, address, and phone number of agency contact person.

8. **Additional Notices (Skip for Interim & Emergency Rules)** - Notice is also sent at least 20 days before the hearing to the leaders of the House and Senate and chairs of the relevant committees upon request, those who requested notice, and those regulated that hold occupational licenses. For rules for “newly-enacted state authority,” agency sends notice to the chairs of the committees that heard the legislation or to the leaders of the House and Senate if no committee. If a rule impacts municipalities, agency must also notify municipalities.

Policy committees have until the end of the public comment period to review the proposed rule to make sure it complies with legislative intent. If no action by the deadline, it is considered approved. If inconsistent with legislative intent, committee notifies the agency and the Director of the Office of Legislative Services.

9. **JLCAR Legal Counsel** – JLCAR legal counsel review the proposed rule for issues that may cause objections (beyond authority, contrary to legislative intent, not in public interest, or substantial economic impact not in fiscal impact statement). If time, legal counsel notes problems within the rule text. It also lists any noncompliance with the Drafting and Procedure Manual.
10. **Public Comments (Skip for Interim & Emergency Rules)** - Public can comment on the proposed rule in the manner and by the deadline provided in the notice. Comments to a board or commission extend at least 5 business days after a hearing or after the hearing if shorter deadline is in the notice. Comments to an agency extend to 5 business days after the hearing. The Office of Legislative Services and JLCAR legal counsel may also provide comments.
11. **Public Hearing (Optional for Interim & Emergency Rules)** - Agency holds a public hearing on the proposed rule at least 20 days after the notice. The Office of Legislative Services and JLCAR legal staff may also testify.
12. **Postponement and Rescheduling of a Public Hearing Notice (If Applicable – Skip for Interim & Emergency Rules)** – If the public hearing is continued to another date, agency must provide notice including publishing in the NH Rulemaking Register (listed as postponement notice) if practicable. If the original comment deadline is less than the deadline requirements after the continued public hearing, the agency must extend the comment period appropriately.

13. **Continued Public Comments (Optional)** – Agency may extend the public comment period by publishing notice in the NH Rulemaking Register.
14. **Rule Changes (If Applicable)** - An agency cannot change a rule until after the hearing. It can then prepare a draft final proposed rule with any changes.
15. **Draft Final Proposal (If Applicable)** – If the agency holds a hearing or comments on a draft final proposal in the next step, it first prepares the draft with any changes.
16. **Draft Final Proposed Rule: Hearing and Public Comment Period (Optional)** - An agency may hold another hearing or comment period on any draft final proposed rule. Notice may include publishing in the NH Rulemaking Register.
17. **Final Rule** - After all comments and hearings, the agency writes the final proposed rule.
18. **Amended Fiscal Impact Statement (If Applicable)** – If the rule is changed and it affects the fiscal impact statement, agency must request an amended fiscal impact statement from the Legislative Budget Assistant.
19. **Final Proposal (Skip for Interim Rules)** – Final Proposal is sent to the Office of Legislative Services. Director of OLS may require the agency rewrite the rule to comply with drafting and numbering requirements. Rule must be published in the NH Rulemaking Register at least 21 days after notice but within 180 days.
 - Cover Sheet Includes: notice number and date original notice was published; agency name and address; rule title and number; citation of statutory authority; federal authority citation, if applicable; type of action; agency contact person; whether agency requests JLCAR legal counsel review on placement on agenda; whether rule incorporates documents by reference; whether rule has changed and if fiscal impact statement is impacted.
 - Notice Includes: cover sheet; text of final proposed rule; amended fiscal impact statement, if applicable; texts with any changes; appendices with cross-reference table for implementation of statutes and how to obtain materials incorporated by reference; and incorporation by reference statement

Second Stage:

20. **Director of Legislative Services** – Director of Legislative Services sends final proposal to the Joint Legislative Committee on Administrative Rules at least 21 days before the upcoming meeting to be placed on the agenda or it is scheduled at the next one.

21. **JLCAR Legal Counsel** – Rule then again gets reviewed by the Counsel after the submission period to determine if there are any areas that may cause an objection. It must use an annotated copy of the rule showing the problems.

For interim rules, the Counsel reviews it and notifies the agency of any potential objection at least 7 days before the Committee meeting. It must use an annotated copy showing the problems. If any objections, agency may request a conditional approval with the amendments at least 3 days before the meeting.

22. **Joint Legislative Committee on Administrative Rules (JLCAR) (Skip for Emergency & Interim Rules)** - The Committee has 60 days to either approve it, conditionally approve it, or preliminary object it unless waived with good cause. It may be objected if beyond authority, contrary to legislative intent, not in public interest, or has a substantial economic impact not in fiscal impact statement.

- If not acted on by the deadline, it is considered approved and may be adopted by the agency.
- If approved, it may be adopted by the agency.
- Agency may request a rule be conditionally approved with an amendment if filed at least 7 days before the Committee meeting to address the rule.
- If conditionally approved, Committee notifies agency. Agency has 30 days (or 7 days after its next meeting if board or commission) to submit an explanation and how the rule has been amended to comply.
 - If agency amends the proposal, Committee legal counsel reviews it to make sure the changes were properly made.
 - If the changes are correct, Committee legal counsel confirms the changes and sends it to the Office of Legislative Services.
 - After OLS notification, agency may adopt the proposal.
 - If agency does NOT amend the proposal or does NOT respond, Committee legal counsel notifies that agency that the conditional approval was changed into a preliminary objection.
- If preliminary objected, Committee sends letter to agency.
 - Committee may send objection to relevant standing policy committees of the legislature for input. Policy committees have 30 days to meet in executive session and make recommendations or comments.
 - Agency has 45 days to amend the rule, withdraw it, or leave it as is and notify the Committee.
 - FAILS IF: Agency does NOT respond by the deadline.

- Committee legal counsel reviews response to see if any problems that may cause objection remain or new ones were created by the response.
- If no issues or editorial issues, rule is placed on the consent agenda for approval.
 - Committee approves it at the meeting, and the agency may adopt it.
- If issues, rule is placed on consent agenda for objection.
 - Agency can request approval of an amended response if at least 7 days before the scheduled meeting. Committee legal counsel reviews the rule to see if there are problems that will cause objection. If approved, Committee uses the amended response to make a determination. If problems, it refuses the amended response and inquires whether the agency will file a revised objection.
 - Agency can request a revised objection either after the response from the preliminary objection or if any amended response was not approved. This gives the agency a chance to make the changes.
 - If request for revised objection is approved, agency has 45 days to respond.
 - Then Committee legal counsel reviews the revised objection the same as before.
 - Committee can then either approve the rule, make a final objection, or introduce a joint resolution in the legislature to approve its recommendations.
 - a. If approved, agency may adopt the rule.
 - If existing reasons for objection remain or any new ones were created, Committee may either 1) vote for a final objection and file it with OLS for publishing in the NH Rulemaking Register in case the rule is challenged or 2) vote to sponsor a joint resolution within 50 days of the agency response deadline.
 - If Committee votes for joint resolution, it must introduce one within 20 business days (or within 20 days into the next legislative session if not in session) or the rule may be adopted.
 - If the joint resolution is not passed within 90 consecutive legislative days (or 90 days into the next legislative session if this one adjourns within 60 days), the rule may be adopted.
 - If joint resolution passes and allows adoption, the rule may be adopted. If resolution passes and does not allow adoption, rule fails.

23. JLCAR Review (Emergency Rules Only) – Committee legal counsel reviews the statement of emergency to make sure it is adequate. If inadequate, Counsel notifies the Committee. The Committee may petition the agency to repeal an emergency rule. Agency may repeal it by filing notice with the OLS.

- Repeal Notice Includes: name and address of agency; rule number and title; effective date of repeal; name, address, and phone number of agency contact person; and explanation of repeal.

24. JLCAR Review (Interim Rules Only) – For interim rules, Committee reviews the rule. If filed at least 21 days before the upcoming meeting, it is placed on the agenda. If not, it is placed on the agenda of the next meeting. Committee can either approve it, conditionally approve it, or object to it. It may object if beyond authority, contrary to legislative intent, not in public interest, or not an interim rule.

- If conditionally approved, Committee notifies the agency.
 - Agency submits written explanation of how the rule was amended to comply within 14 of the meeting.
 - If Committee approves, agency may adopt it.
 - If agency does not submit the explanation, rule is preliminary objected.
- If preliminary objected, Committee notifies the agency.
 - Agency may correct it or withdraw the rule by notifying the Committee before its next meeting.
 - FAILS IF: agency does not respond.
 - Committee legal counsel reviews it for any problems that will cause an objection.
 - Committee either approves it or continues the objection.

25. Rule Adoption - Agency can adopt the proposed rule at a meeting at least 45 days after filing of the final proposal or 60 days without a notice of objection, when approved by the committee, upon confirmation of compliance with a conditional approval, after the passage of the committee review period, or after legislative action on a concurrent resolution.

For interim rules, agency may adopt it if Committee approves or conditionally approves it within 90 days of the notice.

26. Concise Statement of Reasons (If Requested) – If requested before adoption or within 30 days of adoption, agency must provide a concise statement of reasons for and against adoption and reasons for overruling reasons against it.

27. **Director of Legislative Services** - Agency files the final rule with the Director of Legislative Services. If interim rule, this must be done within 30 days of approval or conditional approval.

28. **Effective Date** –

- Rules take effect the day after filing or a later date specified.
- Emergency rules take effect after filing and last up to 180 days.
- Readopted rules take effect 60 days after filing or a later date.
- Interim rules take effect the day after filing or a later specified date and last up to 180 days.

29. **Expiration and Extension** - Rules expire 10 years after the effective date unless extended by filing a notice of reoption and following the procedure above. Existing rules continue in effect if the agency provides notice to readopt the rule, meets the final proposal filing deadline, responds to any objections, and files the final rule. Otherwise, the existing rule expires 30 days after the missed deadline unless waived. Readopted rules must be adopted within 30 days after the date they can be adopted.

New Jersey

(New Jersey Administrative Procedure Act: N.J.S.A. 52:14B-1 et seq.; N.J.A.C. § 1:30-1.1 et. seq.)

TYPES OF RULES:

- Permanent Rules – rules not organizational or emergency rules
- Organizational Rules – rules governing the organization of an agency. Such rules may be adopted without notice or hearing.
- Emergency Rules – rules addressing imminent peril to public health, safety, or welfare.

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency files the petition within 15 days to the Office of Administrative Law for publishing in the New Jersey Register, and publishes it on the website. The agency has 60 days to deny the petition in writing with its reasons, grant the petition and start the rulemaking process below within 90 days, or refer it for further deliberation for up to 90 days. After any further deliberations, the agency must either deny the petition or grant the petition and start the rulemaking process within 90 days. Both the petition when filed and the agency action are published in the New Jersey Register.

If agency does not respond to the petition by the deadlines, the petitioner can submit a written request for a public hearing to the Director of the Office of Administrative Law who notifies the agency that if it does not hold a public hearing, the Director will. If the agency does not hold one within 15 days, the Director schedules one, posts a notice of public hearing, and holds it at least 15 days after a notice is sent.

2. **Rulemaking Calendar** – Agency must publish a quarterly rulemaking calendar in the 1st issue of the New Jersey Register for January, April, July, and October which shows the proposed rulemakings for the next 6 months.
 - Calendar Includes: agency name; agency head; citation of rules affected; citation of legal authority; synopsis of rulemaking and objective and purpose; and month and year notice of proposal is expected to be published.
 - Exempt: rules authorized by federal law that failing to timely adopt will prejudice the State; statutory authorization requires less time than publishing in the calendar would allow; an emergency rule for imminent peril; notice of pre-proposal is published; or rules that provide a 60-day comment period.

If agency amends the calendar, it notifies the Director of the Office of Administrative Law and publishes a notice of calendar amendment in the New Jersey Register with the changes highlighted. Agency cannot take any action on it for 45 days if it adds rulemaking activity, changes publication date to earlier month, or changes objective, purpose, or subject matter so it changes who is affected and how.

3. **Notice of Rule Negotiation (Optional)** – Agency can submit a request to the Division of Administrative Rules to do negotiated rulemaking (use of a team of up to 10 members from interested parties to help draft the rule). Division reviews the request and determines if the subject matter is feasible, interests are defined, team representatives are diverse, and representatives are accountable to their group. If approved, notice is published in the New Jersey Register. Any party not represented may submit a petition to the Office of Administrative Law within 10 days of the notice to be on the team, and OAL must decide in 5 business days. Negotiation team must start within 20 days of the notice and finish within 10 days unless entire team agrees to extend it. OAL gives all members a final version of their rule within 10 days after the team finishes it. Agency either approves the draft rule or rejects it within 30 days or later date between the OAL and agency. If no rule is approved within 60 days from the start of negotiations, OAL may disband the team. This is separate from the notice of pre-proposal below.
 - Request Includes: summary of subject matter; problem and purpose being addressed; interests affected; and suggested negotiating team.
4. **Notice of Pre-Proposal (Optional)** – Agency can request public input on rule drafting by any reasonable means. If agency plans to use deliberative proceedings, it must file notice in the New Jersey Register at least 30 days before the notice of proposal, and must post through an electronic mailing list and on its website.
 - Notice Includes: name of officer and agency; subject matter, problem, and purpose; any draft text; citation of legal authority; where, when, and how to send comments and attend a hearing; when and where to attend informal conference or consultation; title and nature of any committee appointed and any members.
5. **Public Comments (If Applicable)** – If an agency publishes a notice of pre-proposal, the public has at least 30 days to comment on the proposal. However, most agencies have a 60-day comment period to exempt them from the rulemaking calendar.
6. **Public Hearing (Optional)** – Agency may hold a public hearing on the pre-proposal at least 15 days after the notice. If published in Register with less than 15 days' notice,

agency must provide 15 days' notice with another method. If held after the comment period, comments extend until after the hearing.

7. **Informal Conferences, Consultations, and Committees (Optional)** – Agency may also hold informal conferences and consultations along with forming informal committees of experts or interested persons.
8. **Drafted** – Proposed rule is drafted if not drafted by a negotiating team.
9. **Governor (Emergency Rule Only)** - Emergency rules go to the Governor for approval of the emergency.
10. **Notice of Proposal** - Notice is sent to the Office of Administrative Law which confirms that it meets the APA requirements. Then it sends it within 2 business days to the legislature and publishes it in the New Jersey Register. The agency publishes notice on the agency website. At least 30 days before the end of the comment period, agency must send to those who request it, news media with press office to cover the State House Complex, interested persons, and a subscription-based e-mail service along with one other method, which can include newspapers of general circulation, trade, industry, governmental, or professional publications, press releases, and posts to other locations.
 - Heading Includes: Administrative Code title; division within the agency; caption with subject matter; N.J.A.C. citation; agency name; statutory authority; rulemaking calendar reference; proposal number; where, when, and how to submit comments or attend a hearing; where and when to attend rule adoption meeting; name and address of person to send mailed comments and phone number to call in comments; address of email system or electronic mailing system; and where to send FAX comments.
 - Notice Includes: 1) heading; 2) summary statement of the rule with purpose and effect, who and what is affected, how, when, and where effect will occur, what rule prescribes or mandates, enforcement and sanctions involved, and other relevant information; 3) social impact statement (social impact on public and segments); 4) economic impact statement (costs, revenue, and other impacts on governmental bodies); 5) federal standards statement (whether rule has standards or requirements that exceed federal law); 6) jobs impact statement (jobs lost and created); 7) agriculture industry impact statement (extent of impact on agricultural industry); 8) regulatory flexibility analysis or statement it is not required (minimize impact on small business); 9) housing affordability impact analysis (types and number of housing units impacted and increase and

decrease in housing costs); 10) smart growth development impact analysis (types and numbers of housing units impacted, increase and decrease in housing availability, and if it affects new construction in Planning Area 1 or 2 or designated centers); 11) racial and ethnic community criminal justice and public safety impact statement; and 12) state mandate flexibility analysis (how the rule affects small municipalities).

Emergency rules do not require a prior notice or hearing. However, the agency may choose to have an abbreviated notice or hearing. If the agency skips them, the rule can be adopted after Governor approval.

11. **Public Comments** - Public has at least 30 days to comment on the proposed rule in the manner and by the deadline provided in the notice. If there is sufficient interest in extending the rule during that time, the public has at least another 30 days to comment.
12. **Public Hearing** - If requested by a Legislative committee, state agency or subdivision, county, local, or municipal government entity, or sufficient public interest within 30 days of the notice, the agency must schedule a public hearing with at least 15 days' notice on its website. If the hearing is after the comment period, public comments extend until after the hearing.
13. **Comment Report** - Agency must provide a report on its website with all parties that provided written or oral comments, a summary of the comments, and the agency's responses to them.
14. **If Substantial Changes, Public Notice** – If the agency makes non-substantial changes, it may proceed with adoption. If the agency makes substantial changes to the proposed rule, it must either submit a new notice of proposal OR send a public notice to the Office of Administrative Law for publication in the New Jersey Register and on the agency website. It must also provide the same notices for a notice of proposal.
 - Notice Includes: description of changes; reasons for changes; how it affects the impact statements and analyses from the original proposal; the report of comments and responses; how the public can comment on the changes; and text changes.
15. **If Substantial Changes, Public Comments** - The agency must have a 60-day comment period. After the comment period, the agency may continue the adoption process.
16. **Legislature** - The Office of Administrative Law sends the proposed rule to the House and Senate within 3 business days, who refer it to the appropriate committee. The

Legislature can pass a concurrent resolution prohibiting a rule from taking effect, and if so, it is sent to the Office of Administrative Law and published in the New Jersey Register and New Jersey Administrative Code as an annotation.

17. **Rule Adoption** - Rule is adopted by the agency at a meeting at least 30 days after notice.

18. **Notice of Adoption** - Agency sends a Certificate of Proposal, Adoption, and Promulgation and adopted rule to the Director of the Office of Administrative Law by the later of at least 60 days after the notice of proposal or 60 days after the comment period AND within 1 year of the notice of proposal or 18 months of any notice of substantial changes. OAL has 5 business days after the submission deadline to review it, endorse it, and accept any Legislature concurrent resolution prohibiting it. Notice of adoption is published in the New Jersey Register and on the agency website.

- Notice Includes: Administrative Code title; division of agency; caption of subject matter; N.J.A.C. citation; notice of proposal publication date and Register citation; date of adoption with name, title, and signature of adopting head; date notice of adoption was sent to OAL and whether adopted without change, non-substantial changes, or substantial changes; citation to statutory authority; effective date of notice of adoption; operative date of notice, if later; rule expiration date; summary of hearing officer recommendations and agency responses; summary of public comments and agency responses; summary of changes upon adoption; federal standards statement; and text of rule changes.

Agency posts a notice of an adopted emergency rule in the New Jersey Register and on its website. The agency may pass a concurrent rule by publishing a concurrent notice of proposal in the Register.

- Notice Includes: Certificate of Proposal, Adoption, and Promulgation; summary of subject matter with finding for imminent peril, basis of finding, and social and economic factors; signed statement from Governor; and rule text.

19. **Effective Date** –

- Rules take effect after publication.
- Emergency rules take effect immediately after filing with OAL and last up to 60 days. The Legislature can pass a resolution to extend an emergency rule an additional 60 days.
- Organizational rules take effect after filing with OAL or a later date specified.
- Concurrent rules and readopted rules take effect after filing with the OAL.

20. **New Jersey Administrative Code** – Adopted rule is published in the New Jersey Administrative Code.

21. **Expiration** – Rule chapters expire 7 years after their effective date or a date required by statute unless the agency files notice of proposed readoption, adopts it, and files a notice of adoption of a proposed readoption before it expires. Expiration then extends an additional 180 days from the original notice.

- Rules with No Expiration Date: rules prescribed by federal law for which the agency has no discretion over whether to create them and what is in them OR rules whose expiration would violate federal or state law.

The agency can readopt it without change or readopt it with technical changes (if changes approved by Office of Administrative Law) if the agency files a notice of readoption with the Office of Administrative Law for publication in the New Jersey Register at least 30 days before expiration (If less than 30 days, agency must follow the readoption process above.). It must also publish on the agency website. The new expiration date is 7 years from the date of publishing the notice.

- Notice Includes: chapter citation; description of chapter; specific legal authority; name and title of individual or entity authorizing readoption; effective date of readoption; effective date of technical changes, if applicable; and new expiration date of chapter.

