

Rulemaking Process

The rulemaking process is triggered by (1) new statutes procured by the legislature or (2) agency updates to administrative rules. The agency begins the rulemaking process and invites input from stakeholders (e.g., the public, small businesses). Comments may be provided through community meetings and email.

The agency reviews the comments and determines whether to proceed to a public hearing. The agency holds a public hearing where testimony is gathered and recorded. If the rule is not approved, the agency re-engages with stakeholders. If the rule is approved, the rule is sent to the Governor or Mayor to be signed into law.

Hawaii Administrative Procedures Act

State agencies, through the office of the lieutenant governor, shall make available on the website of the office of the lieutenant governor each proposed rulemaking action of the agency and the full text of the agency's proposed rules or changes to existing rules.

Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

Give at least thirty days' (30) notice for a public hearing. The notice shall include:

A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved; and

A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;

A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and

The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, given at least once statewide for state agencies and in the county for county agencies.

Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce the date when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency, if requested to do so by an interested person, shall issue a concise statement of the principal reasons for and against its determination.

Emergency Rulemaking

If an agency finds that an imminent peril to the public health, safety, or morals, to livestock and poultry health, or to natural resources requires adoption, amendment, or repeal of a rule upon less than thirty (30) days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing, including posting the abbreviated notice and hearing on the Internet, as it finds practicable to adopt an emergency rule to be effective for a period of not longer than 120 days without renewal.

In addition to emergency rules adopted, an agency may adopt emergency rules where new federal legislation or federal and state court decisions disrupt prior practice under any statute administered by the agency and adoption of an emergency rule is urgently needed to:

Conform existing rules to new requirements;

Implement newly-established rights;

Clarify existing rules and prevent confusion among those covered by existing statutes;

Stabilize a regulated industry or endeavor;

Avoid disruption of governmental or industrial operations;

Facilitate orderly agency or legislative study of the consequences of the new federal legislation or a federal or state court decision;

Reinforce or preserve the unmodified goals of a statute administered by the agency; or

Temporarily resolve any practical problems created by the new federal legislation or federal and state court decisions; provided that an agency shall not adopt any emergency rule pursuant to this subsection without conducting a public hearing; provided further that an agency shall give no less than thirty days' notice of the hearing; provided further that any emergency rule adopted pursuant to this subsection shall be effective until no later than adjournment sine die of the next regular legislative session following adoption of the emergency rule.

Governor's Approval

The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor. The adoption, amendment, or repeal of any rule by any county agency shall be subject to the approval of the mayor of the county. This subsection shall not apply to the adoption, amendment, and repeal of the rules of the county boards of water supply.

Hawaiian Register

Hawaii Administrative Procedure Act