

Proposed Rulemaking

A proposed rule is filed by an agency upon completion and submission of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue. When an agency files a Notice of Proposed Rulemaking, the notice is published in the Register within three weeks of filing.

An agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules.

Rulemaking Docket Opening

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that an agency intends to work on its rules. When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires publication of the Notice of Rulemaking Docket Opening in the Register. Agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. An agency may file the Notice of Rulemaking Docket Opening along with the Notice of Proposed Rulemaking.

Arizona Rulemaking Process

Agency opens a docket. Agency files a Notice of Rulemaking Docket Opening; it is published in the Register. Often an agency will file the docket with the proposed rulemaking

Agency drafts proposed rule and Economic Impact Statement (EIS); informal public review/comment.

Agency files Notice of Proposed Rulemaking. Notice is published in the Register. Notice of meetings may be published in the Register or included in the Preamble of Proposed Rulemaking. Agency opens comment period.

Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing

If there is a substantial change, the agency can decide not to proceed; files Notice of Termination of Rulemaking. May open a new Docket.

Alternatively: Agency files Notice of Supplemental Proposed Rulemaking. Notice published in Register. Oral proceeding and close of record. Comment period must last at least 30 days after publication of notice. Oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing

No Substantial Change: Rule must be submitted for review or terminated within 120 days after the close of the record. A final rulemaking package is submitted for review. Contains final preamble, rules, and Economic Impact Statement. The Governor's Regulatory Review Committee (G.R.R.C.) has 90 days to review and approve or return the rule package, in whole or in part. The Attorney General has 60 days.

After approval by G.R.R.C. or A.G., the rule becomes effective 60 days after filing with the Secretary of State (unless otherwise indicated).

The final rule is published in the Register and the quarterly Code Supplement.

Termination of Rulemaking

An agency may choose to terminate a rulemaking proceeding at any step of the regular rulemaking process.

Emergency Rulemaking

If an agency makes a finding that a rule is necessary as an emergency measure, the rule may be made, amended or repealed as an emergency measure, without the notice and prior review by the council, if the rule is first approved by the attorney general and filed with the secretary of state.

Emergency measures exist in any of the following:

Protect the public health, safety or welfare.

Comply with deadlines in amendments to an agency's governing law or federal programs.

Avoid violation of federal law or regulation or other state law.

Avoid an imminent budget reduction.

Avoid serious prejudice to the public interest or the interest of the parties concerned.

Within sixty days after receipt, the attorney general shall review the demonstration of emergency. If the emergency is in accordance with the standards, the attorney general shall create a certificate of approval and file the rule with the secretary of state. The secretary of state shall publish the rule in the register and publish the rule in the code.

An emergency rule made, amended or repealed is valid for 180 days after the filing of the rule with the secretary of state. The emergency may be renewed for one more 180-day period.

A rule that is made pursuant to this chapter shall repeal an emergency rule made, amended or repealed if the emergency is still effective within the 180-day period.

On expiration of the 180-day period, the secretary of state shall remove the emergency rule from the code.

Arizona Register

Arizona Administrative Procedure Act