If substantial changes are proposed, the agency must file a notice of proposed readoption with substantial changes in the New Jersey Register, and then readopt them.

The Governor, if requested by the agency, may extend a rule to a date the Governor decides. The Governor, if requested by the agency, may also restore the effectiveness of a rule within 5 days of expiration to a date the Governor decides.

New Mexico

(New Mexico Administrative Procedures Act: NMSA Chapter 12, Article 8; NMAC Title 1, Chapter 24; State Rules Act: NMSA Chapter 14, Article 4 & 4A)

NOTE: NMAC Title 1, Chapter 24 only applies to those agencies that have not adopted their own procedural rules.

TYPES OF RULES

- Permanent Rules – rules that are not emergency rules
- Emergency Rules – rules:
 - for the preservation of the public peace, health, safety, or general welfare for which notice and hearing would be contrary to public interest
 - which cause unanticipated loss of funding for agency program,
 - which place agency in violation of federal law

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Notice of Proposed Rulemaking** - Notice is published in the New Mexico Register. Notice is published in a manner specified by law or in newspapers or trade, industrial, or professional publications and sent to those who request it. For emergency rules, no notice or hearing is required, but the agency can choose to provide a notice of emergency rulemaking.
 - Notice Includes: agency name; summary of rule text with terms and substance of rule or subjects and issues; short explanation of rule purpose; citation to legal authority; how to obtain full rule text if not included; how, when, and where to submit comments; date and place of any hearing; citation to technical information; internet link to full rule text if not included; and any other required information.

Sometimes, the agency will combine the public hearing with its agency meeting. In this case, the agency publishes a Notice of Public Hearing and [Regular] Board Meeting in the New Mexico Register.

4. **Small Business Regulatory Advisory Commission (If Applicable)** – If a rule has an adverse effect on small business, agency must send the rule to the Commission. It must consider methods to minimize such effects.
5. **Public Comments (May Skip to Step 9 for Emergency Rules)** - Public is given time to comment on the proposed rule in the manner and by the deadline in the notice.
6. **Public Hearing (Optional)** - The agency may hold a public hearing on the rule at least 30 days after notice.
7. **Concise Statement of Principal Reasons** – Agency prepares a concise statement of principal reasons for and against the rule and a statement of positions rejected with the reasons.
8. **Concise Explanatory Statement** – Agency prepares a concise explanatory statement with the adoption date, reference to statutory or other authority; and findings.
9. **If Adoption Period Extended, Public Comments** – An agency with good cause may extend the period to adopt the rule. Public is given additional time to submit comments.
10. **If Adoption Period Extended, Public Hearing** – If rule adoption period is extended, agency must hold another public hearing.
11. **Rule Adoption** - The proposed rule is adopted by the agency at a meeting no sooner than 30 days after the notice, and except for emergency rules, within 2 years after notice of proposed rulemaking unless extended 2 years with good cause.
 - FAILS IF: Not adopted within 2 years of the notice or 4 years if extended.
12. **Notice of Adoption** – Notice is sent to the state records administrator and is published in the New Mexico Register within 90 days after adoption. For emergency rules, the notice of intent to issue emergency rule must be within 7 days of adoption.
13. **Effective Date** –
 - Rules take effect 15 days after filing or a later date specified in the rule.
 - Emergency rules take effect after being published in the register and last up to 180 days.

14. **New Mexico Administrative Code** – Permanent rules are published in the N.M.A.C.

15. **Rule Review** – Rules must be reviewed every 5 years to make sure they minimize economic impact on small businesses. Agency must consider continued need for rule, complaints and comments received on the rule, rule complexity, any overlap, duplication, or conflict with federal, state, and local laws, and length of time since last review and any changes to technology, economic conditions, or other factors.

New York

https://dos.ny.gov/system/files/documents/2022/02/whatisrulemaking_flyer_0_0.pdf

(New York State Administrative Procedure Act: New York Statutes SAP)

NOTE: Exemptions to the SAPA are found in § 102 (2)(b).

TYPES OF RULES:

- Permanent Rules – all other rules
- Emergency Rules – rules for the preservation of the public health, safety, or general welfare for which following the rulemaking process is contrary to public interest
- Consensus Rules – rules that are not likely to be objected because they repeal obsolete rules, implement or conform to non-discretionary statutory provisions, or make technical non-controversial changes
- §102(2)(a)(ii) Rules – rules for “rates, wages, security authorizations, corporate or financial structures or reorganization thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs or accounting, or practices bearing on any of the foregoing whether of general or particular applicability.”
 - Such rules may be adopted as consensus rules if not a major change

STEPS:

1. **Regulatory Agenda (If Applicable)** – **Note: Changing 12/31/24** - Before 12/31/24, several agencies are required to publish a regulatory agenda in a January issue of the New York Register. Starting 12/31/24, agencies have the option to publish a regulatory agenda in the first issue of the January, May, or September New York Register. The agenda lists rules the agency is considering proposing during the year.
2. **Public Comment (If Applicable)** - Public can comment on rules in regulatory agenda.
3. **Job Impact Statement (JIS)** – While drafting a rule, agency must minimize impact on current jobs and promote new ones. The agency must determine whether the rule will have a substantial adverse impact on jobs. If not, it must include a statement to that fact in the notice of proposed rulemaking. If it does, the agency must prepare a job impact statement for the notice.
4. **Regulatory Impact Statement (RIS)** – Agency must consider methods that prevent harmful economic effects and overly burdensome effects on persons and economies of state and local governmental agencies. Agency prepares a regulatory impact statement.

- Exempt: technical rules if exemption is claimed; consensus rules; and §102(2)(a)(ii) rules.
5. **Regulatory Flexibility Analysis (RFA)** – While drafting the rule, agency must try to minimize economic impact on small businesses and local governments. It must consider different compliance or reporting requirements or timetables for them, use of performance instead of design standards, and exemptions from the rule if it does not impact public health, safety, or welfare. Agency must conduct a regulatory flexibility analysis for the notice.
 - Exempt: rules that do not create economic impact on small businesses or local governments; consensus rules; and §102(2)(a)(ii) rules.
 6. **Rural Area Flexibility Analysis (RAFA)** – While drafting the rule, agency must consider impact on public and private sector interests in the rural areas. Agency must minimize such impact by considering different compliance or reporting requirements or timetables for them, use of performance or outcome standards instead of design or input standards, and exemptions from the rule if it does not impact public health, safety, or welfare. Agency must conduct a rural area flexibility analysis.
 - Exempt: rules that do not create impact on rural areas; consensus rules; and §102(2)(a)(ii) rules.
 7. **Drafted** - Proposed rule is drafted.
 8. **Regulatory Review Unit (RRU) Review (Skip for Consensus Rules)** - Before notice is sent to the Secretary of State, full text, RIS, RFA, and RAFA are sent to the Regulatory Review Unit. The RRU reviews it and sends its recommendation to the Secretary.
 - Review Includes: within authority; consistent and necessary for a specific purpose; clearly written; does NOT duplicate or exceed federal or state law; consistent with state laws; if consistent with state statutory requirements, that benefits outweigh costs; does NOT impose mandate on local governments or school districts without funding; has flexibility in meeting requirements and objectives; based on credible assessment of degree and nature of risks; gives preference to least costly and burdensome regulatory and paperwork requirements; based upon best scientific, technical, and economical information; and favors market-oriented solutions and performance standards.

9. **Executive Chamber Review (Skip for Consensus Rules)** – RRU sends it to the Governor, Council of the Governor, and Director of the Division of the Budget for review of the same items. They approve publishing the notice, require changes, or disallow publishing.

10. **Notice of Proposed Rulemaking** – Notice is sent to the Secretary of State for publishing in the New York Register. If full text is not included in the notice, it must be posted on the agency website except for §102(2)(a)(ii) rules.

- Notice Includes: statutory authority; time, date, and place of any hearings (except consensus rule); whether place of hearing is accessible to those with mobile disabilities (except consensus rule); statement that interpreter services will be made available to deaf persons (except consensus rule); full text or, if over 2000 words, the subject, purpose, and substance; how to submit comments and deadline; job impact statement; regulatory impact statement (except consensus rule); regulatory flexibility analysis (except consensus rule); rural area flexibility analysis (except consensus rule); name, address, and phone of agency contact person; withdrawn consensus rule and objection causing it, if applicable; and any other required information.

Agency may also publish notice in newspapers of general circulation, in trade, industry, or professional publications, and on the agency website.

11. **RRU Review (Skip for Consensus Rules)** – After the notice is published, the RRU reviews it for any new information. It notifies the agency of any deficiencies during the comment period, the agency is given a chance to respond, and then is either given approval to proceed or not.

12. **Public Comments** - The public has at least 60 days, or a deadline in the authorizing statute, to comment on the proposed rules in the manner and by the deadline listed in the notice. If a hearing is required by statute, comments last until 5 days after the last hearing.

If a consensus rule and comment is received that objects to it, the agency must withdraw its notice of proposed rulemaking and follow the permanent rulemaking process.

13. **Public Hearing (Skip for Consensus Rules)** - The agency may hold a public hearing on the proposed rule at least 60 days after the notice. For certain agencies, they must hold a public hearing if a certain number of people request one.

§102(2)(a)(ii) rules being adopted as consensus rules must hold a hearing if statute requires it.

14. **If Substantially Changed, RRU Review (Skip for Consensus Rules)** – Before revised notice is sent to the Secretary of State, full text, RIS, RFA, and RAFA are sent to the Regulatory Review Unit. The RRU reviews it and sends its recommendation to the Secretary.
15. **If Substantially Changed, Executive Chamber Review (Skip for Consensus Rules)** – RRU again sends it to the Governor, Council of the Governor, and Director of the Division of the Budget to review it. They either approve publishing the notice, require changes, or disallow publishing.
16. **If Substantially Changed, Notice of Revised Rulemaking (Skip for §102(2)(a)(ii) Rules)** - If the agency substantially changes the proposed rule, it must publish a Notice of Revised Rulemaking in the New York Register.
 - Notice Includes: statutory authority; complete revised text, OR if over 2000 words, the subject, substance, and purpose with agency website link; date, time, and place of any hearing; revised statements, if applicable; name, address, and phone of agency contact person; whether notice extends adoption expiration 90 days; deadline for comments; assessment of public comments with: a summary and analysis of issues raised and alternatives suggested, statement of reasons for not adding alternatives, and any changes from the comments; and information required by statute.
17. **If Substantially Changed, RRU Review (Skip for Consensus Rules)** – After the notice is published, the RRU reviews it for any new information. It notifies the agency of any deficiencies during the comment period, the agency is given a change to respond, and then is either given approval to proceed or not.
18. **If Substantially Changed, Public Comments (Skip for §102(2)(a)(ii) Rules)** - If the rule is substantially changed, after publishing the revised notice, the public is given another 45 days, or the date required by statute, to comment on the changes.
19. **If Substantially Changed, Public Hearing (Optional)** – Agency may schedule a public hearing on the changed rule.
20. **Rule Adoption** - The agency adopts the proposed rule at a meeting at least 60 days after the notice of proposed rulemaking or after the hearing.

Except for §102(2)(a)(ii) rules, rule must be adopted within 365 days of the notice of proposed rulemaking or date of final hearing. If a notice of revised rulemaking is filed before expiration, expiration extends an additional 90 days.

21. Notice of Adoption - A Notice of Adoption is published in the New York Register.

- Notice Includes: statutory authority; full text, or if over 2000 words, subject, purpose, and substance; any text changes; rule effective date; revised RIS, RFA, and RAFA, if applicable; assessment of public comments or that no comments were received (only new comments if notice of revised rulemaking was published); name, address, and phone of agency contact person; whether any notice of revised rulemaking was submitted; and information required by statute.

For emergency rules, a Notice of Emergency Adoption is published.

- Notice Includes: statutory authority; whether notice also includes notice of proposed rulemaking, and if so, date, time, and place of public hearings; whether notice includes notice of revised rulemaking along with that information; finding of emergency along with other information; rule effective date; rule expiration date; full text, or if over 2000 words, subject, purpose, and substance; RIS, RFA, and RAFA; name, address, and phone of agency contact person; and information required by statute.

22. Amended Notice of Adoption (If Applicable) - If the agency makes nonsubstantial changes to the rule before it takes effect, including extending the effective date, it must publish an Amended Notice of Adoption in the New York Register.

23. Effective Date –

- Permanent rules take effect after publishing or a later date specified in the rule or by statute.
- Emergency rules take effect after notice and last up to 90 days. In order to readopt it for 60 days, the agency must also start a permanent rule by publishing a Notice of Emergency Adoption and Proposed Rule Making in the Register and then following the normal process.
- Emergency rules regarding “security authorizations, corporate or financial structures or reorganization” that do not require a hearing do not expire.

24. **New York Code of Rules and Regulations** – Adopted permanent rules are published in the NYCRR.
25. **Small Business Regulation Guide (If Applicable)** – If a rule significantly impacts a great number of small businesses, agency must develop a guide on its website to help them comply with it.
- Guide Includes: actions needed to comply; information sources to help them comply; most common regulatory violations they are cited for; frequency of violations of various rules by them; and actions that they could take to minimize or prevent violations.
26. **Rule Review (Except Consensus and §102(2)(a)(ii) Rules)** - A rule must be reviewed during the year listed in the notice of adoption, which must be at least every 5 years. If a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement was required for the rule, it must be reviewed every 3 years. The agency must publish a regulatory agenda in January each year that lists the rules being reviewed that year along with the need for the rule. It must also publish a Rule Review Notice in the New York Register.
27. **Review - Public Comments** - The public can comment on a rule being reviewed for at least 45 days.
28. **If Amended, Notice** - If the agency proposes to amend a rule under review, it must publish a Notice of Proposed Rulemaking in the New York Register.

North Carolina

<https://www.oah.nc.gov/rules-division/participating-rulemaking-process>

(North Carolina Administrative Procedure Act: North Carolina General Statutes Chapter 150B; 26 NCAC 05)

NOTE: Exemptions are found in § 150B-1.

TYPES OF RULES:

- Permanent Rules – rules not temporary or emergency
- Temporary Rules – rules for which notice and hearing would be contrary to public interest and are required for:
 - Threat to public health, safety, or welfare,
 - Effective date of recent act of legislature or US Congress,
 - Recent change in federal or state budgetary policy,
 - Recent federal rule,
 - Recent court order,
 - State Medical Services Plan,
 - Wildlife Resources Commission relating to no wake zones, hunting and fishing seasons, take methods, and limits, and management of public game lands,
 - North American Securities Administrators Association, Inc.,
 - Commissioner of Insurance,
 - State Chief Information Officer to implement information technology,
 - State Board of Elections for certain information, or
 - Maximize receipt of federal funds for Medicaid within State appropriations, reduce Medicaid expenditures, and reduce Medicaid fraud and abuse.
- Emergency Rules – rules due to serious and unforeseen threat to public health or safety for which notice and hearing would be contrary to public interest

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt a rule by submitting a rule-making petition. Within 3 business days of receipt of a petition, the agency must send it to the OAH, who must publish it on its website within 3 business days. The agency has 30 days (120 days if board or commission) to deny or grant the petition and send its decision to the petitioner. If granted, the agency must start the rulemaking process below. If the agency does not respond by the deadline, it is denied.
2. **Local Government Consideration** – During drafting rules that impact local government, agency must consult with the North Carolina Association of County Commissioners, the

North Carolina League of Municipalities, and some county or city managers. They work on rules that require units of local government to carry out additional or modified responsibilities, increase cost of providing public service funded at least partly by local government, and affect expenditures or revenues of a local government.

3. **Drafted** - The proposed rule is drafted.
4. **Fiscal Note (If Applicable)** – If a permanent rule change provides an expenditure or distribution of funds under the State Budget Act, agency must send the rule, analysis of change, and fiscal note to the Office of State Budget and Management. State Budget certifies that required funds are available.
5. **Department of Transportation (DOT) Analysis (If Applicable)** – If a rule affects environmental permitting of the DOT, agency does analysis to see if the rule increases costs to the DOT and submits it to the Board of Transportation. Agency must consider the Board’s recommendations. The Board can object to a rule later after adoption if sent to the Rules Review Commission within 1 day of its review.
6. **Local Funds (If Applicable)** – If a permanent rule change provides an expenditure or revenue of a unit of local government, agency must send text, reason for change, and fiscal note to the Office of State Budget and Management, Fiscal Research Division of the General Assembly, North Carolina Association of County Commissioners, and North Carolina League of Municipalities at least 60 days before publishing notice of text. The Office provides a preliminary review of explanation of reason, unanticipated effects on their budgets, and costs versus risks of not adopting it.
7. **If Substantial Economic Impact, Alternatives** – If permanent rule will have substantial economic impact (impact of at least \$1 million within 12 months) and is not identical to federal law, agency must prepare a fiscal note and send it to the Office of State Budget and Management. The Office must review it within 14 days. It either approves or disapproves the note. If disapproved, agency submits a revised note until approved.

If an agency exhausts all effects to prepare a fiscal note, it can request the Office to prepare it, and the Office must prepare it in 90 days or agency must prepare it. Agency reviews and approves the fiscal note.

An agency is also required to consider two alternatives to the rule.

8. **Notice of Text (Optional for Emergency Rule)** - Notice is published in the North Carolina Register. Notice is also published on the agency website. For emergency rules, notice is not required, but the agency may publish an abbreviated notice.

- Exemptions from Notice, Hearing, and Comments: 1) amendments that renumber or reletter; update organization name; corrects citation to rule that was renumbered or repealed; changes publicly available information (i.e., address, email, phone number); or corrects typographical error; 2) changes upon Commission objection or request unless substantial; 3) repeals of rules when the law for it was repealed or declared unconstitutional or the rule is beyond agency's authority; 4) certain OSHA standards; and 5) certain State Building Code standards.
 - Register Notice Includes: text except readoption without change; explanation of reason; link to agency website notice; authority; proposed effective date; date, time, and place of any hearing or how one can be requested if not scheduled if required; when and to whom to submit comments; statement that fiscal note can be obtained, if applicable; the process to object to a rule and send it to the legislature; and reference to scientific, technical, economic, and other information used.
 - Agency Website Notice Includes: rule text; explanation and reason for rule; federal certification, if rule implements federal law, required to comply with it, or required for receipt of federal funds; how and when to submit comments and attend a hearing; process to object to a rule and send it to the legislature; and any fiscal note.
9. **Codifier of Rules** - For temporary rules, a notice of public hearing and rule must be published on its website within 5 business days. Agency must also notify those on the mailing list.
10. **Public Comments (Optional for Emergency Rules)** - Public has at least 60 days or until the public hearing to comment on the proposed rule in the manner and by the deadline in the notice.

For temporary rules, the public has at least 15 business days to comment.

11. **Public Hearing (Optional for Emergency Rules)** - If scheduled, the agency holds a public hearing on the proposed rule at least 15 days after the notice. If requested within 15 days of the notice, agency must hold one by publishing a notice in the North Carolina Register and holding one at least 15 days later.

For emergency rules, hearing is not required but the agency may hold one.

For temporary rules, a hearing is required at least 5 days after the notice of public hearing. If cancelled and rescheduled, hearing must be at least 5 days after the new notice.

12. **Comment Review** - The agency must review all oral and written comments.
13. **If Changed, Notice** - If the agency makes substantial changes, it must publish it in the North Carolina Register. Agency also must publish the changes on its website.
14. **If Changed, Comment Period** - If the agency makes substantial changes, the public has at least 60 days after the new notice to comment on the changes.
15. **Rule Adoption** - Agency adopts the proposed rule at a meeting within 12 months after the public comment period.

For temporary rules, the agency must wait at least 30 business days after publishing the notice of public hearing.

16. **Statement of Principal Reasons (If Applicable)** – If requested within 15 days of adoption, agency has 15 days to prepare a concise statement of principal reasons for or against the rule and why the agency objected to any reasons against it.
17. **Rules Review Commission (RRC) (Skip to Step 21 For Emergency Rules)** – For permanent rules, agency sends the adopted rule to the Rules Review Commission within 30 days after adoption.

- RRC has until the last day of the month to review it if received by the 20th or the last day of the next month if received after the 20th.
 - Review Includes If Rule: is within agency authority; clear and unambiguous; is reasonably necessary to implement enactment of legislature, US Congress, or federal agency rule; and follows this act.
- RRC schedules a meeting to review it.
- Public can submit comments up to 5 business days before the meeting (1 business day prior for temporary rules) and must include how the rule does or does not comply with the review criteria. Comments must also be sent to the agency rulemaking coordinator.
- Public can send rebuttal comments up to 1 business day before the meeting (at the meeting for temporary rules).

