

# North Carolina

## *State Regulatory Processes*

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### **Rulemaking Process**

#### **Adoption of Permanent Rules**

An agency intending to adopt, amend, or repeal a rule must publish a notice of text in the North Carolina Register.

The notice must include the text of the proposed rule, a short explanation of the reason for the proposed rule, the proposed effective date of the rule, the date, time, and place of any public hearing scheduled on the rule or instructions on how a person may demand a public hearing on a proposed rule, the period of time during which written comments may be submitted on the proposed rule, if a fiscal note has been prepared for the rule, a statement that a copy of the fiscal note can be obtained from the agency, and the procedure by which a person can object to a proposed rule and the requirements for subjecting a proposed rule to the legislative review process.

An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published.

The agency must accept comments at the public hearing on both the proposed rule and any fiscal note that has been prepared in connection with the proposed rule. An agency may hold a public hearing in other circumstances. When an agency holds a public hearing, the agency must publish in the North Carolina Register a notice of the date, time, and place of the public hearing. The hearing date must be at least 15 but not later than 60 days after the date the notice is published. The agency must publish a cancellation notice in the North Carolina Register at least 15 days prior to the date of any rescheduled hearing.

An agency must accept comments on the proposed rule and any fiscal note for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer. An agency must consider fully all written and oral comments received.

When final action is taken, the adopting agency must file the rule with the Rules Review Commission (RRC) within 30 days of the adoption. After approval by RRC, the adopted rule becomes effective on the first day of the month following the month the rule is approved, or the agency requests a delayed effective date.

[Rulemaking Process Infographic](#)

#### **Emergency Rulemaking**

An agency may adopt an emergency rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements would be contrary to the public interest and that the immediate adoption of the rule is required by a serious and unforeseen threat to the public health or safety.

When an agency adopts an emergency rule, it must simultaneously commence the process for adopting a temporary rule by submitting the rule to the Codifier of Rules for publication. The Department of Health and Human Services may adopt emergency rules when a recent act of the General Assembly or the United States Congress or a recent change in federal regulations authorizes new or increased services or benefits for children and families and the emergency rule is necessary to implement the change in State or federal law.

An agency must prepare a written statement of its findings of need for an emergency rule. The statement must be signed by the head of the agency adopting the rule. When an agency adopts an emergency rule, it must submit the rule and the agency's written statement of its findings of the need for the rule to the Codifier of Rules. Within two business days, the Codifier of Rules must review the agency's written statement of findings of need for the rule to determine whether the statement of need necessitates an emergency rule.

If the Codifier of Rules finds that the statement meets the criteria, the Codifier of Rules must notify the head of the agency and enter the rule in the North Carolina Administrative Code on the sixth business day following approval by the Codifier of Rules. If the Codifier of Rules finds that the statement does not necessitate an emergency rule, the Codifier of Rules must immediately notify the head of the agency. The agency may appeal.

An emergency rule becomes effective on the date specified. An emergency rule expires on the earliest of the following dates: (1) The date specified in the rule. (2) The effective date of the temporary rule adopted to replace the emergency rule.

(3) The date the Commission returns to an agency a temporary rule the agency adopted to replace the emergency rule. (4) Sixty days from the date the emergency rule was published in the North Carolina Register, unless the temporary rule adopted to replace the emergency rule has been submitted to the Commission.

When the Codifier of Rules enters an emergency rule in the North Carolina Administrative Code, the Codifier of Rules must publish the rule in the North Carolina Register.

[Emergency Rulemaking Infographic](#)

**[North Carolina Register](#)**

**[North Carolina Administrative Procedure Act](#)**