

Rulemaking Process

Initiation of The Rulemaking Process By An Agency

The rulemaking process may be initiated by an agency when a notice for a rule hearing is publicly posted pursuant to this rule.

The agency shall proceed with the rulemaking process by posting public notice, publishing the proposed rule for comment, and setting a public rule hearing.

Initiation of The Rulemaking Process By The Public

Any person may file a petition for rulemaking with an agency in writing and include an explanation of the purpose or statement of reasons for the proposed rule.

The agency to which a petition is made shall, if required by law, consider the petition and make a determination whether to grant or deny the petition. If the agency denies the petition, it shall issue a concise written statement explaining its reason for denial.

If granted, The agency shall proceed with the rulemaking process by posting public notice, publishing the proposed rule for comment, and setting a public rule hearing.

Rulemaking Notice

The agency shall provide to the public notice of the proposed rulemaking a minimum of 30 calendar days prior to the public rule hearing.

Written Comment Period:

The public comment period must be at least 30 calendar days, beginning after publication of the notice in the New Mexico register and issuance of the rulemaking notice. The agency shall not adopt a proposed rule before the end of the public comment period.

A person may submit written comments on a proposed rule, and those comments shall be made part of the record. Written comments may be submitted through the end of the public comment period. The agency may decide to amend the comment period if it provides to the public notice of the changes.

The agency shall post all written comments on its website no more than 3 business days following receipt for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency.

Public Hearing:

Prior to adopting a proposed rule, the agency must hold a public rule hearing. The purpose of the hearing is to provide all interested persons a reasonable opportunity to submit data, views or arguments orally or in writing on the proposed rule. The agency, at its sole discretion, may determine whether to hold more than one hearing. Hearings shall be open to the public and recorded.

Rulemaking Record And Adoption Of Rule

The agency shall maintain a record of the rulemaking proceeding and any written comment, document, or other exhibit entered during the rule hearing.

The agency may adopt, amend or reject the proposed rule.

The date of adoption of the proposed rule shall be the date the concise explanatory statement is signed by the agency, unless otherwise specified in the concise explanatory statement.

The concise explanatory statement shall include, but not limited to, the following: the effective date of the rule, date of adoption of the rule, and reasons for adopting the rule, any change between the published proposed rule and the final rule, or for not accepting substantive arguments made through public comment.

Filing And Publication; Effective Date

Within 15 calendar days after the date of adoption of a rule, the agency shall file the adopted rule with the state records administrator and shall provide to the public the adopted rule and concise explanatory statement. Unless another date is stated in the agency's concise explanatory statement, the effective date of the rule shall be the date of publication in the New Mexico register.

Emergency Rulemaking

If the agency finds that immediate adoption, amendment or suspension of a rule is necessary for the preservation of the public peace, health, safety or general welfare, or if the agency for good cause finds that observance of the requirements of notice and public hearing would be contrary to the public interest, the agency may dispense with such requirements and adopt, amend or suspend the rule as an emergency.

The agency's finding and a brief statement of the reasons for its finding shall be incorporated in the emergency rule, amendment or suspension. Upon adoption of an emergency rule, amendment or suspension which shall remain in effect for longer than sixty (60) days, notice shall be given within seven (7) days as required in this section for proposed rules.

New Mexico Register

New Mexico Administrative Procedure Act