

## **Rulemaking Process**

### **Administrative Rules Implement the Law**

After the bill becomes law it becomes part of the Iowa Code. The bill which resulted in the new law may require or authorize a state government agency to adopt administrative rules. Administrative rules are the regulations which the responsible agency puts into action to implement the law. The Administrative rules then become part of the Iowa Administrative Code (IAC).

### **Notice of Intent to Adopt Rules**

State agencies often draft administrative rules or propose to modify or change existing administrative rules. Rules may be proposed because of new laws, or because changes are needed to existing programs or simply to keep current with federal regulations. Some programs and responsibilities that are carried out by state agencies require that state laws be at least as strict as federal laws.

Proposed rules must be formatted in a certain way: the old rule language is shown with a strike through and the proposed rule language is shown using underlined text. In the Iowa Administrative Bulletin, new language is indicated by italics, rather than underlining.

Proposed new rules are reviewed and approved by the administrative head of each agency. The rules are then filed in an action which is called the "Notice of Intended Action." The rules are filed with the Governor's Administrative Rules Coordinator. The Administrative Rules Coordinator is responsible for coordinating all rules that are proposed by the Governor's executive branch agencies. This part of the process usually takes about 50 to 65 days to complete.

### **Iowa Administrative Bulletin (IAB)**

Next the proposed rule is published in the Iowa Administrative Bulletin (IAB) about 19 days after the Administrative Rules Review Coordinator has received the rules.

### **Public Comment Period and Public Hearings**

Concurrent with the publication of the "Notice of Intent to Adopt Rules" in the IAB the first 20 days of this period is reserved for the public to comment on any aspect of the proposed rules. The state agency may decide to extend the public comment period at their discretion. A public hearing by the state agency to take comments is not required unless at least 25 persons demand a hearing. Some state agencies will schedule a public hearing for each of their proposed rule changes regardless of the number of comments received.

At a public hearing, people are encouraged to submit their comments in writing for the record, and orally if they chose. Any individual or organization desiring to comment on the proposed rule may submit comments from the time the Notice of Intent is filed through the public comment period. The state agency may revise a rule in response to comments received but is not required to do so.

### **Agency Adopts Rules**

The administrative head of the state agency may adopt the proposed rules not less than 35 days from the time that the "Notice of Intended Action" was first published in the IAB. The rules must be "adopted" by the state agency so it can take the next step and file the "Adopted and Filed" version of the rules with the Governor's Administrative Rules Review Coordinator for a second time. This part of the process takes about 19 days. Once this is completed, the rules are again published in the IAB and become a part of the IAC. The first possible day that the rules can become effective is 35 days after they are published for the second time.

### **Legislative Review**

At some point during this process, the proposed rule is reviewed by the legislature's Administrative Rules Review Committee (ARRC). Generally, the proposed rule is evaluated by the ARRC after the "Adopted and Filed" version is

published in the IAB.

The ARRC does have the discretion to object to a rule. (If an objection does occur this effectively eliminates the presumption that the rule was valid in the event the rule is taken up in a subsequent judicial review.) The ARRC may also delay the effective date of a proposed rule pending additional review by the General Assembly. Although it does not occur frequently, the Iowa General Assembly has the ability to rescind any administrative rule by joint action of both the Senate and the House chambers. This oversight power is held by only a few state legislatures.

### **Emergency Rulemaking**

An agency may use emergency adjudicative proceedings in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action. The agency may take only such action as is necessary to prevent or avoid the immediate danger to the public health, safety, or welfare that justifies use of emergency adjudication.

The agency shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the agency's discretion, to justify the determination of an immediate danger and the agency's decision to take the specific action.

The agency shall give such notice as is practicable to persons who are required to comply with the order. The order is effective when issued. After issuing an order, 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.

The agency record consists of any documents regarding the matter that were considered or prepared by the agency. The agency shall maintain these documents as its official record. Unless otherwise required by a provision of law, the agency record need not constitute the exclusive basis for agency action in emergency adjudicative proceedings or for judicial review thereof.

### **Iowa Register**

### **Iowa Administrative Procedure Act**