

## Rulemaking Process

- 1. Rule Development:** The agency works with interested stakeholders to discuss issues and develop a draft proposed rule prior to commencing the formal rulemaking process.
- 2. SBA and OMB Approval of Rulemaking:** Prior to submission of a proposed rule to the Legislative Services Agency (LSA) for publication in the Indiana Register, the requesting agency must submit the proposed rule to the Office of Management and Budget (OMB) and the State Budget Agency (SBA) along with a regulatory analysis for review and approval.
- 3. Budget Committee Review [If necessary]:** If the proposed rule adds or amends language to increase or expand application of a fee, fine, or civil penalty, or the rule will have a combined implementation and compliance costs of at least one million dollars (\$1,000,000) for businesses, local units, and individuals over any two (2) year period, the agency must obtain budget committee review of the proposed rule.
- 4. Notice of First Public Comment Period:** The agency files the Notice of First Public Comment Period, proposed rule language, regulatory analysis, SBA and OMB approval, and the budget committee agenda (if necessary) to be published in the Indiana Register. All required documents must be published at least thirty (30) days before the public hearing.
- 5. Public Hearing and Public Comment:** The agency will hold a public hearing, during which time anyone can provide oral comments on the rule. The agency will also have a written comment period. The public comment period usually corresponds with the period from the notice of public hearing until the hearing itself. The agency must provide an option for the public to attend and comment on the hearing remotely.
- 6. Notice of Second Public Comment Period [If necessary]:** If an agency receives substantive comments during the first public comment period, the agency must have a second public comment period and hearing. The agency files the Notice of Second Public Comment Period, proposed rule language, regulatory analysis, SBA and OMB approval, budget committee agenda (if necessary), summary of comments received and agency response, and an explanation of any differences between the text of the proposed rule for the first public comment period and the second to be published in the Indiana Register. All required documents must be published at least thirty (30) days before the public hearing.
- 7. Second Public Hearing and Public Comment [If necessary]:** The agency will hold a second public hearing and comment period.
- 8. Final Rule:** The agency considers the public comments and may make changes based on those comments to form the Final Rule.
- 9. Attorney General Review:** The agency submits the Final Rule and supporting documents to the Office of the Attorney General (AG) for review and approval. The AG has forty-five (45) days from the date that the agency submits a rule or resubmits a rule to approve or disapprove the rule.
- 10. Governor Review:** After the AG has approved a rule, the agency submits the Final Rule and supporting documents to the Governor's Office for review and approval. The Governor has fifteen (15) days to review and approve a rule.
- 11. Effective Rule:** After the rule has been approved by all state signatories, it will be filed with LSA and becomes effective 30 days later.

## Provisional Rulemaking Process

Every agency is granted authority to utilize the provisional rulemaking process if the agency has general rulemaking authority and the Governor finds a provisional rule is necessary to avoid: Imminent and substantial peril to public health, safety or welfare; Loss of federal funds; Imminent and material deficit; Imminent and substantial violation of state or federal law; or

Injury to people or public utility, and imminent and substantial peril to wildlife or domestic animals

## Provisional Rulemaking Overview

- 1. Rule Development:** Time permitting, the agency works with interested stakeholders to discuss issues and develop a draft proposed rule prior to commencing the formal rulemaking process.

regulatory analysis

**3. [If Necessary] Budget Committee Review:** If the provisional rule adds or amends language to increase or expand application of a fee, fine, or civil penalty or the rule will have a combined implementation and compliance costs of at least one million dollars (\$1,000,000) for businesses, local units, and individuals over any two (2) year period the agency must obtain Budget Committee review of the proposed rule before it can be approved by the Governor.

**4. Document Control Number:** The agency must obtain a document control number from the Indiana Register

**5. Adoption of Provisional Rule:** After the provisional rule has been circulated to the legislature, an agency may adopt the provisional rule.

**6. Effective Provisional Rule:** The agency submits the provisional rule to the Indiana Register for publishing. A provisional rule typically will become effective when it is accepted for filing by the Indiana Register unless a later date is set in law.

**7. Invalidation of Provisional Rule:** The AG or Governor may choose to file an objection to the provisional rule with the Indiana Register, but no later than 45 days after the rule is accepted for filing. Once filed, this objection invalidates the provisional rule.

Indiana Register

Indiana Administrative Procedure Act