

Rulemaking Process

Procedure for adoption of rules

Rules shall be adopted by taking the following steps:

prefiling, when required;

filing the proposed rule

Including an analysis of economic (e.g., small businesses, school districts) and environmental impact;

publishing the proposed rule on the Secretary of State website and within a newspaper;

holding a public hearing and receiving comments;

filing the final proposal;

responding to the Legislative Committee on Administrative Rules when required; and

filing the adopted rule.

During the rulemaking process, the agency proposing the rule shall post on its website information concerning the proposal. For each rulemaking, the posted information shall include:

The proposed rule

The date by which comments may be submitted on the proposed rule and the address for such submission.

The date and location of any public hearing.

Each comment submitted to the agency on the proposed rule.

The final proposed rule.

The agency shall maintain the information on its website until the earliest of the following dates: filing of a final adopted rule; withdrawal of the proposed rule; or expiration of the period for final adoption.

Public Hearing and Comment

The agency may hold one or more public hearings for each proposed rule. A public hearing shall be scheduled if so requested by 25 persons, by a governmental subdivision or agency, by the Interagency Committee on Administrative Rules, or by an association having 25 or more members. The first hearing shall not be held sooner than 30 days following the notice.

An agency shall afford all persons reasonable opportunity to submit data, views, or arguments, orally or in writing, at least through the seventh day following the last public hearing.

The agency shall consider fully all written and oral submissions concerning the proposed rule and all submissions on separate requirements for small businesses.

If requested by an interested person at any time before 30 days after final adoption of a rule, the adopting authority shall issue an explanation of the proposed rule. The explanation shall include:

a concise statement of the principal reasons for and against the adoption of the rule in its final form; and

an explanation of why the adopting authority overruled the arguments and considerations against the rule.

Final Proposal

After considering public comment, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules. When an agency decides in a final proposal to overrule substantial arguments and considerations raised for or against the original proposal or to reject suggestions with respect to separate requirements for small businesses, the final proposal shall include a description of the reasons for the agency's decision.

Review by Legislative Committee

Within 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval.

The agency shall within 14 days after receiving notice respond in writing to the Committee and send a copy to the Secretary of State. In its response, the agency may include revisions to the proposed rule or filing documents that seek to cure defects noted by the Committee.

After receipt of this response, the Committee may withdraw or modify its objections.

Filing of Adopted Rules

An adopting authority may adopt a properly filed final proposed rule after:

The passage of 45 days after filing of a final proposal, provided the agency has not received notice of objection from the Legislative Committee on Administrative Rules. The text of the adopted rule shall be the same as the text of the final proposed rule, except that any germane change may be made by the agency in response to an objection or expressed concern of the Legislative Committee on Administrative Rules.

Adoption shall be complete upon proper filing with the Secretary of State and with the Legislative Committee on Administrative Rules. An agency shall have eight months from the date of initial filing with the Secretary of State to adopt a rule unless extended by action or request of the Legislative Committee on Administrative Rules.

Emergency Rulemaking

Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule. The rule may be adopted without having been prefiled or filed in proposed or final proposed form, and may be adopted after whatever notice and hearing the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.

Emergency rules adopted shall not remain in effect for more than 180 days. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule.

Vermont Register

Vermont Administrative Procedure Act