- Public can request to testify at the meeting by notifying the RRC at least 2 business days before the meeting (prior to start of meeting for temporary rules).
- RRC holds a meeting and then must either approve it, object to it, or extend the review to receive additional information. It can also do a conditional approval and require technical changes.
 - If RRC approves, it notifies the agency and sends the rule to the Codifier of Rules. It must also notify the Governor by the end of the month if the rule provides expenditures or revenues for units of local government.
 - If RRC objects, it sends the rule, objection, and reasons to the agency.
 - For temporary rules, agency can send additional findings for its statement of need or create a new statement. If it fails to do so, the rule is returned and fails.
 - Agency has 30 days (later of 30 days or 10 days after the meeting if board or commission) to amend the rule and return it to the RRC OR submit a written response to the RRC that it will not change it.
 - If agency changes it, RRC reviews it to determine if it satisfies the objection. For temporary rules, the RRC has 5 business days to respond.
 - a. If it does, RRC approves it at the next meeting and sends it to the Codifier of Rules.
 - b. If it does NOT, RRC sends the agency written notice of its continued objection with reasons. Then the process repeats until the objection is satisfied.
 - If agency does NOT change it, RRC returns the rule and notifies the Codifier of Rules (and Governor if it impacts units of local government).
 - If RRC extends the review, it notifies the agency.
 - RRC has 70 days to approve the rule, object to it, or call a public hearing.
 - If RRC calls a public hearing, it must publish a notice in the North Carolina Register.
 - If called, RRC holds a hearing.
 - RRC has 70 days after the hearing to approve or object the rule.
 - If conditional approval with technical changes, agency has 1 business day to make the changes.
 - If required changes are met, rule becomes effective.

For temporary rules, the agency must send a statement of need and the RRC has 15 business days to respond. If approved, rule goes to the Codifier of Rules in 2 business days.

18. **Legislature (If 10+ People Object)** - If at least 10 people object to the rule and request review from the legislature within 1 day of RRC approval, the legislature reviews it. The legislature can introduce a bill to disapprove it during the first 30 legislative days of the session and pass it, which stops it from taking effect.

While the legislature is working on the bill, the Governor may sign an executive order to allow the rule to take effect immediately or a date specified if it is to protect public health, safety, or welfare. If the legislature passes a bill to disapprove the rule, the rule is repealed on the date specified in the bill.

19. **Codifier of Rules (Emergency Rules Only)** - For emergency rules, the agency sends a statement of need for the emergency and the rule to the Codifier of Rules. At the same time, agency is also required to start a temporary rule. The Codifier of Rules has 2 business days to review the statement of need. It can approve it and publish it in the North Carolina Administrative Code by the 6th business day. If not approved, agency may submit additional findings or a new statement. Codifier of Rules has 1 business days to review the new information. If still not approved, it notifies the agency. If agency has not submitted new information, Codifier of Rules publishes it in the North Carolina Administrative Code by the 6th business day.

20. **North Carolina Register (Temporary & Emergency Rules Only)** – Temporary and emergency rules are published in the North Carolina Register when published in the NCAC below.

21. **North Carolina Administrative Code** – Codifier of Rules publishes adopted rule, including a temporary or emergency rule, in the North Carolina Administrative Code.

22. **Effective Date** –

- Permanent rules take effect on the 1st day of the month after the month the Commission approves it or a later date specified.
- For permanent rules sent to the legislature without a bill, the bill cannot take effect until the 31st legislative day of the session that begins no sooner than 25 days after the RRC approves the rule.
- For permanent rules sent to legislature and a bill is introduced by the 30th legislative day, it takes effect the day an unfavorable final action is taken on the bill or when the session ends without passing the bill.

- Temporary rules take effect when published in the Code and expire on the earliest of: the date listed in the rule, the effective date of a permanent rule replacing it, date Commission returns the permanent rule to the agency, effective date of act of legislature to disapprove the permanent rule to replace it, or 60 days after the temporary rule was published in the register.
- Emergency rules take effect when published in the Code and expire on the earliest of the date in the rule, effective date of temporary rule replacing it, date Commission returns a temporary rule replacing it to the agency, or 60 days after the emergency rule was published in the register.

23. Annual Agency Review – An agency must review its rules every year to determine if any are unnecessary, unduly burdensome, or against the rule principles. If so, the agency must repeal it.

- Rule Principles: Rules must:
 - Be authorized by federal and state law and serve public interest,
 - Reduce burden upon those who must comply with it,
 - Be clear and unambiguous and necessary to implement federal or state law,
 - NOT be unnecessary or redundant,
 - Be based on scientific, technical, economic, and other information,
 - Achieve the objective in the most cost-effective and timely way.

24. Agency Review - An agency must review its rules at least every 10 years (or 10 years after last amendment if exempted by Commission).

- RRC sends a report to the agency of its existing rules (rules that exist on 1/1/2024 and every 10 years).
- Agency has 10 business days to review it for accuracy and completeness and to notify the RRC of any errors or missing rules.
- Agency reviews its rules to see if they are necessary and makes an initial determination.
- Agency prepares report with its initial determination, whether a rule is necessary to implement federal law with any citation, and the public comment period.
- Agency posts the report on its website and sends it to Office of Administrative Hearings to post on their website within 5 business days.
- Public has at least 60 days to respond starting when the report is posted on both websites.
- Agency reviews comments and prepares a response for each and adds them to the report.

- Agency sends the completed report to the Rules Review Commission with the final determination, comments, and responses by the 20th day of the month.
- Commission reviews the report at its next meeting. If any rule deemed unnecessary has relevant comments, rule is deemed necessary.
- Commission prepares final determination report and sends it to the Joint Legislative Administrative Procedure Oversight Committee.
 - Report Includes: agency's initial determination; comments received and agency's responses; Commission's determination of public comments; determination that rules that were unnecessary without comments or had irrelevant comments expire first day of month after report takes effect; and determination that rules determined by agency or Commission to be necessary must be readopted as a new rule.
- Final determination report takes effect after the agency goes over it with the Committee.
- Committee has 60 days to hold a hearing to respond.
- If Committee does not hold a hearing by the deadline, Committee is considered to have been consulted and determinations take effect the next day.
- If the Committee disagrees with a rule, it can request that the agency review the rule the following year.
- For rules deemed necessary that need readopted, Commission prescribes the date that the rule must be readopted.
- For rules that need readopted, agency has 60 days from request (or later of 60 days from request or 10 days after next meeting if board or commission) to submit a timeline for readoption and rulemaking priorities.
- For readopted rules, agency must adopt them by the deadline given and submit notice to the Commission within 30 days of adoption.

North Dakota

<https://attorneygeneral.nd.gov/wp-content/uploads/2023/02/Administrative-Rules-Manual.pdf>

(North Dakota Administrative Agencies Practice Act: N.D.C.C. Chapter 28-32)

NOTE: Exemptions found in § 28-32-01 under definitions of “Administrative agency” and “Rule”.

TYPES OF RULES:

- Nonemergency Rules – rules not emergency rules
- Emergency Rules – rules that address:
 - When imminent peril threatens public health, safety, or welfare;
 - Delay in effective date of rule that would cause loss of appropriated funds to support duty imposed;
 - Implement of appropriation without delay; or
 - Mandate of federal law.

STEPS:

1. **Drafted** - Proposed rule is drafted.
2. **Governor (Emergency Rules Only)** - Emergency rules go to the Governor for approval.
3. **Schedule Public Hearing (Skip to Step 5 For Emergency Rules)** - Agency schedules a public hearing on the proposed rule.
4. **Prepare Notices of Intent** - Agency must prepare a Full Notice of Intent to [Adopt, Amend, Repeal] Administrative Rules and Abbreviated Notice of Intent to [Adopt, Amend, Repeal] Administrative Rules.
 - Full Notice Includes: explanation for and purpose of rule; emergency status and effective date (if emergency rule); determination of whether the rule has over \$50,000 impact on the regulated community; location to review text of rule; address and deadline for written comments; phone and email or physical address to request copy of rules and regulatory analysis; time and place of public hearing (if substantive rule); bill number and general subject of bill enacted during most recent session of legislature being implemented; provision of ND Constitution or bill number and general subject of bill being implemented.
 - Abbreviated Notice Includes: heading with general topic; phone or address to obtain copy of rule; emergency status and effective date (if emergency rule); address and deadline to submit comments; and location, date, and time of public hearing.

5. **Regulatory Analysis (If Applicable)** – Agency must prepare a Regulatory Analysis if the rule is expected to have over \$50,000 impact on the regulated community. Notice must be available by the date of publication of the notice of intent.

Regulatory analysis is also required if requested by the Governor or a legislator within 20 days after the notice of intent.

6. **Takings Assessment (If Applicable)** – If a rule may limit use of private real property, Agency must prepare an assessment of the constitutional takings provisions.

Private landowners may request an agency to reconsider such a rule. Agency has 30 days to respond whether it will keep the rule, amend it, or repeal it.

7. **Small Entity Regulatory Statement** – Agency must conduct a regulatory analysis and consider methods to minimize adverse effects on small entities. It must consider these methods: less stringent compliance and reporting requirements for them along with related schedules or deadlines and consolidated or simplified requirements, performance standards over design or operational standards, or exemptions for such entities. It must then prepare a Small Entity Regulatory Statement.

8. **Small Entity Economic Impact Statement (If Applicable)** – For rules with adverse impact to small entities, agency must prepare a Small Entity Economic Impact Statement. Agencies must consider small entities impacted, administrative and other compliance costs, costs and benefits to consumers and private persons, effect on state revenues, and less intrusive or costly alternative methods. Some agencies are listed as exempt.

9. **Fiscal Note** – Agency prepares a fiscal note of the effect on state revenues and expenditures.

10. **Legislative Council** - Agency sends the Full Notice, proposed rule, Governor's declaration (emergency rules only) and cover sheet to Legislative Council. Emergency rules become interim final rules when sent to Legislative Council.

11. **Full and Abbreviated Notice** - The Legislative Council publishes the Abbreviated Notice at least once in all county newspapers. It must also send a full notice to the sponsors and co-sponsors for any legislation enacted during the most recent legislative session and to those who request notice.

12. **Public Comments (Skip to Step 16 For Emergency Rules)** - Public has until at least 10 days after the public hearing to submit comments on the proposed rule in the manner and by the deadline in the notice.
13. **Public Hearing** - Agency holds a public hearing at least 20 days after the notice. Hearings are required if substantive rule.
14. **Comment Summary** - Agency prepares a summary of the comments received and the agency's responses.
15. **Attorney General's Office** - Proposed rule goes to the Attorney General's Office for review for legality including statutory authority, conciseness and ease of understanding, and meeting these procedural requirements. It sends the agency an Attorney General Rules Opinion. If objection, agency may make changes to correct it.
 - Information Submitted: letter; rule text; Notice of Intent to [Adopt, Amend, Repeal] Administrative Rules; Abbreviated Notice of Intent to [Adopt, Amend, Repeal] Administrative Rules; Affidavit of Publication from North Dakota Newspaper Association (NDNA); NDNA statement of date each notice was published in the county newspapers; copy of published notice; Letter to Legislative Council; copy of letter to sponsors or co-sponsored the legislation during the most recent legislative session that the rule implements; copy of information of emergency rules sent to Administrative Rules Committee; copy of any written comments; written summary of any hearing testimony; statement of agency's consideration of any comments; Takings Assessment; Regulatory Analysis; Small Entity Economic Impact Statement; Small Entity Regulatory Analysis (SERA); and Fiscal Note.
16. **Rule Adoption** - Rule is adopted by the agency at a meeting.
17. **Legislative Council** - Agency sends adopted rule, written comments, summary of oral comments, the analyses and statements it prepared, and Attorney General's rules opinion to Legislative Council. Rules addressing statutory change must be filed within 9 months after it takes effect. For emergency rules, agency also submits a statement of reasoning and the Governor's letter of approval.
18. **Legislative Council Meeting** - Agency attends Legislative Council meeting.
19. **Petition For Reconsideration (If Applicable)** - Any substantially interested person may petition an agency to reconsider a rule or to amend or repeal it. The agency may hold a public Committee hearing.

20. **Administrative Rules Committee** - Emergency rules must be approved by the Administrative Rules Committee. For nonemergency rules, the Committee reviews the rule.

- If objected, Committee files certified objection with statement of reasons with the Legislative Council for filing as a supplement in the Code.
 - May Object If: unreasonable, arbitrary, capricious, or beyond authority.
 - Committee also notifies the agency.
 - Agency has 14 days to respond in writing.
 - Committee can modify or withdraw the objection.
- To void a rule, the Committee must have initially considered it by the 15th day of the month before publishing in the Code.
 - May Void If: no statutory authority; emergency of public health, safety, or welfare; does NOT comply with legislative intent or meet these procedural requirements; conflicts with state law; is arbitrary or capricious; or no record of consideration of oral and written comments
 - Committee may find it void at an initial meeting or at one subsequent meeting.
 - Agency representative must be present at the meeting. If not, rule is held over to one subsequent meeting. If not present at either, an emergency rule is void, and for nonemergency rules, Committee may void it, allow it to take effect, or hold it over to the next meeting.
 - If Committee votes to void it, notice with the void reason is sent to the Legislative Council. Council notifies the agency and chairman of legislative management within 3 business days.
 - Agency may file a petition with legislative management within 14 days to have them review the decision.
 - If no petition is filed, the rule is void on the 15th day.
 - If legislative management does not disapprove a motion to void a rule within 60 days, it becomes void.
 - Agency may amend, repeal, or create a related rule to address one of the void reasons listed IF agency and Committee agree it is necessary. Rule does NOT follow this rulemaking procedure.
 - If agency requests the rule change above, Committee must consider it at a subsequent meeting and public can testify.

21. North Dakota Administrative Code - Adopted rule is added to North Dakota Administrative Code.

22. Effective Date –

- Nonemergency rules take effect:
 - January 1 if filed Aug 2 – Nov 1,
 - April 1 if filed Nov 2 – Feb 1,
 - July 1 if filed Feb 2 – May 1,
 - October 1 if filed May 2 – Aug 1.
- Nonemergency rules delayed except for Administrative Rules Committee take effect when they normally would have taken effect without the delay.
- Nonemergency rules delayed by Administrative Rules Committee take effect on first effective date after the Committee meeting to reconsider it.
- Emergency rules take effect after approval from the Administrative Rules Committee and last up to 180 days.

23. Administrative Rule Committee Review - The Administrative Rules Committee may request an agency to review its rules and determine if they are obsolete or no longer comply with statute. The agency may amend or repeal the rule and submit the change to the Legislative Council if the agency or Commission made the request, the community was notified and given the time and place the Committee will consider it, and it would not detriment substantive rights of the community.

Ohio

<https://www.lsc.ohio.gov/assets/organizations/legislative-service-commission/files/administrative-rulemaking.pdf>

(Ohio Administrative Procedure: ORC 111.15 or Chapter 119; Chapters 106, 107, 121)

Note: ORC 119 is followed if the agency is listed in 119.01, the rule relates to licensing function, or a statute requires all the agency's rules or that specific rule to follow it. Otherwise, agencies follow 111.15, which is a faster process to adopt rules.

TYPES OF RULES:

- Nonemergency Rules – all rules not emergency rules
- 111.15 Emergency Rules – rules for immediate preservation of public peace, health, or safety
- 119 Emergency Rules – rules the Governor determines are necessary for immediate adoption

STEPS:

1. **Regulatory Restrictions** – From 10/17/2019 until 6/30/2025, agencies may not adopt a new rule with regulatory restrictions (rules with “shall,” “must,” “require,” “shall not,” “may not,” and “prohibit”) unless it removes two existing regulatory restrictions.

Starting January 1, 2025, all agencies may not exceed the state limit of regulatory restrictions. The limit is calculated from the base inventory of each agency minus the reduction required and then totaling all agencies. Before proposing a rule with a regulatory restriction, the agency must send it to JCARR to determine whether it would cause the state to exceed its limit, and if so, it may not be proposed.

2. **Advisory Committee (Optional for 119 Rules)** – Agency may appoint an advisory committee to assist it in drafting its rule.
3. **Drafted** - Rule is drafted.
4. **Business Impact Analysis (Both)** – Agency compares the draft rule against the business impact analysis instrument to determine if it has an adverse impact on businesses. If it does not, agency continues the rulemaking process. If it does, the agency must revise the draft to reduce or eliminate the impact. The agency must prepare a business impact analysis with its evaluation, items added to the rule because of it, and how they reduce or eliminate the impact.

- Adverse Impact on Business If: 1) requires license, permit, or prior authorization to engage or operate a business, 2) creates criminal or civil penalty or sanction or creates cause of action for failure to comply; 3) requires specific expenditures or reports for compliance, or 4) likely to directly reduce revenue or increase expenses of affected lines of business.
5. **Common Sense Initiative Office (Both)** – Agency sends the draft rule and business impact analysis to the Common Sense Initiative Office, which posts it on its website. The Office makes recommendations on ways to reduce or eliminate impact on business. Agency either incorporates the recommendations into the draft or documents reasons it is not adding them. Agency then prepares a memorandum of response with changes incorporated or not incorporated, how they reduce or eliminate impact, and why any were not incorporated.
If rule requires liability insurance, bond, or other financial responsibility for a license, agency shall search to determine if it is readily available in the amounts required. Agency must certify that search was conducted when it sends the rule to the Office.

While reviewing the rule, the Office may also review any regulatory restrictions in the agency’s inventory and determines whether any should be eliminated. If so, the agency must eliminate it. If the agency objects, it may appeal to JCARR. If JCARR agrees to eliminate it, the agency must eliminate it.
 6. **Governor (119 Emergency Rules Only)** – If Governor determines an emergency exists, they issue an order and send it to the agency, Secretary of State, Director of Legislative Service Commission, and JCARR that the rule process is suspended.
 7. **Rule Adoption (111.15 & 119 Emergency Rules Only)** – An agency may immediately adopt a 111.15 emergency rule. An agency may immediately adopt a 119 emergency rule after the Governor’s order.
 8. **Secretary Of State (Both)** - The proposed rule, rule summary and fiscal analysis (RSFA), and if 119 rule, public notice are sent to the Secretary of State at least 65 days before adoption.

111.15 & 119 emergency rules are just filed in final form with the Secretary of State.
 9. **Legislative Service Commission (Both)** - The proposed rule, rule summary and fiscal analysis (RSFA), and if 119 rule, public notice are sent to the Director of the Legislative Service Commission at least 65 days before adoption. The LSC reviews the rule for compliance with this law and any errors. The agency has 30 days to respond and correct the rule or the LSC will assume it approves the changes.

111.15 & 119 emergency rules are just filed in final form with the Legislative Service Commission.

10. Joint Committee on Agency Rule Review/JCARR (Both – Certain 111.15 Rules & 119 Emergency Rules Exempt) - The proposed rule is sent to the Joint Committee on Agency Rule Review at least 6 business days after being sent to the Office. JCARR has 65 days to review it. If a rule is received in December or January before the legislative session, it is considered to have been filed by the first day of the legislative session. JCARR holds a meeting at least 41 days after receipt.

- Must Include: proposed rule; any business impact analysis and memorandum of response; liability search, if applicable; if implements federal law or rule, a citation and statement whether it is more or less stringent or burdensome.
- May Reject If: rule has adverse impact on business and agency did not prepare or prepared an inaccurate business impact analysis.
- If JCARR files invalidating concurrent resolution, legislature can adopt it during the review.
 - If the legislature does not have 5 legislative sessions before expiration of time to adopt it, deadline extends until after the 5 sessions.
 - Reasons to File Concurrent Resolution – 1) exceeds statutory authority; 2) conflicts with legislative intent; 3) conflicts with another rule; 4) incorporates material by reference AND does NOT reasonably allow affected person to find it, citation does NOT allow JCARR to find and view it or it was not available without charge, or it was exempted from incorporation by reference statute and really is not exempt; 5) no complete and accurate rule summary and fiscal analysis; 6) did NOT demonstrate through business impact analysis, common sense initiative office, and memorandum of response that rule justifies adverse impact on businesses; 7) regulatory restrictions and agency does not justify it; or 8) implements a federal law and is more stringent or burdensome.
 - If replacing emergency rule, Governor can issue executive order to extend its expiration 120 days.
- If JCARR authorizes agency to revise rule, it notifies the agency, Secretary of State, Director of Legislative Service Commission, and if replacing emergency rule, Governor.

