

## Rulemaking Process

Rules can only be written if a statute authorizes a state agency to write a rule pertaining to a particular subject. Once the rule is written by the agency, the agency is then ready to file the rulemaking.

The proposed rule is filed with the Joint Committee on Administrative Rules (JCAR) and Administrative Rules of the Office of the Secretary of State by email on the same day.

Administrative Rules publishes the proposed rule thirty to forty-five (30–45) days later in the Missouri Register. Following publication, there must be a public comment and/or public hearing period that extends a minimum of thirty (30) days after the date of publication of the proposed rulemaking in the Missouri Register. The agency must act on the rulemaking within ninety (90) days following the close of public comment, or the rulemaking lapses. The agency may withdraw the rulemaking at any time.

Once the public comment and/or public hearing period is closed, information from the comments and/or public hearing is compiled by the agency and the agency writes the final order of rulemaking for the proposed rulemaking.

A copy of the final order of the proposed rule is next filed by the agency only with the JCAR. The final order is retained by the JCAR for a thirty- (30-) day review period. Once the thirty- (30-) day review period is completed, the agency may then, and only then, file the final order of rulemaking packet they received back from JCAR with Administrative Rules by email for publication in the Missouri Register. However, the agency must file the order within ninety (90) days after the end of the comment period or the rulemaking will become void.

At the end of each month, the rules that are published as final orders are prepared in final form for publication in the Code of State Regulations by Administrative Rules.

These rules become effective thirty (30) days after the publication date of the update to the Code of State Regulations. An agency, at their discretion, may choose a later date. Once a rule becomes effective, it has the force and effect of law.

Agencies may amend or rescind existing rules by going through the same process which is outlined in the above steps. However, an agency may only have one (1) rulemaking procedure in place at a time for each rule. The rulemaking must be ordered before it can begin the amendment process again.

## **Emergency Rulemaking**

An emergency rule may be adopted by an agency if the agency

finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action;

follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances;

follows procedures which comply with the protections extended by the Missouri and the United States Constitutions;

limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure; and

at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) business days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the Missouri Register as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

## Missouri Register

**Missouri Administrative Procedure Act**