

New Hampshire

State Regulatory Processes

Rulemaking Process

First Stage

The agency establishes the initial proposal and then obtains a fiscal impact statement (FIS) from the Legislative Budget Assistant (LBA). Allow 10 working days (after receipt by LBA of agency requests) for LBA to complete the FIS. The agency may have a pre-process hearing.

Procedure for Adoption of Rules

An agency shall adopt a rule by:

Filing a notice of the proposed rule, including a fiscal impact statement;

Filing the text of a proposed rule;

Holding a public hearing and receiving comments;

Filing a final proposal;

Responding to the committee when required; and

Adopting and filing a final rule.

An agency files notice and rule with the Office of Legislative Services (OLS).

Public Hearing

There is a 20 day minimum between publishing the notice in the register and the public hearing.

Deadline for Comment in Writing or Electronic Format

The deadline is 5 business days minimum if single rulemaker; same day minimum if group rulemaker.

Draft of Final Proposal, Hearing, & Comment (optional)

Agency Obtains Amended Fiscal Impact Statement From LBA

Allow 5 working days for LBA to complete the amended FIS.

Agency Files Final Proposal With OLS

The time between the notice being published and the agency filing the final proposal with OLS is a minimum of 21 days and a maximum of 180 days.

Second Stage

Committee Review

The Final Proposal must be filed at least 21 days before the meeting for placement on the agenda. The agency has the option of filing a conditional approval request at least 7 days prior to the meeting. There is a 60 days max between when the agency files the final proposal with OLS and the committee review. The committee may approve, conditionally approve, or provide a preliminary objection.

If Approved

Adopted by agency

Agency files adopted file with OLS

The adopted rule is effective at 12:01 am the day after the new rule is filed, unless otherwise specified.

If Conditionally Approved

Agency files an amendment (in 30 days as approved or 7 days after the next agency board or committee meeting)

Confirmed by OLS

Rule is approved

If the agency amendment is not filed as required, the rulemaking process follows the Preliminary Objection process, starting with an agency response.

Preliminary Objection

The agency must respond within 45 days to the preliminary objection.

Agency Amendment

Committee Review of Response or Amended Response

There is a minimum of 7 days between when the agency files the amendment or response and when the agency reviews the response or amendments.

The committee may approve or revise their objection.

Revised Committee Objection

Only if the agency requests an amended response, if filed, was not approved.

Agency provides response within 45 days

Committee reviews the response

If there is no action within 50 days of the objection response deadline, the agency adopts the rule. Rule is filed with OLS.

The committee may provide approval or a final objection. If approved, the rule is adopted by the agency and filed with OLS.

The committee may vote to sponsor a joint resolution. The proposed rule then requires legislation action to be adopted by the agency.

Emergency Rulemaking

An agency may proceed to adopt an emergency rule if it finds either that an imminent peril to the public health or safety requires adoption of a rule with less notice than is required or that substantial fiscal harm to the state or its citizens could occur if rules are not adopted with less notice than is required. The rule may be adopted without having been filed in proposed or final proposed form and may be adopted after whatever notice and hearing the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are made known to persons who may be affected by them.

Emergency rules adopted shall not remain in effect for more than 180 days from the date and time of filing. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule, but it shall not adopt the same emergency rule when the emergency rule expires.

New Hampshire Register

New Hampshire Administrative Procedure Act