- Time to file a concurrent resolution stops until the 31st day after the authorization to revise the rule.
- Agency amends and refiles the rule & rule summary and fiscal analysis.
- JCARR has 30 days after receipt of revised rule to file a concurrent resolution if it has any of the reasons listed.

11. Public Notice (119 Rules Only – Skip to Step 16 For 111.15 & 119 Emergency Rules) -

Original filing of a proposed rule is published in the Ohio Register. Notice is sent to those who request it.

- Notice Includes: statement of intention; a synopsis of the rule or general statement of subject matter; statement of reason or purpose; and the date, time, and place of the hearing.

12. Public Comments (119 Rules Only) - Public is often given a chance to comment on the proposed rule.

13. Public Hearing (119 Rules Only) - The agency holds a public hearing 31 to 40 days after the original filing. After the hearing, the agency must file a hearing report with Secretary of State, Director of the Legislative Service Commission, and JCARR that includes how the issues were included in the rule, or if not, reasons why. Agency also prepares a hearing summary of all issues and positions raised and attaches it as an appendix to the hearing report.

14. If Changed In 35 Days, Revised Filing (Both) – If the rule is changed within 35 days after the original filing, it must be sent to the Secretary of State and the Director of the Legislative Service Commission and JCARR. The LSC publishes the revised rule in the Ohio Register.

- Revised Filing Includes: original and revised rule text; full text of public notice; full text of rule summary and fiscal analysis; and full text of hearing report.

If JCARR has not taken action in over 35 days and it was revised in December or January before the legislature convenes, a concurrent resolution may be adopted by the 30th day after the 1st day of the next legislative session.

15. If Changed After 35 Days, Refiled Filing (Both) - If a rule is changed more than 35 days after the original filing, a refiled filing is published in the Ohio Register. It is also sent to JCARR, which has an additional 30 days from the new filing date.

16. **Rule Adoption** - Agency adopts the rule during a meeting at least 65 days after filing the rule and after JCARR review and designates an effective date.

17. **Final Filing** - A final filing is published in the Ohio Register.

18. **General Assembly (119 Emergency Rule Only)** – The legislature may adopt a concurrent resolution to invalidate a 119 emergency rule.

19. **Effective Date** –

- Rules take effect at least 10 days from the date of filing or a later date specified.
- Emergency rules under 119 take effect immediately after filing with JCARR, and a 111.15 rule takes effect immediately after filing with JCARR or a later date specified, and both last up to 120 days.

20. **Ohio Administrative Code** - Adopted rules are added to the Ohio Administrative Code.

21. **Agency Rule Review** - Agencies must review a rule by the review date it specified in the rule (at least every 5 years) and determine whether to continue it without change, amend it or rescind it. Agency may request up to two 120-day extensions.

- Review Criteria:
 - Exceeds purpose, scope, or intent of statute,
 - Inadequate flexibility at local level,
 - Compliance or oversight burden greater than other means,
 - No longer useful or beneficial,
 - Incorporates material by reference AND citation does NOT allow reasonable person to find the text, citation does NOT allow JCARR to find it without charge, or material was exempted and is not actually exempt,
 - Duplicates, overlaps, or conflicts with federal or state law,
 - Adverse impact on businesses,
 - Adverse impact on persons or entities,
 - Words and phrases that are derogatory or offensive,
 - Requires liability insurance, bond, or financial responsibility to get a license,
 - Imposes more severe duty or liability than similar restrictions in other states,
 - Implements federal law more stringent or burdensome than the law.

- If Changed, agency follows the rulemaking process.
- If No Change, agency must review whether there is an adverse impact on businesses.
 - If Impact, agency must first follow these steps:
 - Prepares a business impact analysis and justifications for the rule.
 - Agency sends text and business impact analysis to Common Sense Initiative Office, which publishes it on its website and makes recommendations on ways to reduce or eliminate impact.
 - Agency considers the recommendations.
 - Agency may amend the rule to include the recommendations or rescind the rule and start the rulemaking process in 6 business days.
 - If NOT amended or rescinded, agency has 6 business days to prepare a memorandum of response explaining the reason.
 - Agency complies with the requirements below.
 - After complying with requirements above OR If No Impact, agency assigns new review date within 5 years of the last one.
 - Agency sends rule and information to Secretary of State, JCARR, and Director of Legislative Service Office.
 - Information Included: rule text with new review date; rule summary; fiscal analysis; business impact analysis, if applicable; Common Sense Initiative Office recommendations; and memorandum of response.
 - JCARR must reject it IF the rule impacts businesses and does not comply with the requirements above. Agency may refile it.
 - JCARR then publishes the agency determination to not amend or rescind the rule in the Register of Ohio for 4 weeks.
 - After the 4 weeks and before 90 days after the notice, JCARR may recommend the legislature adopt an invalidating joint resolution.
 - a. Criteria for Joint Resolution: 1) agency improperly used the review criteria when making decision; 2) adverse impact on business and it did not justify it; 3) incorporates material by reference AND citation does NOT allow reasonable person to find the text, citation does NOT allow JCARR to find it without charge, or material was exempted and is not actually exempt; 4) rule has regulatory restriction that are not justified; or 5) implements federal law in way that is more stringent or burdensome.

- If agency does not comply with this, JCARR schedules a meeting for the agency to appear at to justify it. If agency does not show up or justify it, JCARR may vote to recommend an invalidating concurrent resolution. If adopted, rule is invalidated. If not adopted, rule continues and is reviewed at next review.

19. Regulatory Restrictions Review (Skip for Emergency Rules) – In 2019, agencies were required to review their rules to see which had regulatory restrictions (rules with “shall,” “must,” “require,” “shall not,” “may not,” and “prohibit”). Agency had to create a base inventory of all such rules. It then had to calculate the total number of regulatory restrictions, post it on its website, and send to JCARR. JCARR reviewed it and sent it to the leaders of the House and Senate.

- Base Inventory Includes: regulatory restriction description; rule number; statute; whether federal or statutory law specifically required it or agency adopted it under general authority; whether removal requires change to federal or state law; and any other necessary information.

An agency must amend or rescind its base inventory rules to reduce it by 10% by 6/30/2023, 20% by 6/30/2024, and 30% by 6/30/2025. If an agency fails a deadline, then within 120 days of the deadline, JCARR gives the agency to give cause for a lesser reduction. If an agency has not met its 30% reduction by 7/1/2025, it must remove 2 regulatory restrictions before adopting a new one until it meets the 30%.

Oklahoma

(Oklahoma Administrative Procedures Act: Oklahoma Statutes §75-250 et. al.) 75-303(D)

NOTE: Exemptions to Articles I and II found in § 75-250.4.

TYPES OF RULES:

- Permanent Rules – rules not emergency rules
- Emergency Rules – rules necessary to:
 - Protect public health, safety, or welfare,
 - Comply with deadlines in amendments to governing law or federal law,
 - Avoid violation of federal or state law,
 - Avoid imminent reduction in agency's budget, or
 - Avoid serious prejudice to public interest

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Notice of Rulemaking Intent (Optional for Emergency Rules)** - Agency must publish notice in the Oklahoma Register.
 - Notice Includes: rule summary; proposed action; circumstances that created need for it; legal authority with citations; intended effect; request for business entities to submit the increase in direct and indirect costs caused by the rule, if applicable; time, place, and manner for comments; if the agency will submit a rule impact statement and where to obtain it; time and place of hearing or how to request one; and where to get copies of the rule.

Emergency rules do not require notice, but the agency may publish an abbreviated notice.

4. **Governor And Cabinet Secretary** - Agency submits notice to the Governor and cabinet secretary. They have 30 days to disapprove the rule in writing. If disapproved, the agency may NOT adopt the rule.
5. **Rule Impact Statement** - Agency must submit a rule impact statement before or within 15 days after the notice unless waived by the Governor. It may be amended after the comment period and any hearing.

- Rule Impact Statement Includes: description of purpose of rule; description of classes affected, classes that will be responsible for costs, and cost impact received from entities; description of classes that will benefit; probable economic impact upon classes of persons and political subdivisions, along with fee changes and justification; costs and benefits to the agency and other agencies for implementation and enforcement, source of revenue to be used, and effect on state revenues including net loss or gain; any economic impact on political subdivisions or if it requires their participation in implementation or enforcement; whether it will have an adverse economic impact on small business; measures taken to minimize compliance costs and whether any less costly, nonregulatory, or less intrusive methods exist; effect on public health, safety, and the environment, and if it reduces risks, the risk and extent of reduction; detrimental effect on public health, safety, and environment if not implemented; date of preparation and any modifications.

Emergency impact statement must be prepared before adoption.

- Emergency Impact Statement Includes: rule description; description of persons affected, including classes and cost impacts; description of classes who will benefit; description of probable economic impact upon affected classes with fee changes and justifications; probable implementation and enforcement costs and benefits to agency and effect on state revenues; whether rule will have adverse impact on small business; explanation of measures to minimize compliance costs and whether less costly or intrusive methods; effect on public health, safety, and environment, and if intended to reduce, nature and extent of risk; detrimental effect on public health, safety, and environment if not implemented; and date rule impact state was prepared.
6. **Public Comments** - Public is given at least 30 days to comment on the proposed rule in the manner and by the deadline in the notice.
 7. **Public Hearing (Optional for Emergency Rules)** - The agency must schedule any public hearing at least 30 days after the notice. If a hearing is requested within 30 days by at least 10 people, a political subdivision, an agency, or an association with at least 25 members, the agency must schedule one. Emergency rules do not require a public hearing, but the agency may schedule one.
 8. **Rule Report (Optional for Emergency Rules)** - Agency must prepare a rule report. Emergency rules do not require a rule report, but the agency may adopt one.

- Rule Report Includes: publication date of notice of intended rulemaking; agency name and address; rule number and title; constitutional or statutory authority citation; citation to federal or state law, court ruling, or authority requiring it; gist of rule or brief summary; statement of need; date and location of adoption meeting; summary of comments and any changes made or not made; persons and organizations that attended and registered at the hearing or submitted comments; rule impact statement; any incorporation by reference statement; members of agency board and vote to adopt; proposed effective date; and any requested information.

9. **Rule Adoption** - Rule is adopted by the agency at a meeting.

10. **Governor, Legislature and Joint Committee on Administrative Rules** - Regular and emergency rules must be submitted with an impact statement to the Governor, the leaders of the House and Senate and the Joint Committee on Administrative Rules within 10 days after adoption. Permanent rules also need the rule report.

The Joint Committee may approve or disapprove a permanent rule, and may request an agency amend or further consider a rule. It may also approve or disapprove expedited repeal of rules.

The Legislature may disapprove or approve a rule or expedited repeal of a rule by adopting a joint resolution by the last day of the legislative session if received by April 1 OR the last day of the next legislative session if received after April 1. The agency must file a notice of any disapproval in the Oklahoma Register. If disapproved, the agency may NOT file an identical rule except during the first 60 days of the next legislative session. If a permanent rule replacing an emergency rule, the emergency rule becomes void after the permanent rule is disapproved.

The Governor can sign or veto such disapproval, and the Legislature can override any veto. The Governor can also issue a Governor's Declaration approving the rule if the Legislature does not act on it.

11. **Statement Of Submission (Skip for Emergency Rules)** - Once submitted to the Governor and Legislature above, a statement of submission is published in the Oklahoma Register. Emergency rules do not require a statement of submission.

12. **If Affecting Political Subdivision, Advisory Committee on Intergovernmental Relations (Skip for Emergency Rules)** - If the rule impact statement shows that the rule will have an economic impact on political subdivisions, it must send a copy of the rule and rule

report to the Advisory Committee on Intergovernmental Relations within 10 days of adoption. It may make recommendations to the Governor and Legislature during their review.

13. **Governor Approval (Emergency Rules Only)** - Emergency rules go to the Governor for approval. The Governor has 45 days to either approve or disapprove it. If disapproved, the Governor must notify the leaders of the House and Senate and Joint Committee on Administrative Rules within 15 days. If approved, it must notify the leaders of House and Senate, Committee, and Office of Administrative Rules immediately.
14. **If Governor Disapproves, Agency (Emergency Rules Only)** - If the Governor disapproves an emergency or fails to act within 45 days, the agency may modify and resubmit the rule.
15. **Notice of Finally Adopted Rules** - Notice of the adopted permanent or emergency rule is published in the Oklahoma Register.
16. **Oklahoma Administrative Code (Skip for Emergency Rules)** - The adopted permanent rule is published in the Oklahoma Administrative Code.
17. **Effective Date** –
 - Rules take effect 10 days after being published in the Register or a later date required by statute or specified in the rule.
 - Emergency rules take effect immediately after being published in the Register or a later date specified and last from the 1st day of the next legislative session until September 14th.
18. **Agency Review** - The Governor by Executive Order, the House or Senate of the Legislature by resolution, or a small business may request that an agency review its rules to see if they need amended, repealed, or redrafted. The agency must respond to the Governor or Legislature in 30 days and to small businesses within 90 days.

Oregon

(Oregon Administrative Procedure Act: Oklahoma Statutes Title 18, Chapter 183)

TYPES OF RULES:

- Permanent Rules – all APA rules not temporary
- Temporary Rules – rules for which failing to act promptly would result in serious prejudice to the public interest

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency has 90 days to either deny the petition in writing or start the rulemaking process. For amendments or repeals, the agency must accept public comment.
 - Petition Review Includes: continued need; complaints and comments received; complexity; extent it overlaps, duplicates, or conflicts with other laws; degree that relevant technology, economic conditions, and other factors have changed; and statutory citation or legal basis.
2. **Public Input** - Agency must encourage public input when drafting the rule. It can appoint an advisory committee to represent the interests of the community, and must get its recommendations on whether there is a fiscal impact, the extent, whether it affects small businesses and suggestions for the statement of fiscal impact. If a committee is not appointed and 10 interested people affected or an association with 10 members affected object to the statement of fiscal impact within 10 days after the notice is published, the agency must appoint a fiscal impact advisory committee. It can also appoint the Small Business Rules Advisory Committee. The agency may also contact a list of interested parties to comment.
3. **Drafted** - Proposed rule is drafted.
4. **Notice of Proposed Rulemaking (Optional for Temporary Rules)** - Agency publishes notice in the Oregon Bulletin.
 - Notice Includes: filing caption; rule number and title; clean rule text; statutory authority and statutes; rule summary; PDFs of all attachments; caption up to 15 words with subject matter; statement with subject matter and purpose; time, place, and manner to present views; statutory or legal authority; statute or law implemented; statement of need for the rule and how it meets the need; list of principle documents/reports/studies relied on; statement of fiscal impact;

statement of its effect on racial equality; whether an advisory committee was used and reasons why not if applicable; request for comments on other options to achieve goals without causing negative economic impact; and copy of rule or how to get one.

- Exempt: Rule amendments that: change agency name due to law; change program, office, or division name if it does not change function; correct spelling; correct grammatical mistakes without changing scope; change statutory or rule references; correct address and phone numbers; or change term or phrase to comply with change to law.

Temporary rules do not require notice, but the agency may publish an abbreviated notice.

- Must Prepare: filing caption; agency approved date; effective date and through date; rule number and title; final rule text; statutory authority and statutes; rule summary; PDFs of all attachments; statement of findings that failure to act promptly will result in serious prejudice to public interest; citation of statutory or legal authority; statement of need and how the rule meets it; principal documents, reports, and studies relied on; and housing cost impact statement, if applicable.

5. **Public Comments** - Public is given time to comment on the proposed rules in the manner and by the deadline in the notice.
6. **Public Hearing (Optional for Temporary Rules)** - Agency may hold a public hearing. If requested by 10 people or an association with at least 10 members by the deadlines before a rule takes effect, the agency must submit a hearing notice and hold a hearing. The hearing must be at least 21 days after notice to those who request a hearing, those who requested notices from the agency, and the legislator sponsor or legislative committee. A hearing must be at least 14 days after published in the Bulletin, and if the rule applies to a limited geographical area, after publishing in a newspaper of general circulation in that area.

Temporary rules do not require a public hearing, but the agency can hold one. Rules exempt from the notice are also exempt from the hearing.

7. **Statement of Objectives** – If requested by 5 persons before the effective date, agency must give statement of objectives of the rule and how the agency will determine whether they are met.

8. **Comment Record** - The agency must maintain records of all written materials received, recording or summary of testimony, public comments received on whether other options should be considered for meeting objectives without causing a negative economic impact, and any statement of objectives and how it is meeting those objectives.
9. **Rule Adoption** - Rule is adopted by the agency at a meeting. If requested before the effective date, agency must postpone action for at least 21 days and not more than 90 days to give the requester time to submit a response.
10. **Secretary Of State** - Agency files the adopted rule with the Secretary of State.
11. **Legislative Counsel (Skip for Temporary Rules)** - Adopted rule is sent within 10 days by the Secretary of State to the Legislative Counsel to issue a determination on its legality. If not legal or constitutional, the agency may respond in writing or attend the interim committee meeting.
12. **Effective Date** –
 - Rules cannot take effect until after a deadline established by agency rule, 21 days after the Bulletin notice, 28 days after providing notice to those who requested it, and 49 days after notice to 1) the legislator who introduced the bill and chairs and co-chairs of committees that passed it if legislation passed in the last 2 years, 2) the chair and co-chair of committee with authority over the subject if legislation was not passed in the last 2 years, or 3) the leaders of the House or Senate if notice cannot go to either of those.
 - Temporary rules take effect after filing with the Secretary of State and last up to 180 days.
13. **Agency Review** - An agency must review a rule every 5 years. A report must be sent to the Secretary of State, Small Business Rules Advisory Committee (unless it prepared the report), and any advisory committee that was appointed for the rule.
 - Review Includes: if rule has intended effect; whether fiscal impact was understated or overstated; whether changes to law require amendment or repeal of rule; whether there is continued need; and impact on small business.

- Exempt: amendment or repeal of rules; rules implementing court orders or settlements; rules adopting federal law by reference; rules implementing legislature approved fee changes; and rules correcting errors or omissions.

Pennsylvania

(Pennsylvania Common Documents Act, The Administrative Code of 1929, Commonwealth Attorneys Act, Regulatory Review Act) 7(d)

NOTE: Exemptions found in Regulatory Review Act Section 3. Includes PA Game Commission and PA Fish Commission.

TYPES OF RULES:

- Proposed Regulations – rules that have not had comment review yet
- Final-Form Regulations – rules that the agency reviewed comments on and prepared in final form

STEPS:

1. **Drafted** - Proposed rule is drafted.
2. **Office Of General Council and Office of Attorney General** - Proposed rule is sent to Office of General Council and Office of Attorney General for review for form and legality. The Attorney General has 30 days to review it, or it is considered approved. If objected, agency may revise it to meet the objection. If agency disagrees with objection, it may proceed if it includes the objection. Attorney General may petition the court for review.
3. **Notice of Proposed Regulation** - Notice is published in the Pennsylvania Bulletin by the Legislative Reference Bureau.
 - Notice Includes: rule text; statutory or other authority; explanation; request for written comments; fiscal note; and other required statement.
4. **Independent Regulatory Review Commission (IRRC)** - When notice is published in the Bulletin, the rule and a Regulatory Analysis Form (RAF) are sent to the Independent Regulatory Review Commission and relevant legislative committees. Agency may not send it to the committees between the end of the even-year legislative session and date both committees were designated for the next one. It must be sent to the committees by the 2nd Monday after designation, or it is considered withdrawn.
 - RAF Includes: agency title and names, addresses, and phone numbers of agency contact person; citation to federal or state authority or court decision being implemented; concise explanation of rule; statement of need; estimates of direct and indirect costs to Commonwealth, political subdivisions, and private sector OR Office of the Budget fiscal note; statement of legal, accounting, or consulting procedures or reporting, recordkeeping or paperwork required to implement

and measures to minimize them; schedule for review with comment deadline, public hearing date(s), expected date to become final-form rule, expected effective date, date compliance is required, and date that licenses, permits, or approvals must be obtained; types of entities affected; financial, economic, and social impact and benefits; economic impact statement, if applicable; special provisions developed for certain entities (i.e., small businesses); alternative considered and rejected and that this is least burdensome; regulatory flexibility analysis; plan of evaluation of effectiveness of rule; and data relied on.

