

Rulemaking Process

State agencies adopt or promulgate regulations under the authority granted to them by the statutes passed by the Legislature. Regulations are adopted in order to clarify and define processes and requirements outlined in state law. Properly adopted regulations have the force of law.

A regulation is created, amended or repealed through the hearing and adoption process. This can take anywhere from weeks to months from start to finish. The purpose of the hearing and adoption process is to ensure that the public has an opportunity to participate in the rulemaking process and that the regulation is properly authorized by law. Unless there are special circumstances, each proposed regulation goes through a mandatory adoption process.

This adoption process is as follows:

Rule drafting period. Rule drafting period is the amount of time used by the agency to draft the proposed regulation and solicit input from interested parties as appropriate. Interested parties may include the public, industry associations, or persons or groups affected by the regulation. Because it is difficult to significantly change a regulation once it has been set for hearing, the drafting period is an important phase in the development of a regulation.

Thirty-day publication notice. Notice of the rulemaking hearing must be published at least 30 days prior to the hearing to inform the public of the proposed changes. Contents of the notice include date, time and place of the hearing, as well as a short explanation of the purpose of the proposed regulations. Notices are generally published in a newspaper of general circulation. Notices and text of the proposed changes are available on the rules tracking system and in the Secretary of State's Office.

Public hearing. The public hearing is an opportunity for the public to comment on proposed regulations. Agencies may take online comments as well if they choose to enable the online comment function of the rules tracking system. The public hearing shall be held within 12 months after the effective date of the legislative bill.

Submission for review. After the hearing, the regulations and the accompanying material must be submitted to the attorney general and governor. The attorney general reviews the regulations for compliance with statutory and constitutional authority. The regulations then go to the governor for policy review and final approval.

Adoption of regulations. Upon completion of these steps, the regulations are filed with the Secretary of State and become law five days following receipt.

Emergency Rulemaking

If an agency determines that the adoption, amendment, or repeal of a rule or regulation is necessitated by an emergency situation, the agency may adopt, amend, or repeal a rule or regulation upon approval of the Governor. Such agency's request shall be submitted to the Governor in writing and include a justification as to why the emergency rule or regulation is necessary. Factors for the justification shall include:

Imminent peril to the public health, safety, or welfare; or

The unforeseen loss of federal funding for an agency program.

Rules and regulations adopted, amended, or repealed as an emergency shall be exempted from the notice and hearings requirements, the review process, and shall be valid upon approval of the Governor. An emergency rule or regulation shall remain in effect for a period of ninety (90) calendar days and is renewable once for a period not to exceed ninety (90) calendar days.

Any agency which adopts, amends, or repeals a rule or regulation as an emergency shall file such rule or regulation with the Secretary of State. The agency shall also publish such rule or regulation on the agency's website.

Nebraska Register

Nebraska Administrative Procedure Act