

Illinois

State Regulatory Processes

Rulemaking Process

First Notice

The proposed rulemaking process officially begins when a proposed rule is published in the Illinois Register. The date of Register publication begins the First Notice period, during which the agency proposing the rulemaking must accept comments from the affected public. The First Notice period must continue for at least 45 days, but agencies may continue to accept public comment for a longer period.

Proposed rules appearing in the Register include a Notice Page that lists the Title, Part and Sections being adopted, amended or repealed; an explanation of the content and purpose of the rulemaking; the State or federal laws authorizing the rulemaking; other rulemakings pending on the same Part; a regulatory flexibility analysis; and contact information (agency contact person's name, address, telephone number, e-mail address, etc.) for persons wishing to submit comments on the proposed rulemaking.

Public Hearings

Agencies are required to hold public hearings on proposed rulemakings if so requested by the Joint Committee on Administrative Rules (JCAR), the Governor, an affected local government, 25 interested individuals, or an association representing at least 100 interested individuals. Requests for public hearings on a proposed rulemaking must be submitted to the agency within 14 days after the proposed rulemaking is published in the Register. An agency may decide on its own to hold hearings on a proposed rulemaking. Notices of public hearings are published in the Register and appear in the Flinn Report. Hearings during the First Notice period are conducted by the agency and are subject to reasonable rules designed to prevent excessive length or repetition of comments. Generally, persons testifying at public hearings are asked to bring a printed copy of their remarks and to limit their oral testimony to 5 minutes or less.

Second Notice

When an agency is ready to submit a rulemaking for JCAR review, it files Second Notice documents. These documents include a summary of the rulemaking and any changes the agency made to its proposed during First Notice. After JCAR accepts a Second Notice, the rulemaking is scheduled for consideration at a JCAR meeting within the next 45 days (the Second Notice period). JCAR and the affected agency may agree to extend the Second Notice period for that rulemaking for an additional 45 days to resolve remaining issues. The rulemaking will be reconsidered at a subsequent meeting. Once Second Notice has begun, no further changes may be made to a proposed rulemaking unless agreed to by both JCAR and the agency.

JCAR Action

JCAR is a commission of 12 legislators that equally represent both houses of the General Assembly and both parties within those houses. CAR members may take any of the following actions concerning a proposed rulemaking: No objection, recommendation, an objection, or a filing prohibition. A Certification of No Objection is provided when there is no objection.

Adoption

Once an agency receives a Certificate of No Objection, or duly responds to an Objection within 90 days, it may adopt the rulemaking with any Second Notice changes to which the agency and JCAR have agreed during the review process (if any changes were requested or necessary) and any modifications the agency makes in response to a JCAR Objection. Notices of adopted rulemakings appear in the Register. The Notice Page for an adopted rulemaking includes the effective date of the rulemaking, the Register citation where the rulemaking was proposed, and any changes since First Notice. An agency must adopt a proposed rulemaking within one year after its original First Notice publication in the Register. If it fails to do so, the rulemaking expires and cannot be adopted. An exception may occur when JCAR has issued a Filing Prohibition to a rulemaking, which tolls the one-year expiration until the Filing Prohibition is withdrawn.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of

public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee

Emergency Rulemaking

Temporary rules that take effect immediately or up to 10 days after filing with the Secretary of State, but remain in effect for no more than 150 days. The Illinois Administrative Procedure Act (IAPA) allows use of emergency rulemaking when an agency determines that a "threat to the public interest, safety or welfare" requires rules to be adopted in less time than would be needed to complete proposed rulemaking. JCAR reviews emergency rules to ensure that they meet these criteria. If an agency wants to maintain the policy established in the temporary emergency rule, a companion proposed rule must also be adopted. The companion proposed rulemaking should be adopted before the emergency rule expires. Agencies cannot file the same emergency rule more than once within a 24-month period, unless the General Assembly makes an exception to this limit and to the 150- day limit in statute. Statutes may also authorize agencies to use emergency rulemaking for specific purposes.

Illinois Register

Illinois Administrative Procedure Act