5. **Public Comments** - Public has at least 30 days to submit comments on the proposed rule in the manner and by the deadline in the notice. The IRRC and relevant legislative committees may also comment. The IRRC also notifies groups that may be impacted by the rule. The agency must send the IRRC and committees all comments within 5 business days of receipt. It must also within 5 business days of receipt send commentators its address and phone to request information on the final-form rule.
6. **Public Hearing (Optional)** – Agency may hold a public hearing. If the statutory or other authority requires one, agency must hold one.
7. **Independent Regulatory Review Commission (IRRC)** - Within 30 days after the comment period, the Independent Regulatory Review Commission reviews the rule for statutory authority, legislative intent, and if it is in the public’s interest. It makes comments, recommendations, or objections. If no action is taken, rule is considered approved. Comments are published in the Pennsylvania Bulletin.
8. **Comment Review** - The agency must review and respond to all comments. It then submits to the IRRC and committees its responses, names and addresses of commentators who want to be notified of final-form rule, and text of final-form regulation. If it is after the adjournment of the even-year session, agency must wait until the 4th Monday in January. If committees have not been designated, it must wait until they are to give it to the committees. It also sends the final-form rule to commentators that requested it.
9. **Rule Adoption** - Rule is adopted by the agency at a meeting.
10. **Legislative Committees** - A legislative committee has 20 days to act on a final-form rule. If the legislature adjourns during that time, review stops until the 4th Monday in January or the 2nd Monday after the committees are designated, at which time the agency resubmits the rule. If not resubmitted by that time, it fails.
 - Before committees act and before the 20 days, agency may stop the review to amend the rule.

- Agency has 30 days to send the revisions OR notify them that it will not submit revisions.
 - FAILS IF: agency does neither (considered withdrawn).
 - May not file after adjournment of even-year session.
- Committees have longer of the remainder of the 20 days or 10 days to act.
- If not disapproved, it is considered approved.
- If legislature adjourns before review period ends, agency must resubmit the rule at the next one.
- Committees may approve, disapprove, or intend to further review the rule at least 24 hours before the IRRC meeting.

11. **IRRC** - IRRC either approves or disapproves the final-form rule at its next meeting that must be within 30 days of receipt.

- If agency stops the review to make changes under the last step, the commission must act at its next meeting after the committee review period and at least 15 days after receipt of revised rule or notice it will not revise.
 - If not disapproved, it is considered approved.
- IRRC accepts public comments up to 48 hours before the meeting. Agency and legislators may comment until the meeting.
- IRRC reviews it to see if it is in the public interest.
 - Review Includes: consistent with statutory authority and legislative intent; economic and fiscal impacts; protection of public health, safety, and welfare and natural resources; conflict with or duplication of statutes or other rules; clarity and lack of ambiguity; need; reasonableness of requirements, implementation, and timetables; whether acceptable data was used as basis; whether it is a substantial policy that requires legislative review; committee comments, recommendations, and objections; compliance with this procedure; whether acceptable data was used; and whether less costly or intrusive method was considered, if it impacts small business.
- If it takes no action, it is considered approved and may be sent to Attorney General.
- If approved by IRRC and committees did not act, it may be sent to the AG.
- If approved by IRRC and committees disapprove or want further review, agency may not act on the rules for 14 days after committee's receipt of the approval.
 - Committees have 14 days to create and introduce a concurrent resolution.
 - If neither reports a concurrent resolution, agency may send it to AG.

- If either reports one, House and Senate both have longer of 30 days or 10 legislative days to pass it.
- If not acted on, rule is considered approved.
- The Governor has 10 days to act on it.
- If not acted on, the resolution is considered approved and rule fails.
- If vetoed, House and Senate each have longer of 30 days or 10 legislative days to override it by 2/3 vote.
- If not overridden, rule is considered approved.
- If overridden, rule fails.
- If it does not act, rule may be sent to the AG.
- If the legislature adjourns before the 14 days, review continues the 4th Monday in January or the 2nd Monday after committees are designated. It continues the later of the remaining days or 10 days.
 - FAILS IF: not resubmitted by deadline.
- If disapproved by IRRRC, it sends the disapproval order to Legislative Reference Bureau, committees, agencies, and those that requested information.
 - Agency can either withdraw the rule, make no changes, or file a report with any changes within 40 days.
 - If it makes no changes, agency sends a report to the committees and commission with the rule, disapproval order, and agency response and recommendations.
 - If it revises it, agency sends report to committees and commission with revised rule, findings of commission, and agency response and recommendations.
 - If the legislature adjourns before the report is submitted, agency must submit it the 4th Monday in January or the 2nd Monday after committees are designated.
 - a. FAILS IF: not submitted by deadline.
 - Commission has until its next meeting and at least 15 days after receipt of the report to approve or disapprove it.
 - Commission sends approval or disapproval order to committees.
 - If legislature adjourns before that, commission must submit it on the 4th Monday in January or the 2nd Monday after committees are designated.
 - a. Considered approved if not submitted in time.
 - After receipt of the commission order, expiration of the review period, or failure to deliver the order, the committees have 14 days to create and introduce a concurrent resolution.
 - If neither reports a concurrent resolution, agency may send it to AG.
 - If either reports one, House and Senate both have longer of 30 days or 10 legislative days to pass it.

- If not acted on, rule is considered approved.
- The Governor has 10 days to act on it.
- If not acted on, the resolution is considered approved and rule fails.
- If vetoed, House and Senate each have longer of 30 days or 10 legislative days to override it by 2/3 vote.
 - If not overridden, rule is considered approved.
 - If overridden, rule fails.

12. **Office Of Attorney General** - Agency sends final-form regulation to the Attorney General for another review.

13. **Published** - Final-form regulation is published in the Pennsylvania Bulletin.

14. **Effective Date** - Rules take effect and publishing in the Bulletin or a later date specified.

15. **IRRC Review** – IRRC may review any rule in existence for 3 years under the same criteria as for the original review. It may also review it if a person or legislator requests it. It must review a rule if legislative committee requests it. The IRRC may recommend changes. It may also request the legislature and Governor amend a statute.

Rhode Island

<https://omb.ri.gov/sites/g/files/xkgbur751/files/documents/reform/APA/Regulatory-Manual.pdf>

(Rhode Island Administrative Procedure Act: RIGL 42-35, 42-35.1, § 22-12-1.1; Executive Order 15-07)

TYPES OF RULES:

- Regular Rules – rules other than emergency and direct final rules
- Emergency Rules – rules addressing imminent peril to the public or loss of federal funding
- Direct Final Rules – rules that are noncontroversial

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to create a rule. The agency has 30 days to either deny the petition in writing with its reasons or start the rulemaking process.
2. **Statement of Regulatory Principals** – Per Executive Order 15-07, all rules must: 1) be required by federal or state law or deemed necessary to serve public interest; 2) not impose undue burden on those affected; 3) “be clearly written, relevant, and up-to-date,” 4) be based on “sound, reasonably available scientific, technical, economic, and other relevant information,” 5) avoid duplication of other state agencies or local governments, 6) achieve objective in cost-effective and timely manner, 7) have periodic evaluation and review, and 8) “avoid negative business, employment, and overall economic impact” or minimize them if necessary.
3. **Preliminary Draft** – Agency prepares a preliminary draft.
4. **Agency Regulatory Analysis (Skip for Emergency Rules)** – Agency must conduct a regulatory analysis.
 - Analysis Includes: costs and benefits of alternatives; show that this is most effective and least burdensome option; whether it overlaps or duplicates another rule and justification; whether benefits outweigh the costs; and whether rule achieves objective in most cost-effective and beneficial way.
5. **Economic Impact Statement** – Agency must include affect on small business, identify and guess the number impacted, calculate their compliance costs, and list less intrusive or costly alternatives.

6. **Regulatory Flexibility Analysis (Optional for Emergency Rules)** – Agency must consider less stringent compliance or reporting requirements for small businesses, consolidating such requirements, less stringent schedules or deadlines for them, performance standards over design or operational ones, and exemption for them.
7. **Fiscal Note** – Agency must prepare a fiscal note with the State Budget Officer if the rule has a financial impact on cities and towns.
8. **Advance Notice of Proposed Rulemaking (Optional)** - Agency may file an advance notice in the Rhode Island Register to gather information about the subject of a rule before it is drafted. Notice may be published on the Secretary of State website.

Agency may create committees or workshops. Committees must have balanced representation of all interested parties. Agency must publish a list of committees and members in the Rhode Island Register annually. Committee meetings require 15 days prior notice in the Rhode Island Register. Committee must try to reach consensus and present it to the agency. Agency can decide whether to use the consensus for the proposed rule.

9. **Drafted** - Proposed rule is drafted.
10. **Office Of Regulatory Reform (ORR)** – Per Executive Order 15-07, the Office of Regulatory Reform in the Office of Management and Budget (OMB) has 30 days to approve any proposed rule, including emergency and direct final rules. Executive Office of Commerce reviews the rule for any adverse impact on attracting new businesses and expanding current ones and notifies the ORR.
11. **Notice of Proposed Rulemaking and Public Comment Period (Optional for Emergency Rules)** - Agency files notice and summary of regulatory analysis with the Secretary of State to be published in the Rhode Island Register and publishes them on its website at least 30 days before filing a final rule. Notice is also published in a newspaper of general circulation and sent to those who request it. Executive Order 15-07 also requires agencies to publish rules and economic impact statements online, which must be updated based on public comment.
 - Notice Includes: explanation of purpose; citation to specific legal authority; rule text with any amendments; regulatory analysis and how to obtain the full text; where, when, and how to submit comments or request a hearing; date notice is filed; and citations to scientific or statistical studies, reports, and analyses.

Emergency rules may be passed without prior notice.

Direct final rules must also be published in the Rhode Island Register and on the agency website.

12. **Public Comments (Optional for Emergency Rules)** - Public has at least 30 days to comment on the proposed rule in the manner and by the deadline listed in the notice. Public also has 30 days to object to direct final rules, and if so, the rulemaking process must be completed.
13. **Public Hearing (Optional - Skip to Step 17 For Direct Final Rules)** - The agency may hold a public hearing on the rule at least 10 days after the notice and 5 days before the end of the comment period. If 25 people, a government agency, or an association with at least 25 members request a hearing within 10 days of the notice, the agency must schedule one. Emergency rules do not require a hearing, but the agency may schedule one.
14. **Office Of Regulatory Reform (ORR) (Skip for Emergency and Direct Final Rules)** – Per Executive Order 15-07, Office of Regulatory Reform has 30 days to make a final review of the rule and any comments.
15. **Rule Adoption** - Agency adopts the proposed rule at a hearing.
16. **Governor (Emergency Rules)** - Emergency rules must be signed by the Governor.
17. **Secretary of State** - An agency must file the adopted rule within 180 days after the comment period with the Secretary of State, which reviews it to make sure it meets the format, and may reject it within 15 days if it does not. It may also make non-substantive corrections.
18. **Concise Explanatory Statement** – When the agency sends the adopted rule to the Secretary of State, it must issue a concise explanatory statement with reasons for rule and for not accepting arguments, reasons for any changes, and regulatory analysis.
19. **Notice of Adopted Rule** - Notice of adopted rule, including an emergency rule, is published in the Rhode Island Register.
20. **Effective Dates** –
 - Rules take effect 20 days after filing with the Secretary of State or a later date specified.

- Emergency rules take effect after signing by the Governor and last up to 120 days and can be renewed an additional 60 days with ORR approval.
- Direct final rules take effect 30 days after publishing in the Register unless objection is made.

21. **Refiling** - All agency rules must be refiled every 5 years by the 1st Tuesday in January. The agency must give notice 30 days before refileing, or if not refileing, 30 days before the refileing deadline.

South Carolina

<https://www.scstatehouse.gov/register/2008FlowChartCombined.pdf>

(South Carolina state agency rulemaking: S.C. Code of Laws 1-23-10 to 1-23-160)

TYPES OF RULES:

- Permanent Regulations – rules that are not emergency rules
- Emergency Regulations – rules:
 - Addressing imminent peril to public health, safety, or welfare, or
 - From natural resources agency that finds it necessary for “abnormal or unusual conditions, imminent need, or the state’s best interest.”

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reasons or start the rulemaking process.
2. **Notice of Drafting Period (Skip for Emergency Rules)** - Notice is published in the South Carolina Register.
 - Notice Includes: address to send written comments; synopsis; and statutory authority.
3. **Assessment Report (Skip for Emergency Rules)** - For a rule with a substantial economic impact and if requested by 2 members of the legislature during the drafting period, the Office of Research and Statistics of Revenue and Fiscal Affairs Office must create an assessment report.
4. **Drafted** - Proposed rule is drafted.
5. **Notice of Public Hearing (Skip for Emergency Rules)** - Notice is published in the South Carolina Register.
 - Notice Includes: address and time period to send written comments; date, time, and place of public hearing; preamble and rule text; statutory authority; preliminary fiscal impact statement; any preliminary assessment report; statement of need and reasonableness; and detailed statement of rationale.
6. **Public Comments (Skip for Emergency Rules)** - Public has at least 30 days to submit comments on the proposed rule in the manner and by the deadline in the notice.

7. **Public Hearing (Skip for Emergency Rules)** - Agency holds a public hearing at least 30 days after the notice. If no hearing is scheduled and 25 people, a governmental subdivision, or an association with at least 25 members request one, the agency must schedule one.
8. **Written Report** – Presiding official prepares a written report of need and reasonableness within 5 working days of the hearing unless extended 20 days. If no need or reasonableness, agency must either amend it with the recommendations, not amend it and send to the legislature, or withdraw the rule.
9. **Changes (If Applicable)** – Agency may make changes to the rule. Any substantive changes must come from public comments.
10. **Rule Adoption** - Rule is adopted by the agency at a meeting.
11. **Final Assessment Report (Skip for Emergency Rules)** - If requested by 2 members of the legislature, the agency must have the final assessment report prepared by sending the preliminary report to the Office of Research and Statistics of Revenue and Fiscal Affairs Office. The Office has 60 days after the hearing to complete it.
12. **Legislative Council** - Agency files rule with Legislative Council within 1 year of the notice of drafting period. Emergency rules only need the rule and reason for the emergency.
 - Submission Includes: rule text; text of existing rule if being amended; request for review; synopsis of content and amendments to existing rule; final assessment report and final report; fiscal impact statement; rationale for rule with professional documents used; economic impact statement; and regulatory flexibility analysis.
13. **General Assembly Review (Skip for Emergency Rules)** - Legislative Council sends the rule to the leaders of the House and Senate.
 - Leaders send it to the appropriate House and Senate committees for review.
 - Committees have 120 days to act. Review stops while legislature is adjourned.
 - If the committee fails to act in 60 days, it must schedule it at the next meeting.
 - Committee may create legislation to approve or disapprove it.
 - If it does not, it is considered approved unless a member of the House or Senate introduces a joint resolution within 30 days after being submitted to the committee.

- If it creates a joint resolution to approve it, and the legislature passes it, rule is approved. If the joint resolution only approves part of the rule, then that part is approved and the rest FAILS.
- If it creates a joint resolution to disapprove it, the 120 days is stopped.
 - If it gets a negative vote by the legislature, the 120 days continues. Must be at least 90 days.
 - If the legislature passes it, the rule FAILS.
- If it requests the agency withdraw and resubmit with changes, the agency has 30 days to withdraw and resubmit it with the recommended changes. The review period stops until it is resubmitted.
 - If withdrawn permanently, it FAILS.
 - If withdrawn and not resubmitted in time, it FAILS.
 - If agency resubmits it in time, the review period continues.
 - If agency takes no action, it must abide by the legislature's action and notify committee. Review period continues.

14. Notice of Approved Rule (Skip for Emergency Rules) - If approved by the legislature, notice of the approved rule is published in the South Carolina Register.

15. Effective Date –

- Rules take effect after filing in the Register.
- Emergency rules take effect immediately after filing with the Legislative Council and last up to 90 days. If the legislature is not in session when they are filed or expire, the agency can refile them for an additional 90 days. If refiled, 2 members of the legislature can request a final assessment report, and the report along with the statement of need are published in the South Carolina Register.

16. Agency Review - Agencies must review their rules every 5 years. They must submit a report of rules they want to repeal, amend and that have no changes to the Code Commissioner.

South Dakota

<https://sdlegislature.gov/Rules/RulesManual>

(South Dakota Administrative Procedures Act: South Dakota Codified Law Chapter 1-26)

TYPES OF RULES:

- Permanent Rules – rules not emergency rules
- Emergency Rules – temporary rules adopted through a faster process

STEPS:

1. **Petition (If Applicable)** - Any interested person other than an inmate may petition an agency to create, amend or repeal a rule. The agency has 30 days to either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Department Secretary or State Entity** - Before drafting a rule, the agency needs approval from the department secretary or state entity that it is attached to.
3. **Drafted** - Proposed rule is drafted.
4. **Fiscal Note (Skip for Emergency Rules)** – Agency must prepare a fiscal note that show the rule’s impact on state revenues and expenses.
5. **Impact Statement on Small Business** – Agency must prepare an impact statement on small business. Statement must include impact on small business in plain language, number of small businesses affected, reporting and recordkeeping and skills needed for compliance, probable effect on small business, and less intrusive or costly alternatives.
6. **Housing Cost Impact Statement** – Agency only needs to prepare a housing cost impact statement if the rule has new standards or requirements for building or remodeling homes that comes from model code by trade professionals. This statement evaluates the cost of compliance on consumers. Statement must be posted on agency website.
7. **Legislative Research Council (LRC)** - At least 20 days before the public hearing, the agency sends the rule to the director of the Legislative Research Council. The director reviews the proposed rule for style, form, clarity, and legality and notifies the agency of any recommended changes before the hearing, or within 3 days if an emergency rule. Agency must make the changes. If the agency does not agree, it may appeal to the Interim Rules Review Commission.

- Submission Includes: rule, publications incorporated by reference, fiscal note, impact statement on small business, housing cost impact statement, and notice of public hearing.
8. **Bureau Of Finance and Management (BFM) (Skip for Emergency Rules)** - At least 20 days before the public hearing, the agency must send rule to the commissioner of the Bureau of Finance and Management.
 - Submission Includes: rule, fiscal note, impact statement on small business, housing cost impact statement, and notice of public hearing.
 9. **Notice of Public Hearing** - Notice of the public hearing is published in 3 newspapers of general circulation. For emergency rules, a notice of intent to adopt an emergency rule must be published. Notice is also published in the South Dakota Register.
 - Notice Includes: effect of rule; reasons for rule; date, time, and location of hearing; how documents and other comments may be submitted; and how the public can get a copy of the rule.
 10. **Public Comments (Skip for Emergency Rules)** - Public has until at least 10 days after the public hearing (if authority is secretary, commissioner, or officer) or 72 hours before hearing (if part-time citizen board, commission, committee, or task force) to submit comments on the proposed rule in the manner and by the deadline in the notice.
 11. **Public Hearing (Skip for Emergency Rules)** - Agency holds a public hearing on the proposed rule after at least 20 days' notice.
 12. **Comment Review (Skip for Emergency Rules)** - Agency must consider all comments. It may amend the rule.
 13. **Rule Adoption** - Agency adopts the proposed rule at a meeting.
 14. **Interim Rules Review Commission (IRRC)** - Agency sends rule to the Interim Rules Review Committee at least 5 days before its meeting. The IRRC may consider the rulemaking complete, revert the rule back to an earlier step for amendments, or suspend the rule. If reverted back, agency may amend and resubmit it at the next meeting.

- Submission Includes: minutes of the hearing; record of written comments; impact statement on small business; fiscal note; information to increase a fee, if applicable; and final form rule.
- Reasons to Revert Rule Back: significant changes not from the hearing; needs significant rewrites to comply with rule intent; needs amended to address IRRC recommendations or objections; no legislative authority; not in proper form; had insufficient notice; not consistent with legislative intent; not reasonable because of effect of convenience on public; or imposes more than nominal costs on units of local government or school districts.

15. **Legislative Research Council (LRC)** - Agency sends final rule to Legislative Research Council with all required information for publishing in the Administrative Rules of South Dakota.

16. **Secretary of State** - The rule, if approved by the IRRC, is filed with the Secretary of State within 60 days of IRRC approval. For emergency rules, they must be filed within 30 days of the notice of intent to adopt an emergency rule.

