

Rulemaking Process

Declaratory opinions.

Any person may make a written request of an agency for a declaratory opinion as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the agency. An agency shall issue a declaratory opinion in response to a written request for that opinion.

Required rule-making.

Each agency shall: (a) Adopt as a rule a description of the organization of the agency which states the general course and method of its operations and where and how the public may obtain information or make submissions or requests; (b) Adopt rules of practice setting forth the nature and requirements of all formal and informal proceedings available to the public.

Advice on possible rules before notice of proposed rule adoption.

In addition to seeking information by other methods, an agency, before filing of a notice of proposed rule adoption, may solicit comments from the public on a subject matter of possible rule-making under active consideration within the agency by causing notice to be filed with the Secretary of State for publication in the administrative bulletin of the subject matter and indicating where, when and how persons may comment.

Each agency may also appoint committees of nonagency personnel or other members of the public to comment, before filing a notice of proposed rule adoption. The membership of those committees must be filed with the Secretary of State for publication in the administrative bulletin.

Public rule-making docket.

Each agency shall maintain a current, public rule-making docket. The rule-making docket must list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced.

Notice of proposed rule adoption.

At least twenty-five (25) days before the adoption of a rule an agency shall cause notice of its contemplated action to be properly filed with the Secretary of State for publication in the administrative bulletin.

Public participation.

For at least twenty-five (25) days after proper filing with the Secretary of State of the notice of proposed rule adoption, an agency shall afford persons the opportunity to submit, in writing, argument, data and views on the proposed rule.

An agency may schedule an oral proceeding on any proposed rule. However, an agency shall schedule an oral proceeding on a proposed rule if, within twenty (20) days after the proper filing of the notice of proposed rule adoption, a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. At that proceeding, persons may present oral or written argument, data and views on the proposed rule.

An oral proceeding on a proposed rule may not be held earlier than twenty (20) days after notice of its location and time is properly filed with the Secretary of State for publication in the administrative bulletin. Within three (3) days after its proper filing with the Secretary of State for publication in the administrative bulletin, the agency shall mail a copy of the notice of the location and time of the oral proceeding to each person who has made a timely request to the agency to be placed on the mailing list maintained by the agency of persons who have requested notices of proposed rule adoptions.

Economic impact statement, requirement and conditions.

Prior to giving the notice, each agency proposing the adoption of a rule or significant amendment of an existing rule imposing a duty, responsibility or requirement on any person shall consider the economic impact the rule will have on the citizens and the benefits the rule will cause to accrue to those citizens.

Time and manner of rule adoption.

An agency may not adopt a rule until the period for making written submissions and oral presentations has expired. Following the proper filing with the Secretary of State of the notice of proposed rule adoption, an agency shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by proper filing with the Secretary of State of a notice to that effect for publication in the administrative bulletin. Before the adoption of a rule, an agency shall consider the written submissions, oral submissions or any memorandum summarizing oral submissions, and any economic impact statement. Within the scope of its delegated authority, an agency may use its own experience, technical competence, specialized knowledge and judgment in the adoption of a rule.

Filing of rules.

An agency shall file in the Office of the Secretary of State each rule it adopts

Effective date of rules.

Each rule adopted becomes effective thirty (30) days after its proper filing in the Office of the Secretary of State.

Emergency Rulemaking

If an agency finds that an imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than twenty-five (25) days' notice and states in writing its reasons for that finding, it may proceed without prior notice of hearing or upon any abbreviated notice and hearing that it finds practicable to adopt an emergency rule. The rule may be effective for a period of not longer than one hundred twenty (120) days, renewable once for a period not exceeding ninety (90) days, but the adoption of an identical rule under subsection (1) of this section is not precluded.

Mississippi Register

Mississippi Administrative Procedure Act