

Rulemaking Process

Proposed Rules

In lieu of a rulemaking hearing, agencies and departments may submit proposed rules. In this case, the intent is for the agency to promulgate the proposed rules without a hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. A proposed rule' and 'proposed written rule' mean a rule that: (i) involves minor, nonsubstantive modifications, including, but not limited to, clerical updates; (ii) is approved by the joint government operations committee of the house of representatives and the senate; (iii) repeals an existing rule; or (iv) eliminates or reduces a fee contained in an existing rule." The rules become effective ninety (90) days after the date of filing. Prior to being filed with the Secretary of State, the proposed rules must be examined and approved as to legality by the Attorney General and Reporter of the State of Tennessee.

Rulemaking Hearing Rules

Rulemaking hearing rules are filed as a result of a public hearing. They become effective ninety (90) days from the date of filing. Prior to being filed with the Secretary of State, the rulemaking hearing rules must be examined and approved as to legality by the Attorney General and Reporter of the State of Tennessee.

Notices of Rulemaking Hearings

This document is required to be submitted whenever an agency is required by law to hold a public hearing as part of its rulemaking process. The agency or department is required to transmit a notice of such hearing to the Secretary of State for publication on the Tennessee Administrative Register website. Notice through publication on the administrative register website shall be given at least forty-five (45) days prior to the date set for the hearing and shall be deemed to have been given seven (7) days from the date the notice was transmitted to the Secretary of State for such publication. The notice should be filed at least fifty-two (52) days in advance of the hearing date to ensure that this requirement is met.

Responses to Public Hearing Comments.

Each agency shall maintain the written records on each rule adopted by such agency, including the responses of the agency to the comments submitted at any public hearing on the proposed rule. Each comment shall be addressed; provided, however, that similar comments may be grouped together and addressed in one (1) response. The response to specific comments shall include the reasons for agency adoption or rejection of any specific changes suggested by the comments. The record required by this section need not be published, but a copy shall be filed with the secretary of state, and the agency shall certify its compliance with this section to the Attorney General and Reporter prior to the approval of the rule. Failure to file such a record at the time the rule is filed with the Secretary of State will make the rule void and of no effect. Such records shall be available to the public during normal office hours of the agency at its principal office or the office of the Secretary of State. When no comments are received at the public hearing, the agency need only include a statement stating such in this section.

Cancellations of Rulemaking Hearings

This document may be filed whenever an agency needs to cancel a rulemaking hearing for which they have given notice through publication on the administrative register website.

Withdrawal of Rules

An agency may, after filing, withdraw a rule before the rule becomes effective. The withdrawal shall take effect upon written notification to the Secretary of State.

Emergency Rulemaking

An agency may, upon stating its reasons in writing for making such findings, proceed without prior notice or hearing to adopt an emergency rule, if the agency finds that:

An immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by the chapter would not adequately protect the public;

The rule only delays the effective date of another rule that is not yet effective;

It is required by the constitution or court order;

It is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedures described in this chapter might jeopardize the loss of a federal program or funds; or

The agency is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures for the promulgation of permanent rules.

Emergency rules are effective from the date of filing for a period of up to 180 days. Prior to being filed with the Secretary of State, the emergency rules must be examined and approved as to legality by the Attorney General and Reporter of the State of Tennessee.

Tennessee Register

Tennessee Administrative Procedure Act