17. **Committee Suspension (If Applicable)** – Between filing with the Secretary of State and the effective date, the IRRC can suspend a rule. It must give notice of a hearing, hold a hearing at least 2 weeks later, and file a resolution with the Secretary of State. A rule is suspended until July 1 of the next year.

18. **Petition to Delay Effective Date (If Applicable)** – Any person may petition an agency to delay the effective date of a rule if filed at least 10 days before it takes effect. Agency has 10 days to either deny the petition or grant it and delay the rule up to 90 days.

19. **Effective Date** –

- Rules are provisionally effective 20 days after filing with the Secretary of State or a later date specified and fully effective July 1 after the next legislative session to give the Committee the opportunity to suspend it.
- Emergency rules take effect immediately after filing with the Secretary of State or a date specified up to 20 days later and last 90 days.

Tennessee

<https://sos.tn.gov/publications/services/rulemaking-guidelines>

(Tennessee Uniform Administrative Procedures Act: Tennessee Code Annotated Title 4, Ch. 5)

NOTE: Exemptions are found in § 4-5-106. They include wildlife proclamations for hunting and fishing seasons, limits, and areas.

TYPES OF RULES:

- Permanent Rules – rules not proposed or emergency rules
- Emergency Rules – rules that:
 - Address immediate danger to public health, welfare, and safety and that normal rulemaking would not protect the public;
 - Delay effective date of another rule not effective yet;
 - Required by constitution or court order;
 - Required by federal government and normal rules would jeopardize loss of federal program or fund; or
 - Statutes require being implemented by a certain time.
- Proposed Rules – rules that:
 - Have minor, nonsubstantive changes;
 - Are approved by the Joint Government Operations Committee after a rule is withdrawn after the notice and hearing, given nonsubstantial changes, and is resubmitted;
 - Repeals a rule; or
 - Eliminates or reduces a fee.

STEPS:

1. **Petition (If Applicable)** - A municipality, corporation or 5 people may petition an agency to adopt, amend or repeal a rule. The agency shall promptly either deny the petition in writing with its reasons or start the rulemaking process below.
2. **Drafted** - Proposed rule is drafted.
3. **Notice of Rulemaking Hearing (May Skip for Emergency Rules)** - Notice is published on the Tennessee Administrative Register website by the Secretary of State within 7 days of receipt if the agency is required to hold a hearing.
 - Notice Includes: time and place of hearing; express terms of rule; statutory authority; and other information required by statute.

If no hearing is required, a Proposed Rules is posted on the Administrative Register website. Proposed rules must include a statement that it will be adopted without a public hearing unless a petition for one is requested by 10 affected people, an association with at least 10 members, a municipality, or majority vote of a legislative standing committee within 90 days. If one is received, agency must publish notice and hold a hearing.

Wildlife proclamations are also published.

4. **Public Comments (May Skip for Emergency Rules)** - Public is given time to comment on the proposed rule in the manner and by the deadline in the notice.
5. **Public Hearing (May Skip for Emergency Rules)** - Agency is required to hold a public hearing on the rule, except emergency or proposed rules, at least 7 days after being sent to the Secretary of State and 45 days after the notice. Hearings are also required for proposed rules for which a petition was received. Hearings are also required for emergency rules being turned into permanent rules.
6. **Rule Adoption** - Agency adopts the rule at a meeting.
7. **Attorney General** - Rule must be approved for legality and constitutionality by the Attorney General.
8. **Reporter Of the State** - Rule must be approved for legality and constitutionality by the Reporter of the State.
9. **Secretary of State** - Rule is sent to Secretary of State and published in the Register. Emergency rules are also published.
10. **Government Operations Committees (Skip for Emergency Rules)** - Adopted rule is reviewed by the government operations committees or a subcommittee within 90 days of filing. The committee must hold at least 1 public hearing.
 - Review Includes Whether: 1) agency is within authority; 2) it is easily understood; 3) consistent and not conflicting with other law; 4) necessary for public health, safety, or welfare; 5) necessary to serve persons; 6) arbitrary or capricious; 7) adversely affects constitutional rights; 8) adversely impacts businesses or individuals unnecessarily; 9) results in economic efficiency for those served by and affected by it; and 10) exceeds mandatory minimum requirements of federal law or rule.

11. **Effective Date** –

- Rules take effect 90 days after filing with the Secretary of State. Rules that increase fees or create new ones take effect the July 1 after the 90 days. The agency may extend the effective date by 75 days by publishing a stay of effective date of rules in the Register. The government operations committee may also extend the date for 90-day periods at a time up to the 5th legislative day the year following the filing.
- Emergency rules take effect immediately after filing with the Secretary of State and last up to 180 days.

12. **Expiration** - Permanent rules expire June 30 of the year after they were filed unless the agency extends them to a certain date or indefinitely.

13. **Agency Review** - On 12/31/23 and every 8 years, agencies must submit a report to the chair of the government operations committees which includes whether each rule should be amended or repealed, reviewed further, or continued in effect without amendment.

Texas

https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/adminlaw_hb.pdf

(Texas Administrative Procedure Act: TX Government Code §§ 2001.001 through 2001.041;
Negotiated Rulemaking Act: Texas Government Code § 2008)

NOTE: Texas encourages what it known as negotiated rulemaking where rules are drafted by a committee.

TYPES OF RULES:

- Permanent Rules – rules not emergency rules
- Emergency Rules – rules addressing imminent peril to public health, safety, or welfare OR required by state or federal law requires less than 30-days' notice

STEPS:

1. **Petition (If Applicable)** - Any interested person (resident, business entity, governmental subdivision, or public or private organization in the state) may petition an agency to adopt a rule. If the agency requires signatures, at least 51% must be residents. The agency has 60 days to either deny the petition in writing with its reasons or start the rulemaking process.
2. **Convener (If No Negotiated Rulemaking Skip to Step 5)** - Agencies using negotiated rulemaking appoint a convener that consults with those impacted by a proposed rule to determine whether they would participate in it, whether the agency should use it, which issues it should address, and whether there are other interested people. The convener then recommends whether to use negotiated rulemaking and makes a report.
 - Convener Report Includes: number significantly impacted; probability that interests would be adequately represented; probability of interests to negotiate in good faith; probability committee would reach unanimous or suitable consensus; probability that it will not unreasonably delay notice and adoption; adequacy of agency and citizens to participate; probability committee will have balanced representation; and willingness of agency to accept the committee consensus.
3. **Notice Of Intent of Negotiated Rulemaking** - Agency must publish notice in the Texas Register.
 - Notice Includes: statement of intent to use negotiated rulemaking, subject and scope of rule; known issues to be considered; interests affected; proposed

committee members; request for comments on the rulemaking or committee; and procedure to get on the committee.

4. **Negotiated Rulemaking Committee** - The agency appoints the members of the negotiated rulemaking committee based on the public comments. The committee then discusses the subject of the proposed rule, reaches a consensus on the rule draft, and makes a report with the proposed text and any unresolved issues.
5. **Informal Conferences or Advisory Committees (Optional)** – Agency may appoint committees of interested persons for advice on a rule it is drafting.
6. **Drafted** - Proposed rule is drafted. If negotiated rulemaking is used, the proposed rule in the committee report is used.
7. **Cost Increase (If Applicable)** - If the rule imposes a cost on regulated persons, state agencies, special districts, or local governments, it must repeal a rule that imposes an equal or greater cost or amend a rule to decrease the costs by at least that amount.
 - Exempt: Rules: for state agency procurement; amended to reduce burden of responsibilities upon person or decrease compliance costs; for natural disaster; necessary for federal funds or to comply with federal law; necessary for water resources protection; necessary for public health, safety, and welfare; by Department of Family and Protective Services, Texas Department of Motor Vehicles, Parks and Wildlife Department, Public Utility Commission of Texas, Texas Commission on Environmental Quality, or Texas Racing Commission; adopted by self-directed semi-independent agency; or necessary to implement legislation.
8. **Local Employment Impact Statement (Skip for Emergency Rules)** - Agency must determine if the proposed rule impacts local economies, and if so, must prepare a local employment impact statement with effect on employment in geographic areas for 5 years.
9. **Government Growth Impact Statement (Skip for Emergency Rules)** - The agency must also prepare a government growth impact statement.
 - Statement Includes for the First 5 Years If Rule: creates or eliminates government program; requires creation or elimination of employee positions; requires increase or decrease in appropriations; requires increase or decrease to fees paid to agency; creates new regulation; expands, limits, or repeals an

existing rule; increases or decreases individuals subject to the rule; or positively or adversely affects state economy.

10. Regulatory Analysis (Skip for Emergency Rules) - The agency must also conduct a regulatory analysis and prepare a draft impact analysis for the fiscal note.

- Limited To: Major Environment Rules that exceed federal law standard unless required by state law; exceed requirement of state law unless required by federal law; exceeds requirement of delegation agreement or contact between state and federal agency or representative to implement state or federal program; or adopt a rule under general powers of the agency.
- Analysis Includes: identifying problem being addressed, determining whether necessary to address such problem, and considering benefits and costs to state agencies, law governments, public, regulated community, and environment.

11. Economic Impact Statement (If Applicable) – If a rule has adverse economic effect on small businesses, micro-businesses, or rural communities, the agency must reduce the effect by either having separate compliance or reporting requirements, using performance standards over design standards, or exempting them. It must prepare an economic impact statement and regulatory analysis.

12. Takings Impact Assessment (If Applicable) – If a rule may result in the taking of private property, the agency must provide 30-days' notice in a newspaper of general circulation and complete a takings impact assessment.

13. Notice of Proposed Rule (Skip for Emergency Rules) – Notice is sent to the Secretary of State for publishing in the Texas Register at least 30 days before adoption. If negotiated rulemaking was used, a statement that such rulemaking was used and the committee report must be included. The agency must also publish a summary of the rule on its website starting 9/1/2023. It must also notify those that request notification.

- Notice Includes: explanation of rule; rule text; statutory authority; fiscal note with any draft regulatory analysis and additional or reduced costs to state and local governments, loss or increase in state or local government revenue, or if not costs or revenues; notice of public benefits and probable economic costs; local employment impact statement, if applicable; government growth impact statement; request for comments; and any other required information.

14. **Legislature Committees (Skip for Emergency Rules)** - Proposed rules are sent to the appropriate standing committees for review. The committees may send a statement supporting or opposing adoption of the rule.
15. **Public Comment (Skip for Emergency Rules)** - Public has at least 30 days to comment on the proposed rules in the manner and by the deadline in the notice.
16. **Public Hearing (Skip for Emergency Rules)** - The agency may hold a public hearing on the proposed rule. If requested by a governmental subdivision or agency, 25 people, or an association with at least 25 members, the agency must hold one.
17. **Comment Review (Skip for Emergency Rules)** - Agency must review all comments received. It may amend the rule.
18. **Final Regulatory Analysis (If Applicable)** – For major environmental rules that required a draft regulatory analysis, agency must prepare a final regulatory analysis.
19. **Governor (If Applicable – Skip for Emergency Rules)** - Rules that impact market competition must be reviewed by the Governor within 90 days. The rule can either be approved or rejected with instructions for revisions.
20. **Rule Adoption** - Agency adopts the proposed rule at a meeting at least 30 days after the notice and within 6 months after.
21. **Statement Of Reasons (If Applicable)** - If requested before adoption or within 30 days of adoption, the agency must prepare a statement of the reasons for and against adoption along with reasons for overruling any comments against adoption.
22. **Order Adopting Rule** - Agency must file an order adopting a rule with the Secretary of State who publishes it in the Texas Register. Emergency rules must also be published.
 - Order Includes: statement of authority; certification of review by legal counsel; and justification that includes summary of comments, summary of factual basis for rule, and reasons for any disagreement.
23. **Effective Date** –
 - Rules take effect 20 days after filing, a later date specified in the rule, or on a date required by federal law, except that a rule required because of legislation does not take effect until after the legislation does.

- Emergency rules take effect immediately after filing and last up to 120 days and may be renewed another 60 days.

24. **Agency Review** - A rule must be reviewed every 4 years and must be readopted, readopted with amendments, or repealed.

Utah

<https://rules.utah.gov/help-rulemaking-process-detail/>

(Utah Administrative Rulemaking Act: Utah Code Title 63G, Chapter 3)

TYPES OF RULES:

- Permanent Rules – All rules not temporary
- Emergency Rules – rules for which rulemaking procedures would cause imminent peril to public health, safety, or welfare, imminent budget reduction due to restraints or federal requirements, or make the agency in violation of federal or state law

STEPS:

PREPROPOSAL PHASE

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with its reasons or start the rulemaking process below. If sent to a Board with rulemaking power, the Board must place the petition on its agenda within 45 days and must deny it or start rulemaking within 80 days.
2. **Drafted** - Proposed rule is drafted with the assistance of those impacted. The Attorney General may provide assistance.
3. **Small Business Impact Reduction** - If there is a measurable negative impact on small businesses, agency must conduct a small business impact reduction analysis.
4. **Fiscal Impact** - The agency must conduct an analysis on the fiscal impact the rule may have on businesses.
5. **Rule Analysis** - Agency prepares a rule analysis.
 - Analysis Includes: rule summary and purpose; statutory authority or federal requirement; costs or savings to state budget, local governments, small businesses, and other person; compliance costs; how to view the full rule; how to comment; time and place of any hearing; name and phone of agency contact person; agency head who authorized it; proposed effective date; fiscal impact analysis and comments; any required small business impact analysis; and a summary of any rule being repealed.
6. **Governor's Office of Planning and Budget (Optional)** - Agency may prefile rule with the Governor's Office of Planning and Budget for review.

PROPOSAL PHASE

7. **Office Of Administrative Rules (Office)** - Proposed rule and rule analysis is filed with the Office of Administrative Rules. This is also required for emergency rules.
8. **Governor's Office of Management and Budget (GOMB) (Skip to Step 10 For Emergency Rules)** - Division sends the rule to the Governor's Office of Management and Budget for review.
9. **Governor's Office of Economic Development** - GOMB sends the proposed rule to the Governor's Office of Economic Development.
10. **Rule Analysis** - Agency sends a rule analysis to those who requested it, those who are required to be notified, and those it decides should be notified. This includes emergency rules.
11. **Office Of Administrative Rules (Office)** - The Office of Administrative Rules makes sure the rule has all the required information and that it complies with this law.
12. **Notice of Proposed Rule** - Office of Administrative Rules publishes the proposed rule, including emergency rules, in the Utah State Bulletin.
13. **Appropriations Subcommittee and Interim Committee (If Applicable) (Skip for Emergency Rules)** - For a proposed rule with a fiscal impact over 3 years of \$250,000 to a single person or \$7.5 million to a group of people, the agency must send the proposed rule to the appropriations subcommittee and the relevant interim committees for review. They must notify the Administrative Rule Review and General Oversight Committee of the review with the date, time and place and notify them again of the outcome.
14. **Administrative Rule Review and General Oversight Committee** - Office provides a copy of the Bulletin to the Administrative Rule Review and General Oversight Committee for review. The Committee may request the agency to appear before it. The Committee may recommend legislative action by preparing legislation for the next legislative session or recommend action by a standing or interim committee.
 - Review Includes: authorized by statute; meets legislative intent; the impact on economy and affected persons; total cost to entities and benefit to citizens; and whether it needs legislative approval.

15. **Comment Period (Skip to Step 20 For Emergency Rules)** - Public has 30 to 113 days to comment on the proposed rule in the manner and by the deadline in the notice.
16. **Public Hearing** - The agency may schedule a public hearing on the proposed rule. The agency must hold one if required by a state or federal mandate. If a state agency, 10 interested people, or an interested association with at least 10 members requests a hearing within 15 days of the notice, the agency must schedule one 7 to 30 days after.
17. **Small Business Impact Reduction (If Not Prepared)** - If requested, the agency must conduct a small business impact reduction analysis if not done already.

COMMENT CONSIDERATION

18. **Comment Review** - The agency must take at least 7 days after the comment period to consider all written and oral comments.
19. **If Changed, Notice** - Agencies may make substantial changes to a proposed rule up to 120 days after publishing the initial notice. If the agency makes substantial changes to the rule, it must publish the text and a rule analysis of the change in the Utah State Bulletin.

ADOPTION PHASE

20. **Rule Adoption** - Agency adopts the proposed rule at a meeting.
21. **Office Of Administrative Rules (Office)** - Agency notifies the Office of Administrative Rules of its adoption and its effective date.
22. **Notice of Rule Effective Date** - Division publishes the effective date in the Utah State Bulletin.
23. **Effective Date** –
 - Rules take effect on the date specified by the agency. It must be at least 7 days after the comment period and within 120 days after notice is published.
 - If rule changes are made, the effective date must be at least 30 days after and within 120 days of publishing the last notice of change.
 - Emergency rules take effect after filing or a date specified in the rule and last up to 120 days.

CODIFICATION

24. **Utah Administrative Code** - Division publishes the adopted rule in the Utah Administrative Code.

ENFORCEMENT

25. **Administrative Rule Review Committee** - The Administrative Rule Review Committee may again review the rule and request the agency to appear before it.
26. **Legislature Reauthorization** - Every rule in effect on February 28 expires on May 1 of that year unless reauthorized by the legislature. The Administrative Rule Review and General Oversight Committee must prepare omnibus legislation each legislative session that reauthorizes rules of all agencies except those it wants to change or expire. The legislature must then pass it, and the governor must sign it. If the legislature does not pass it, the Governor can publish a declaration in the Bulletin by June 15 extending them.

Before going to the Governor, the Committee may send a letter to the Governor on why a rule should not be reauthorized. If a rule is not reauthorized by the legislature, the agency may petition for the governor's declaration to extend its effective date, and the Governor may approve the petition and post it in the Bulletin by April 15.

27. **Agency Review** - Agencies must review a rule the later of 5 years after its original effective date or within 5 years after filing the last 5-year review. If it cannot meet that deadline, it may file for a 120-day extension. It must decide whether to continue, repeal, or amend and continue the rule. If continuing it without change, the agency must file with the Office of Administrative Rules the five-year notice of review and statement of continuation with the relevant statute, summary of written comments since the last review, and justification of continuing the rule. If repealing a rule, the agency must follow the rulemaking process above and state that it is a result of five-year review. If amending and continuing a rule, the agency must follow the rulemaking process above and file the five-year notice of review and statement of continuation.

If the agency does not take any of the actions above, the rule expires the day after the missed deadline.

Vermont

(Vermont Administrative Procedure Act: Title 3 Vermont Statutes Ann. Chapter 25)

TYPES OF RULES:

- Regular Rules – all rules not emergency rules
- Emergency Rules – rules addressing imminent peril to public health, safety, or welfare

STEPS:

1. **Written Request (If Applicable)** - Any person may submit a written request for an agency to adopt, amend or repeal a rule. The agency has 30 days to either deny the request in writing or start the rulemaking process below.

Any person may also submit a written request for an agency to adopt a guidance document as a rule or amend or repeal one. The agency has 30 days to either deny the request in writing, amend or repeal the document, or start the rulemaking process below.

If 25 persons or the Legislative Committee on Administrative Rules requests an agency to adopt a practice or procedure as a rule, the agency must start the rulemaking process below except for certain instances.

2. **Drafting Notice (Optional)** - Agency may submit a rule drafting notice with a timeline.
3. **Public Comments (Optional)** - The drafting notice may contain a public comment period where the public can comment on the items and topics listed.
4. **Stakeholder Workshop or Group (Optional)** - Agency may appoint a stakeholder group to work on issues the agency wants to draft into a rule. The group or workshop may also work on developing the draft.
5. **Initial Draft (Optional)** - The agency, based on any public feedback received or stakeholder group or workshop, may prepare an initial draft of the rule.
6. **Public Hearing/Initial Draft (Optional)** - The agency may hold a public hearing on any initial draft or the topics in general.
7. **Drafted** - Agency prepares the final draft of a proposed rule.
8. **Initiate Rulemaking** - Agency initiates the rulemaking process at a meeting.

9. **Interagency Committee on Administrative Rules (Skip for Emergency Rules)** - The agency prefiles a proposed rule for review with the Interagency Committee on Administrative Rules at least 15 days before publishing the notice. The Committee creates a strategy for maximizing public input on the rule, including the time, place, and frequency of hearings.
 - Review Includes: style; consistency with law; legislative intent; and Governor's policies.

