

Rulemaking Process

Notice of proposed rulemaking required.

An agency shall give public notice of its intention to promulgate, amend or repeal an administrative regulation by publication in the Bulletin of a notice of proposed rulemaking conforming to this part. The notice includes the following:

The text of the proposed administrative regulation,

A brief explanation of the proposed administrative regulation or change, and

A request for written comments by an interested person concerning the proposed administrative regulation or change.

Adoption of regulations.

Before taking action upon an administrative regulation or change, the agency shall review and consider a written comment and may hold public hearings as appropriate; that if the statute or other authority under which a regulation is proposed to be promulgated, amended or repealed requires the holding of public hearings or establishes other procedures, the agency shall hold public hearings or comply with the other procedures as are not inconsistent with the provisions of the act; that the agency text of an administrative regulation or change as finally adopted may contain modifications to the proposed text; and that modifications which enlarge the original purpose of a proposal shall be republished thereunder prior to final adoption by the agency.

Whenever an agency finally adopts a proposed regulation more than 1 year after the proposed regulation was published, the Bureau will republish, in full, the entire regulation as finally adopted.

Effective date of regulations.

The effective date specified in an administrative regulation may be not less than 30 days after the notice of proposed rulemaking.

Approval as to legality.

Administrative regulations and changes shall be approved as to legality by the Department of Justice before they are deposited with the Bureau ; that in the event the Department of Justice shall rule illegal an administrative regulation or change, adopted by an agency which is by statute independent of the policy supervision and control of the Governor, and the agency or a party before the agency supporting the regulations or changes shall disagree with the ruling of the Department of Justice, such agency or the party may appeal from the determination of the Department of Justice to the Commonwealth Court; that in other cases the decision of the Department of Justice shall be final and may not be subject to a judicial review at the instance of the agency, or a supporting party, and that nothing in the section shall affect the right of a person adversely affected by a regulation or change to obtain a determination of the validity thereof in an appropriate proceeding.

PA Register FAQ

Generally, an agency wishing to adopt, amend or repeal regulations must first publish in the Pennsylvania Bulletin a Notice of Proposed Rulemaking. There are limited instances where the agency may omit the proposal step; it still must publish the adopted version. The Notice of Proposed Rulemaking contains:

The statutory authority for the proposed action.

The proposed effective date.

The full text of the change.

The agency contact person.

A fiscal note required by law.

Background for the action.

The agency then allows sufficient time for public comment and reviews before taking final action. An adopted proposal must be published in the Pennsylvania Bulletin before it can take effect.

Emergency Rulemaking

An agency may deliver a final regulation as an emergency certified regulation in either of the following situations:

The Attorney General certifies that the regulation is required to satisfy the order of a State or Federal court, or to implement the provisions of a Federal statute or regulation.

The Governor certifies that the regulation is required to avoid an emergency which may threaten the public health, safety or welfare, cause a budget deficit or create the need for supplemental or deficiency appropriations of greater than \$1 million.

The agency shall deliver the 1) emergency certified final-form regulation and the certification and 2) emergency certified final-omitted regulation and the certification from the Attorney General or the Governor.

Review of an emergency certified final regulation.

An emergency certified final regulation shall take effect immediately upon publication in the Pennsylvania Bulletin, or on the date specified in the agency's adoption order.

If the emergency certified regulation is disapproved, the regulation shall be rescinded after 120 days or upon final disapproval.

An agency may not make changes to an emergency certified regulation after the agency delivers the regulation to the Commission and the committees.

Pennsylvania Register

Pennsylvania Administrative Procedure Act