

# South Carolina

## *State Regulatory Processes*

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### **Rulemaking Process**

#### **Drafting Notice**

Prior to promulgation, amendment or repeal of a regulation, the agency must give notice of a drafting period in the State Register. No regulation may be filed with the Legislative Council for submission to the General Assembly more than one year after publication of the drafting notice.

#### **Assessment Report**

If requested by two members of the General Assembly during the drafting period, a regulation that has a substantial economic impact must have an assessment report prepared by the Budget and Control Board, Division of Research and Statistical Services based on a preliminary assessment report provided to the division by the agency before the date the hearing notice is published in the State Register. A summary of the preliminary assessment report must be filed with the proposed regulation. The division shall prepare a final assessment report within sixty days after the public hearing. The final assessment report and a summary of the final assessment report must be filed with the regulation when submitted for General Assembly review.

#### **Proposed Regulation**

When submitting proposed regulations for publication in the State Register, an agency must give 30 days notice of a public hearing and the opportunity to submit comments. The agency also must submit the statutory authority for promulgation, the full text of the regulation, a narrative preamble which includes a section-by-section discussion, a statement of need and reasonableness, a preliminary fiscal impact statement, notice of public hearing and, if requested by two members of the General Assembly, a summary of the preliminary assessment report.

#### **Public Hearing**

The public hearing, which may not be held sooner than 30 days from the date of publication of the notice in the State Register, must be granted if requested by 25 persons, a governmental subdivision or agency, or by an association having not less than 25 members. Hearings held by a department for which the governing authority is a single director must be conducted by an administrative law judge assigned by the chief judge. Hearings held by a department for which the governing authority is a board or commission must be conducted by the board or commission, with the chairman presiding.

#### **General Assembly Review**

The agency submits the full text of the regulation, a synopsis explaining changes to existing regulations, fiscal impact statement, statement of rationale, and assessment report, if requested, to Legislative Council to be forwarded to the President of the Senate and the Speaker of the House with a request for General Assembly review. The General Assembly has 120 calendar days (during session) to review regulations.

If no legislation is introduced to disapprove or enacted to approve the regulation prior to the expiration of the 120 day review period, the regulation is approved on the 120th day and effective upon publication in the State Register. Any member of the General Assembly may introduce a Joint Resolution approving or disapproving a regulation 30 days after the regulation is submitted to a standing committee if the standing committee has not introduced a Joint Resolution and the agency has not withdrawn the regulation, but the introduction does not toll the 120 day period for automatic approval.

If legislation acts, the regulation can be sent to committee for approval or changes. If approved, the regulation becomes effective on the date of publication in the State Register. If changes are recommended, the Agency can withdraw the regulation or make changes to the regulation to obtain legislative approval.

#### **Emergency Rulemaking**

Agency files regulation and statement of the situation requiring immediate promulgation with the Legislative Council. Regulation becomes effective as of time of filing for 90 days.

If filed or expires while the General Assembly is in session, regulations are in effect for 90 days only and may not be refiled. If filed and expires when not in session, regulation may be refiled for an additional 90 days.

The statement of need for and reasonableness of immediate promulgation and a summary of the final assessment report, if requested, are required for refiling and must be published with the emergency regulation in next issue of the State Register following the date of refiling.

Emergency regulations may be permanently promulgated by complying with the Administrative Procedures Act.

If requested by two members of the General Assembly, an emergency regulation which has a substantial economic impact may not be refiled unless accompanied by the summary of the final assessment report prepared by the Budget and Control Board, Division of Research and Statistical Services.

## **South Carolina Register**

## **South Carolina Administrative Procedure Act**