10. **Secretary Of State (Skip for Emergency Rules)** - Agency files the proposed rule with the Secretary of State.
 - Submission Includes: agency and subject of the rule; analysis of economic impact (costs and benefits); analysis of environmental impact; any material incorporated by reference; rule text; rule text with any changes marked; required strategy for improving public input; scientific information used; summary of rule and its effect; statutory or general authority; necessity; people, enterprises, and government entities affected; name, address, and phone of agency contact person; schedule for adopting the rule including the date, time, and place of any hearing and comment deadline; any exemption from the Public Records Act; and signed statement by adopting authority.

11. **Notice of Rulemaking** - Secretary of State publishes an online notice of the proposed rule within 2 weeks of receipt. It must also publish notice once in general newspapers. For emergency rules, the agency provides any notice practicable.
 - Notice Includes: agency name; rule title or subject; concise summary of rule effect; people, enterprises, and government agencies affected; summary of economic impact; name, phone, and address of agency contact person; date, time, and place of any hearings; and comment deadline.

12. **Public Comments** - Public can comment on the proposed rule up to 7 days after the last public hearing, or 15 days after publication in the newspapers if no hearing, in the manner and by the deadline in the notice.

13. **Public Hearing (Optional for Emergency Rules)** - Agency may hold a public hearing on the proposed rule. If requested by 25 people, a governmental subdivision or agency, the Interagency Committee on Administrative Rules, or an association with at least 25 members, the agency must schedule one at least 30 days after the notice.

14. Final Proposal (Skip to Step 18 For Emergency Rules) - Agency files a final proposal with the Secretary of State and the Legislative Committee on Administrative Rules.

- Final Proposal Includes: same information as initial notice as updated; statement that comments and hearing were completed; statement that rule was within authority and is not arbitrary, the strategy for maximizing public input and actions taken, sufficiency of economic impact statement, and sufficiency of environmental impact statement; and reasons for overruling substantial arguments for or against it or rejecting suggestions for separate requirements for small businesses.

15. Legislative Committee on Administrative Rules - The Legislative Committee on Administrative Rules may hold a hearing on a final proposal after giving notice at least 10 days prior.

16. Standing Committees - The Legislative Committee on Administrative Rules sends a copy of the final proposal to the chairs of the relevant standing committees and their members that request it, and, if a Public Records Act exemption, to the chairs of the Committees of Government Operations. Committee must make any recommendation at least 5 working days before LCAR review.

The Legislative Committee on Administrative Rules may also by vote send a final proposal to a standing committee to review it if the issues are outside of the its jurisdiction. Such committee may review it.

17. Legislative Committee on Administrative Rules - The Legislative Committee on Administrative Rules has 45 days after the filing of the final proposal to approve it, object to it, or automatically approve it by not acting. If it objects and recommends the agency amend or withdraw it, it must promptly notify the agency. The agency has 14 days to respond and make any revisions. The Committee may then modify or remove its objection. If the Committee does not remove its objection, it may vote to approve a certified objection and submit it to the Secretary of State.

- Reasons for Objection: beyond agency authority; contrary to legislative intent; arbitrary; noncompliance with strategy of maximizing public input; incorrect style; economic impact statement fails to recognize substantial impact, does not include evaluation and costs to local school districts, or does not include substantial impact to those districts; or environmental impact analysis fails to recognize substantial impact.

18. **Rule Adoption** - If no notice of objection by the Committee in 45 days, approved by the Committee, or after responding to an objection, the agency can adopt the rule during a meeting.

19. **Concise Statement of Principal Reasons (If Applicable)** – If requested before adoption or within 30 days of adoption, agency must provide a concise statement of principal reasons for and against adoption and why it overruled those against the rule.

20. **Secretary of State** - Agency files the adopted rule with the Secretary of State within 8 months of the initial filing unless extended.

- Filing Includes: cover sheet with agency name, title or subject of rule, summary of any changes since filing, summary of dates agency complied with this procedure, and signed and dated statement that the procedure was met; adopting page; and rule text.

21. **Legislative Committee on Administrative Rules (Emergency Rules Only)** - Emergency rules are sent to the Legislative Committee on Administrative Rules after adoption. The Committee may by vote object to it and submit its objection to the Secretary of State. The agency may amend the rule or withdraw it.

- May Object If: beyond agency authority; contrary to legislative intent; arbitrary; or not an emergency.

22. **Effective Date** –

- Rules take effect 15 days after adoption or a later date specified.
- Emergency rules take effect after filing and last up to 180 days.

23. **Legislative Committee on Administrative Rules** - The Legislative Committee on Administrative Rules may hold a hearing on an existing rule and file objections to it.

24. **Agency Review** - The Legislative Committee on Administrative Rules may submit a written request to an agency for a rule that has not been adopted, readopted, or substantially amended in the last 6 years. If it does, the rule expires in a year. The agency may adopt a similar rule using the rulemaking process above.

Virginia

<http://register.dls.virginia.gov/process.shtml>

(Virginia Administrative Process Act: Code of Virginia § 2.2-4000 et seq.)

NOTE: Exemptions can be found in § 2.2-4002. They include certain rules of the Department of Wildlife Resources and Agriculture and Consumer Services.

TYPES OF RULES:

- Permanent Rules – rules not emergency or fast-track rules
- Emergency Rules – rules necessitated by an emergency situation OR rules for which statute or federal law or regulation requires an effective date of 280 days or less
- Fast-track Rules – rules expected to be noncontroversial

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to create or amend a rule. Any petition is published in the Virginia Register of Regulations within 14 days. Public has 21 days to comment on the petition. Agency has 90 days after the comment period (or 14 days after its next meeting if no meeting during that time) to either deny the petition in writing with its reasons or grant it and start the rulemaking process.
2. **Executive Branch Review** - Notice of Intended Regulatory Action (NOIRA) is sent for Executive Branch review under the Virginia Regulatory Town Hall. It is reviewed in this order: Department of Planning and Budget, cabinet secretary, Office of Regulatory Management, and Governor.
3. **Notice Of Intended Regulatory Action (NOIRA)** - Notice of Intended Regulatory Action (NOIRA) is published in the Virginia Register of Regulations. If this rule is due to a statute change, the notice must be published within 120 days after it takes effect. The NOIRA must include whether the agency will hold a hearing.
4. **Public Comment** - Public has at least 30 days to comments on the proposal in the manner and by the deadline in the NOIRA.
5. **Drafted** - Agency considers public comments and drafts the proposed rule.
6. **Executive Branch Review** - Agency sends the proposed rule for Executive Branch review under the Virginia Regulatory Town Hall. It is reviewed in this order: Office of the Attorney General, Department of Planning and Budget, Cabinet Secretary, Office of Regulatory Management, and Governor. The Department of Planning and Budget

determines the public benefit and has 45 days to submit an economic impact statement (may be extended 30 days).

7. **Notice** – Notice of the proposed rule is published in the Virginia Register. Emergency rules may be considered adopted once published. Fast-track rules are also published.
 - Notice Includes: summary of rule; statement with basis, purpose, substance, and issues of the rule; Economic Impact Analysis from the Department of Planning and Budget and the agency response; and agency contact person.

8. **Public Comments (May Skip to Step 19 for Emergency Rules)** - Public has 60 days to comment on the proposed rule in the manner and by the deadline in the notice.

For fast-track rules, the public has 30 days to comment. If 10 members of the public, a member of the Joint Commission on Administrative Rules, or a relevant standing committee of the House or Senate object to the fast-track process during the comment period, the agency must follow the normal rulemaking process.

9. **Public Hearing** - Agency may hold a public hearing on the proposed rule. If requested by the Governor or 25 people during the NOIRA public comments, the agency must schedule one.
10. **Changes (Skip to Step 19 For Fast-Track Rules)** - Agency may make changes to the proposed rule based on public comments and publish a revised rule.
11. **Additional Public Comment** - If an agency files a revised rule, it must have a 30-day comment period.
12. **Governor** - Governor has 15 days after the public comment period to review the rule to make sure it is necessary for public health, safety and welfare and is clearly written. Governor may recommend changes to comply with statute.
13. **Rule Adoption** - Agency adopts the proposed rule at a meeting if no objection from the Governor, after incorporating the Governor's suggestions, or despite the Governor's recommendations.
14. **Executive Branch Review** - If the rule was substantially changed, the Attorney General reviews it again. Then it is reviewed by Department of Planning and Budget, Cabinet Secretary, Office of Regulatory Management, and Governor.

15. **Final Notice** - The adopted rule with any changes marked is published in the Virginia Register.

- Submission Includes: rule; summary and statement of basis, purpose, substance, issues, and economic impact; and description of public comment.

16. **Governor** - Governor has 30 days after the final notice to review the rule. Governor may formally object to it and send the objection to the Registrar and agency. The Governor can also suspend the effective date of all or part of a rule until the end of the next legislative session. Both are published in the Virginia Register.

17. **Standing Committees or Joint Commission on Administrative Rules** - The relevant standing committees of the House or Senate or the Joint Commission on Administrative Rules may meet and object to the rule and publish the objection in the Register within 30 days after the final notice. The agency has 21 days to respond.

18. **Additional Public Comment** - Governor may require an agency to post a notice in the Virginia Register and provide another public comment period of 30 days if any changes the agency made were substantial.

Also, if substantial changes were made in the final rule, any person may petition the agency within 30 days of publishing the final notice to hold an additional comment period or hearing. If received from 25 persons, agency must suspend the process for 30 days, file a notice of comment period, and have a 30-day comment period.

19. **Effective Dates** –

- Rules take effect 30 days after publishing or a later date specified.
- If the legislative committees or JCAR provides an objection, the rule takes effect after the 21-day period.
- If additional comment is required, the effective date is a date after the comment period as specified by the agency.
- If the Governor extends the effective date, then it takes effect after the end of the next legislative session.
- If a request for additional comment was made, the agency must make an effective date at least 15 days after the comment period.
- Emergency rules may take effect immediately after the first filing and last up to 18 months and the agency may issue an additional rule that lasts up to 18 months after the first deadline except for a replacement rule that is extended by the Governor another 6 months.

- Fast-track rules with no objections take effect 15 days after the public comment period ends or a later date specified.

20. **Virginia Administrative Code** – Adopted rules are published in the Virginia Administrative Code on their effective date.

21. **Agency Review** - If a rule did not have a review due to a rule change in the last 4 years, the agency must review it to determine whether to continue it without change, amend it, or repeal it. The agency must post a notice of the review in the Virginia Register, have at least a 21-day public comment period, and publish a report of the findings in the Virginia Register within 120 days after the close of the comment period.

Washington

(Washington Administrative Procedure Act: Revised Code of Washington Chapter 34.05)

NOTE: Exemptions from the APA are found in § 34.05.030.

TYPES OF RULES:

- Permanent Rules – rules that must follow the APA that are not emergency or expedited
- Emergency Rules – rules that:
 - Are necessary for preservation of public health, safety, or general welfare if time requirements to comply with this law would be contrary to public interest,
 - Immediate adoption is required by state or federal law, federal regulation, or federal deadline for state receipt of funds, or
 - Are for appropriations in budgets from 2009-2013 or omnibus transportation appropriations act for 2021-2023
- Expedited Rules – rules:
 - Internal government operations,
 - Adopting or incorporating by reference without material change: federal statutes or regulations, state statutes; other agency rules; shoreline master programs except those of statewide significance; or national consensus codes,
 - Correcting typographical errors, updating names or addresses, or clarifying language,
 - That the content is specifically dictated by statute,
 - That had negotiated rulemaking, pilot rulemaking, or another pre-development process,
 - Amended after substantial rule review
 - Being expedited repealed due to statute being repealed, statute is unconstitutional and not replaced, no longer necessary due to circumstances, or that are covered by rules of other agencies

STEPS:

1. **Petition (If Applicable)** - Any person may petition an agency to adopt, amend or repeal a rule. The agency has 60 days to either deny the petition in writing with its reasons and any alternative ways the agency will address the concerns or start the rulemaking process.

If the agency denies an amendment or repeal that is believed to not be within the intent of the legislature or was not made following law, the petitioner may petition for review by the Joint Administrative Rules Review Committee, which must acknowledge receipt and any initial action within 30 days. If not rejected, the Committee must provide final action within 90 days (may be extended until 90 days after adjournment of legislature if it met during that time).

For other denials for amendment or repeal, the petitioner may appeal to the Governor within 30 days. The Governor has 45 days to either deny the petition with the reasons and any alternative ways that the concerns will be addressed OR require the agency to start the rulemaking process if listed in RCW 43.17.010 or request rulemaking if not listed.

Any person may petition an agency to convert interpretive and policy statements into rules. Agency must notify the Joint Administrative Rules Review Committee. Agency has 60 days to either deny the petition in writing with reasons or start the rulemaking process.

2. **Rules Development Agenda (Skip to Step 20 for Emergency Rules)** - Agency must publish an agenda in the Washington State Register by January 31st and July 31st for rules it plans on developing. Agenda must be sent to the director of financial management, rules review committee, and relevant state agencies.
3. **Rule-making Docket** – Agency must prepare a rule-making docket of all pending rules.
 - Docket Includes: name and address of agency contact person; rule subject; citation of all notices published in the Register; place to view written comments; time for public comments; and timetable with time and place of hearing, date of adoption, filing, publication, and effective date.
4. **Preproposal Statement of Inquiry (Skip to Step 12 for Expedited Rules)** - Agency files a Preproposal Statement of Inquiry (CR-101) with the Code Revisor for publishing in the Washington State Register.
 - Statement Includes: that agency is adopting or amending a rule; statutory authority; reasons why needed and what it may accomplish; other state or federal agencies that regulate it and cooperation with them; process of developing the rule; and how interested parties may participate.
5. **Public Comment** - Public is given time to comment on the preproposal in the manner listed in the notice.
6. **Public Hearing (Optional)** - Agency may hold a hearing on the preproposal.
7. **Initial Draft (Optional)** - Agency may provide an initial draft for comment.

8. **Negotiated Rulemaking (Optional)** – Agency may use negotiated rulemaking to draft the rule where representatives of interested parties work together to reach a consensus on the rule.
9. **Pilot Rulemaking (Optional)** – Agency may use pilot rulemaking where volunteer pilot groups test the feasibility of the rule. It must provide notice of such rulemaking.

Agency may conduct pilot rulemaking instead of complying with the regulatory fairness act if over 10 small businesses are affected and it uses 10 small business making of at least 50% of the group OR at least 100 small businesses affected and 20% of small businesses with up to 10 employees, 20% with 11-26 employees, and 20% with 26-50 employees.

10. **Drafting** - Agency may meet with interested parties and conduct other measures to help with the drafting process.
11. **Small Business Economic Impact Statement** - If the proposal will create more than a minimal cost to business or industry or is requested by the Joint Administrative Rules Review Committee, then the agency must prepare a small business economic impact statement.
12. **Final Draft** - Agency prepares the final draft of the rule.
13. **Notice Of Proposed Rulemaking** - Agency files the rule and a Notice of Proposed Rulemaking (CR-102) with the Code Revisor for publishing in the Washington State Register at least 30 days after the statement of inquiry.

- Notice Includes: title, description and explanation of the rule; statutory authority; explanation of rule, its purpose, anticipated effects, any changes, and reasons; agency contact information; person or organization proposing it; any agency comments; whether the law is from federal law or federal or state court action; when, where, and how to submit comments; adoption date proposed; small business economic impact statement or school district fiscal impact statement or why it is not needed; and statement of whether it is considered a significant rule and, if so, the statement that preliminary cost benefit analysis is available.

If expedited rule, the agency files an Expedited Rulemaking Notice.

14. **Public Comments** - Public has time to submit comments on the proposed rule in the manner and by the deadline in the notice.

For expedited rules, the public has 45 days to comment and object to the rule. If objected, the agency must follow the normal rulemaking process. The Expedited Rulemaking Notice is then considered the Statement of Inquiry.

15. **Joint Administrative Rules Review Committee** - The Joint Administrative Rules Review Committee has until 7 days before the public hearing to review a rule to make sure it is within the intent of the legislature and follows this law. Agency must consider the decision at the hearing.
16. **Public Hearing (Skip to Step 20 for Expedited Rules)** - Agency holds one or more hearings on the proposed rule at least 20 days after the notice.
17. **Changes (If Applicable)** - Agency may make changes to the rule. If substantial changes, the agency may file a supplemental notice in the Register or list the reasons for the changes with the Rulemaking Order.
18. **Concise Explanatory Statement** - Agency prepares a concise explanatory statement with reasons for adopting the rule, description of any changes, and a summary of all comments and reasons for including or not including them in the rule.
19. **Rule Adoption** - Agency adopts the proposed rule at a meeting.
20. **Rulemaking Order** - Agency files adopted rule and Rulemaking Order (CR-103) with the Code Revisor for publishing in the Register.
 - Order Includes: adoption date; concise statement of purpose; reference to rules repealed, amended, or suspended; statutory or other authority reference; findings as precondition to adoption; and effective date of rule.

For emergency rules, the agency files the Order of Adoption of Emergency Rule or Amendment with its findings and reasons.

21. **Petition** - Any person may petition an agency within 60 days of the rulemaking order to amend any portion of a rule that is substantially different than the proposed rule. The agency must follow the petition process and start rulemaking.

For emergency rules, a person has 7 days after filing to petition the Governor to immediately repeal it. The Governor has 7 days to deny the petition in writing with the reasons or to repeal it.

22. Effective Date –

- Rules take effect 31 days after filing or a later date listed or required by statute.
- Rules may take effect immediately if 1) required by state or federal constitution, statute, or court order, 2) delaying effective date of another rule not yet effective, or 3) for imminent peril to public health, safety, or general welfare.
- Emergency rules take effect after filing and last up to 120 days.

23. **Postadoption Notice (If Applicable)** - The departments of employment security, labor and industries, ecology, and revenue must notify businesses before or within 200 days after adoption if the rule creates additional requirements for them for which violation leads to penalties, assessments, or administrative sanctions.

24. **Joint Administrative Rules Review Committee** - The Joint Administrative Rules Review Committee may review an existing rule to make sure it is within the legislative intent, followed this law, and that the rule is not actually a policy or interpretive statement.

- If it does not, Committee files a written review with the agency.
- Agency has 30 days to file a notice of hearing and publish it in the Register.
- Agency holds a hearing.
- Agency must consider all comments and notify the Committee of its intended action within 7 days of the hearing.
- If the agency does not intend to change the rule to comply with legislative intent, the rule did not follow this law, or the agency will not replace a policy or interpretive statement with a rule, then the Committee may file an objection with the Code Revisor within 30 days.
- If not within legislative intent or did not follow this law, the Committee may vote to suspend the rule and file written notice to the appropriate standing committees of the legislature, Governor, Code Revisor, and agency.
- The Governor has 30 days to approve or disapprove it, and if approved, the suspension takes effect immediately and lasts 90 days after the end of the next legislative session. If it is a policy or interpretive statement, the Committee may vote to notify the Governor.

West Virginia

(West Virginia Administrative Procedures Act: West Virginia Code Chapter 29A)

NOTE: Exemptions to the APA can be found in §29A-1-3. They include seasons and bag, creel, size, age, weight, and sex limits of wildlife.

TYPES OF RULES:

- Legislative Rules – all rules not exempt from the APA and not listed below
- Emergency Rules – rules addressing immediate preservation of public peace, health, safety, or welfare, established by state statute or federal law or statute, or preventing substantial harm to public interest
- Legislative Exempt Rules – rules that are exempt from the APA
- Procedural Rules – rules that address procedures for dealings with or proceedings before an agency
- Interpretive Rules – rules that provide information or guidance

STEPS:

1. **Drafted** - Proposed rule is drafted.
2. **Notice Of Public Comment Period (Skip to Step 11 for Emergency Rules)** - Notice is filed with the Secretary of State for publishing in the West Virginia Administrative Register.
 - Notice Includes: rule text; fiscal note; text of any draft proposals; date, time, and place of providing public comments or any hearings.

Legislative exempt rules, procedural rules, and interpretive rules only require notice and a fiscal note.

3. **Public Comments** - Agency may either provide a written comment period, hold a hearing, or both. Comment period is 30-60 days. If filed on a deadline day, comments are limited to 30 days.
4. **Public Hearing** - Agency may either provide a written comment period, hold a hearing, or both. Notice of hearing is published in the Register 30 to 60 days before the hearing or the last day of written comments.
5. **Comment Review** - Agency must respond to all comments and state reasons whether they were or were not added to the rule.

