

Rulemaking Process

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state.

The Notice of Rulemaking must include any fee changes, any negative fiscal impact greater than \$10,000, the proposed changes, and an opportunity for the public to participate when a proposed rule is published in the Bulletin. The agency shall receive comments for not less than after the date of publication of the notice of proposed rulemaking in the bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. A minimum of people must request the hearing within 14 days of the publication. Such submissions or requests must be presented to the agency within the time and manner specified in the individual Notice of Rulemaking for each proposed rule that is published in the Bulletin.

After the notice of proposed rulemaking has been filed, an agency shall prepare and deliver to the germane joint subcommittee (GJS) a statement of economic impact with respect to a proposed rule if the GJS files a written request with the agency for such a statement. The statement shall contain an evaluation of the costs and benefits of the rule (i.e., an economic impact), including any health, safety, or welfare costs and benefits.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a "logical outgrowth" of the proposed rule.

The agency may now adopt and publish the pending rule. A pending rule is "pending" legislative review for final approval. The pending rule is the agency's final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

Emergency Rulemaking

An agency may act through an emergency proceeding in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action. The agency shall take only such actions as are necessary to prevent or avoid the immediate danger that justifies the use of emergency contested cases.

The agency shall issue an order, including a brief, reasoned statement to justify both the decision that an immediate danger exists and the decision to take the specific action. When appropriate, the order shall include findings of fact and conclusions of law.

The agency shall give such notice as is reasonable to persons who are required to comply with the order. The order is effective when issued.

After issuing an order pursuant to this section, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in emergency contested cases or for judicial review thereof.

No order issued pursuant to this section shall be effective for longer than one hundred twenty (120) days or until the effective date of any final order.

Idaho Register

Idaho Administrative Procedure Act