6. **Rule Adoption** - Agency adopts the proposed rule at a meeting within 90 days of the comment period. Legislative exempt, interpretive, and procedural rules must be adopted within 6 months after the comment period.
7. **Secretary of State** – Agency must send the agency approved rule to the Secretary of State to be added to the rule in the Register.
 - Submission Includes: notice of agency approval; full rule text; and copy of comments received, hearing transcript, and agency responses.
8. **Legislative Rule-Making Review Committee** - Agency must send the agency approved rule to the Legislative Rule-making Review Committee for review within 90 days of the close of the comment period. The Committee may hold hearings. The Committee may authorize the rule, authorize part of the rule, authorize the rule with amendments, recommend withdrawal, or reject the rule. Committee publishes its decision with any reasons in the Register and sends it to the agency. Committee then either drafts a bill or has the Office of Legislative Services draft one to authorize the rule or part of it with any amendments. If the rule is not authorized, the Committee includes a recommendation.
 - Submission Includes: full rule text; summary of rule content with description of existing rules being amended or repealed; circumstances requiring rule; rule purpose and proposed changes; fiscal note; copy of relevant federal statutes or regulations; explanation of statutory authority and effect of each provision with citation to statute authorizing it; public comments received and agency responses with any changes made from them; and any other required information.
 - Review Includes Whether: 1) within statutory authority or scope, 2) conforms with legislative intent; 3) rule overlaps, duplicates, or conflicts with code, another rule, federal statutes or rules, or local laws and rules; 4) federal funding is impacted by expiration; 5) necessary to accomplish statutory objectives; 6) reasonable; 7) could be less complex or more easily understandable; and 8) complies with this law.
9. **Changes** - If the LRMRC recommends changes, the agency can file a notice in the Register with the changes.
10. **Legislature** - The LRMRC submits the bill to the Legislature at least 40 days before the 60th day of the legislative session or during a special session. The bill may be sent to a

relevant standing committee. The legislature may combine all rules of an agency or committee into one bill. The legislature then must pass the bill. If the legislature disagrees with all or part of the rule, the rule fails. However, the agency may resubmit it to LRMRC.

11. **Adoption Notice** - The rule approved by the legislature is published in the Register. Emergency rules are filed with the Secretary of State for publishing.
12. **Secretary Of State (Emergency Rules Only)** - Emergency rules are sent to the Secretary of State for review to make sure it does not exceed the scope of law, that an emergency exists, and that this law was complied with. The Secretary of State has 42 days to approve or disapprove.
13. **Attorney General (Emergency Rules Only)** - Secretary of State may submit an emergency rule to the Attorney General for approval.
14. **Effective Date** –
 - Legislative rules take effect after publishing, the date provided in the bill, or a later date up to 90 days as provided by the agency.
 - Emergency rules take effect after approval by the Secretary of State or Attorney General or the 42nd day after filing and last up to 15 months.
 - Legislative exempt rules, procedural rules, and interpretive rules take effect 30 days after filing or a later date specified.
15. **Sunset Dates** – Legislative rules include a sunset provision which makes the rule expire on August 1 of the 5th year after it takes effect. The rule can be renewed by the legislature. The Secretary of State notifies the agency 18 months before expiration. Agency has 60 days to file legislative rule with Secretary of State and Legislative Rule-making Review Committee for renewal. If not renewed, notice of sunset is published in the Register within 30 days of expiration.

Wisconsin

https://docs.legis.wisconsin.gov/misc/lc/misc/rule_making_process_flowchart.pdf

(Wisconsin Administrative Procedure: Wis. Stat. Chapter 227; Executive Order #50, 2011)

NOTE: Exemptions to the APA can be found in § 227.01 under the definition of “rule.”

TYPES OF RULES:

- Permanent Rules – rules under the APA not emergency rules
- Emergency Rules – rules for the preservation of public peace, health, safety, or welfare

STEPS:

1. **Petition (If Applicable)** - Any municipality, an association representing a farm, labor, business, or professional group, or 5 interested people may petition an agency to start a rule. The agency must either deny the petition in writing with its reasons or start the rulemaking process.
2. **Small Business Impact (If Applicable – Skip for Emergency Rules)** – If a rule will have an impact on small business, agency must reduce the impact, whenever feasible and not contrary to legislative intent, by using less stringent compliance or reporting requirements, using less stringent schedules and deadlines for such requirements, consolidating or simplifying such requirements, using performance standards over design or operational ones, or exempting such entities altogether. These must be added to the rule.
3. **Informal Advisory Committee or Conferences (Optional)** – Agency may hold informal conferences or appoint an advisory committee to help it with drafting the rule. Any committee members must be sent to the Joint Committee for Review on Administrative Rules.
4. **Scope Statement** - Agency prepares a scope statement. The scope statement is sent to the Department of Administration (DOA) for approval of the agency’s authority. The scope is also sent to the agency head. Then it goes to the Governor for approval.
 - Statement Includes: objective of the rule; existing and new policies and alternatives; statutory authority; time state employees will spend developing it and other resources; entities affected; and existing or proposed federal regulation.

5. **Scope Statement Published** - If approved by the Governor, the scope statement is filed with the Legislative Reference Bureau for publishing in the Wisconsin Administrative Register within 30 days of the approval.
6. **Scope Statement Changes (If Applicable)** - If the agency changes the scope statement in a meaningful way, it must submit a revised scope statement for approval.
7. **Preliminary Notice (If Applicable)** - If the agency holds a preliminary hearing and comment period, the agency must send a notice to the Legislative Reference Bureau with the date, time, and place of the hearing and how to submit comments.
8. **Preliminary Comment Period (If Applicable)** - Agency may hold a preliminary comment period on the scope statement. The Joint Committee for Review of Administrative Rules (JCRAR) may also require one within 10 days of the scope notice.
9. **Preliminary Public Hearing (If Applicable)** - Agency may hold a preliminary public hearing on the scope statement at least 3 days after the hearing notice. The Joint Committee for Review of Administrative Rules (JCRAR) may also require one within 10 days of the scope notice.
10. **Agency Head Approval** - The head of the agency must approve the scope statement at least 10 days after it is published and after any preliminary comment period or hearing. Agency must submit all preliminary comments received.
11. **Drafted** - Proposed rule is drafted.
12. **Rule Analysis** – Agency must prepare a rule analysis.
 - Analysis Includes: statutory reference being interpreted, statutory authority, related statutes or rules, and explanation of authority; brief summary of rule; summary and preliminary comparison with federal regulations intended to address the activities regulated by the rule; summary of public comments and feedback on statement of scope; comparison with similar rules in Illinois, Iowa, Michigan, and Minnesota; summary of factual data and analytical methodologies to support the rule; analysis and documentation used to support how it affect small businesses; comments and opinions from board of veterans affairs; email and phone of agency contact person; and comment place and deadline.
13. **Economic Impact Analysis/EIA (Skip for Emergency Rules)** - Agency must prepare an economic impact analysis. If the agency determines a rule will cost over \$10 million in a

2-year period to initiate and comply with, the agency is required to either have a bill enacted or amend the rule so it is below that amount.

14. **EIA Public Comment (Skip for Emergency Rules)** - Agency must hold a public comment period on the EIA of 14 days if little to no economic impact, 30 days for moderate impact, and 60 days for significant impact.
15. **Fiscal Estimate (Skip for Emergency Rules)** - Agency must prepare a fiscal estimate. Sometimes this is combined with the EIA.
16. **Initial Regulatory Flexibility Analysis (If Applicable)** - If the rule has ANY impact on small business, the agency must prepare an initial regulatory flexibility analysis.
17. **Small Business Regulatory Review Board/SBRRB (If Applicable)** - If the rule has an economic impact on small businesses, the rule is sent to the Small Business Regulatory Review Board at the same time it goes to the Legislative Council below.
18. **Legislative Council Administrative Rules Clearinghouse (Skip for Emergency Rules)** - Agency sends the rule, the EIA, and the fiscal estimate to the Legislative Council Administrative Rules Clearinghouse, which has 20 working days to review it. It first goes to an attorney or analyst where a Clearinghouse Report is prepared, and then to the director or assistant director.
 - Submission Includes: rule text; rule analysis; reference to applicable forms; fiscal estimates; any housing impact analysis; economic impact analysis; and any revised economic impact analysis.
 - Review Includes: statutory authority; compliance with this law; form, style, and placement in code; conflict or duplication of other rules; references to statutes, rules, and forms; clarity, grammar, punctuation, and plain language; conflicts or comparisons with federal statutes or regulations; compliance with time periods; and streamlining and simplifying rule-making process.
19. **Hearing Notice (Skip for Emergency Rules)** - Agency must publish notice of public hearing with the hearing information, rule, EIA, any initial regulatory flexibility analysis, and small business coordinator in the Register. This may be done before the Clearinghouse Report.
 - Exempt Unless Statute Requires It: 1) making existing rule conform to changed or enacted statute; 2) emergency rules; 3) required by joint committee for review

of administrative rules; 4) sent to legislative reference bureau with notice of no hearing.

- Notice Includes: date, time, and place of hearing; copy of rule; any independent economic impact analysis; initial regulatory flexibility analysis, if it affects small business; anything required by statute; and email and phone of small business regulatory coordinator and website link to review rule.

If a rule other than an emergency rule impacts small businesses, including such a statement in the notice is one of the methods of notice an agency must choose from. Another is contacting small businesses directly.

20. **Changes (If Applicable)** - Agency may make germane changes to the rule without additional notice if done before the hearing.

21. **Public Hearing (Skip for Emergency Rules)** - Agency holds a public hearing on the rule at least 10 days after the notice (must also be after the Clearinghouse Report or the end of the 20 days). If a municipality, association representing a farm, labor, business, or professional group, or 25 interested people request a hearing within 30 days of the notice, it must hold one.

If a rule other than an emergency rule impacts small businesses, holding a hearing on the impact on small businesses is one of the methods of notice an agency must choose from. Another is using special procedures to reduce cost or complexity for small businesses participating in a hearing.

22. **Rule Adoption** - Agency prepares the final draft of the rule and adopts it at a meeting.

23. **Public Hearing (For Emergency Rules)** - For emergency rules, agency must hold a public hearing within 45 days after adopting the rule.

24. **Governor** - Final draft is sent to the Governor for review. The Joint Committee for Review of Administrative Rules is provided notice of the final rule when it is sent to the Governor.

25. **Standing Committees** - Agency has 30 months from publishing the scope statement to file a rule for legislative review.

- FAILS IF: not filed by the deadline.

- The notice of the final rule and report go to chief clerks of the House and Senate. If received on the last day of a general business floorperiod of the biannual session, it is considered received on the 1st day of the next session. Notice of being sent and Governor approval are published in the Register.
 - Report Includes: proposed rule in final form; rule analysis; reference to applicable forms; fiscal estimates; any statement or changes from the small business regulatory review board; any economic impact analysis; any revised economic impact analysis; any independent economic impact analysis; any energy impact report; recommendations from legislative council; basis and purpose of rule and how it advances its goals; summary of public comments and agency responses and any changes from them; those who registered or appeared for the public hearing; any changes to rule analysis or fiscal estimate; response to legislative council recommendations and acceptance or rejection with reasons; final regulatory flexibility analysis, if applicable; rule changes due to any energy impact report; any housing impact analysis or revised one; and response to small business regulatory review board.

- The House and Senate have 10 working days to each send them to one standing committee.
- The committees have 30 days to review it, which may be extended 30 days if the committee asks for review with the agency or posts a notice of a hearing.
- If the agency makes a germane change during the last 10 days of the review, it extends an additional 10 working days. If the other committee finished its review, it continues an additional 10 working days.
- If the committee asks for changes and the agency agrees, the review lasts until 10 days after they are received from the agency.
- If a committee objects to it, it notifies the chair or co-chair of the other committee, which stops action on it except to object to it as well. It then goes to JCRAR.
 - Reasons to Object: no statutory authority; emergency to public health, safety, or welfare; noncompliance with legislative intent; conflict with state law; change in circumstances since the earliest law it is based was enacted; arbitrary or capricious or imposes undue hardship; or increases cost of constructing or remodeling a dwelling by more than \$1000, if for department of safety and professional services.

- If a committee has not finished action before the next legislature convenes, the rule is sent to the committee of the next legislature.
- If committee approves it or waives its jurisdiction, it goes to JCRAR.

26. Joint Committee for Review of Administrative Rules/JCRAR (Skip for Emergency Rules) - Rule then goes to the Joint Committee for Review of Administrative Rules within 5 working days after the committee jurisdiction ends.

- JCRAR has 30 days to review the committee objections or approvals, which may be extended 30 days if the Committee reviews it with the agency or publishes a hearing notice. If jurisdiction is on the day before the next legislature convenes, rule is sent to the next legislature and given 10 working days.
- JCRAR holds an executive session to act on the rule.
- JCRAR can concur or nonconcur to a committee objection or approval, object to the rule, approve the rule, request changes, waive its jurisdiction, or not act.
- If JCRAR nonconcur in a committee objection, concurs with a committee approval, approves the rule, waives its jurisdiction, or does not act, the rule goes to the Legislative Reference Bureau.
- If JCRAR requests changes, review extends to the later of the 10th working day after receiving the changes or a written statement the agency will not make the changes or expiration of the review.
 - If JCRAR requests an independent economic impact analysis and gets approval from the committee on Senate organization AND committee on Assembly organization, it notifies the agency and contracts with someone to prepare it. Review extends to the 10th working day after receipt.
- If JCRAR objects, it meets in executive session and votes to introduce a bill in the House and Senate within 30 days of the objection.
 - JCRAR has 5 working days to introduce bills with a report unless bills cannot be introduced during that time.
 - a.** If introduced from February 1 of even-year to next regular legislative session or not able to be introduced, the bills are introduced on the first day of the next session unless House or Senate disposes of one of them.
 - b.** If disposed of, rule goes to Legislative Reference Bureau.
 - Bills can go to a committee, to the calendar scheduling committee, or placed on the calendar.
 - If no committee action within 30 days, bill is considered reported without recommendation.

- If committee reports bill, it goes on the Assembly or Senate calendar within 40 days or whenever the next floor period is.
- If passed, it goes to the other chamber to repeat the process.
- If passed by the legislature, the rule fails.
- If the bills fail, the rule goes to the Legislative Reference Bureau.
- If JCRAR objects, any legislator may introduce a bill to authorize the rule.
 - If the bills fail, rule may not pass unless the legislature passes a law authorizing it.
 - If a bill passes, the rule goes to the Legislative Reference Bureau.

27. **Final Notice** - After all approvals, a certified copy of the rule is sent to the Legislative Reference Bureau for publishing in the Register. Rules, except emergency rules, that affect small businesses must include a summary of the final regulatory flexibility analysis and summary of comments of the standing committees.

28. **Effective Date** –

- Rules take effect the first day of the month after the date of publication, a date required by statute, later date specified in the rule, or first day of the 3rd month after publication if a significant economic impact on small business.
- Emergency rules take effect immediately after publication in the state newspaper or a later date specified and last up to 150 days unless JCRAR extends it up to two times for 60 days.

29. **Joint Committee for Review of Administrative Rules (JCRAR)** - The Committee must hold a public hearing if it receives any complaint with merit on an enacted rule. The Committee may then vote to temporarily suspend a rule as a result for the same reasons it can object to a proposed rule. It must publish a class I notice in the state newspaper, take executive action within 30 days of the suspension, introduce bills in the legislature in 5 working days, and submit a written report. Bills introduced from February 1 of the odd-year session to before the next session are introduced at the next session. Bill is sent to appropriate committee, which has 30 days to act, or it is reported without recommendation. Full House or Senate then has 40 days from the referral or the next floor period to pass the bill. If both bills fail, the rule remains and may not be suspended again; if either pass, the rule is repealed and may not be reintroduced without a bill authorizing it.

The Committee may also require an agency to hold a public hearing, publish a class I notice in the state newspaper, and hold a hearing within 60 days.

30. **Agency Review** - Agency must review its rules and submit a report to the Committee by March 31 of odd-years. The report must list all rules that are unauthorized due to legislation that repealed or amended its authority, with restricted authority, obsolete or unnecessary, duplicative/superseded/in conflict with other law, or are economically burdensome. It must also state the agency's action and the status of rules in previous report not included or a statement that no rules apply. If unauthorized, it must petition for rule repeal.
31. **Small Business Regulatory Review Board** - If the Small Business Regulatory Review Board determines that a rule places an unnecessary burden on small businesses, it may submit a report and its recommendation to JCRAR. JCRAR may follow the same process in Step 26 or send it to legislative committees.

Wyoming

https://sos.wyo.gov/Rules/Docs/WY_Rulemaking_Process.pdf

(Wyoming Administrative Procedure Act: Wyoming Statutes §§ 16-3-101 to 16-3-115; 28-9-101 to 28-9-108)

TYPES OF RULES:

- Permanent Rules – all APA rules not emergency rules
- Emergency Rules – rules for which an emergency exists

STEPS:

1. **Petition (If Applicable)** - Any interested person may petition an agency to adopt, amend or repeal a rule. The agency must either deny the petition with the reasons in writing or start the rulemaking process as soon as practicable.
2. **Drafted** - Proposed rule is drafted upon consultation with the Attorney General.
3. **Governor** - Governor must approve proceeding with rulemaking. For emergency rules, agency submits an emergency rules packet with the Governor with memorandum of the emergency, Statement of Principal Reasons, certification page and text.
4. **Notice (Skip for Emergency Rules)** - Agency files a Proposed Rule Packet with the Secretary of State with Notice of Intent, Statement of Principal Reasons, and copies of the rule with and without changes shown. It may also publish a notice in a newspaper of general circulation. It also files it with the Attorney General and Legislative Service Office. The LSO submits the notice of any new rule to the sponsor and the committees that acted on the legislation.
5. **Public Comments (Skip for Emergency Rules)** - Public has at least 45 days to comment on the proposed rule in the manner and by the deadline in the notice.
6. **Public Hearing (Skip for Emergency Rules)** - Agency may hold a public hearing on the rule. If requested by 25 people, a governmental subdivision, or an organization with 25 members, the agency must hold one after the public comment period.
7. **Comment Review and Changes (Skip for Emergency Rules)** - The agency must review all comments received. The agency can also make changes to the rule based on the comments. If substantial, the agency may refile the rule.

8. **If Changes, Additional Public Comment (Skip for Emergency Rules)** - If the agency refiles the rule with substantial changes not based on the comments, public again has 45 days to comment on it.
9. **Rule Adoption** - Agency adopts the proposed rule at a meeting.
10. **Legislative Service Office** - The agency must send the adopted rule to the Legislative Service Office for review within 10 days of adoption. The LSO prepares a rule review report that includes comments from the sponsor and standing committees. This report is sent to the agency, Governor and Attorney General.
11. **Management Council** - The Legislative Service Office submits the rule review report to the Management Council within 15 days of receipt or 10 days after the adjournment of the legislature if in session. The Council may receive assistance from the standing committee that handled it or the relevant joint interim committee. The Council may approve the rule or recommend to amend or rescind a rule and send its decision to the agency and Governor. The Governor has 15 days to either order the rule be amended or rescinded or file objection with the Council.
12. **Statement Of Principal Reasons (Skip for Emergency Rules)** - If requested by an interested person before adoption or within 30 days after, the agency must file a concise statement of principal reasons for overruling the consideration against adoption.
13. **Legislature (Skip for Emergency Rules)** - Adopted rule is sent to the legislature for review. It then gives feedback to the Governor.
14. **Attorney General (Skip for Emergency Rules)** - Attorney General then reviews the rule and submits its recommendation to the Governor.
15. **Governor** - The rule then goes to the Governor for review. If approved, the certification page is signed. If disapproved, the Governor may veto all or part of it making that part fail. If disapproved, the Governor must also send them to the Legislative Management Council within 15 days.

For emergency rules, the Governor can either send them back for further drafting or sign them.

16. **Secretary Of State** - The rule is filed with the Secretary of State within 75 days of adoption. Notice of adoption is sent within 10 days to those who requested it.

17. Effective Date –

- Rules take effect after filing or a later date specified by statute or in the rule.
- Emergency rules take effect after filing and last up to 120 days unless refiled for an additional 120 days.

18. Management Council - If a rule does not meet criteria, the Management Council may introduce legislation in the next legislative session to prohibit implementation or enforcement of the rule. If the legislation passes, the rule is null and void. If not, the rule may be enforced.