



## **A Sketch of the Rulemaking Process**

### **Purposes of Rulemaking Process**

Administrative rules are often written to define and describe how legislation will be implemented and enforced or to set out other agency practices or procedures. The rulemaking process serves four basic purposes by requiring:

- Public notice from agencies regarding their intent to adopt rules, including the proposed text of the rules.
- An opportunity for the public to offer comments on proposed rules.
- A limited opportunity for both the Governor and the General Assembly to exercise oversight over the rulemaking process.
- A publication process to widely distribute final rules and to provide for the codification of the rules.

### **Specific Procedures to Develop Rules**

Iowa Code Chapter 17A, the Iowa Administrative Procedure Act (IAPA), defines specific procedures which must be followed for:

- Proposing and adopting administrative rules.
- Contested cases, which are trial-type administrative hearings.
- Judicial review of any agency action.

The rulemaking procedures in the IAPA do not provide the public with the power to reject the agency's rulemaking. Agencies have the authority to adopt administrative rules they determine are the most effective in implementing the law. However, the procedures do ensure that agency decision making is subject to public scrutiny and that agencies give full and fair consideration to any public comments.

The entire administrative rulemaking process takes a minimum of 108 days to complete, but generally takes approximately six months. The process involves two main procedures including 1) public notice and opportunity for comment, and 2) final adoption, electronic publication, and distribution of the rules.

The notice process provides the public with an opportunity to comment on the proposed agency rules. Proposed rules are published as a "notice of intended action" in the Iowa Administrative Bulletin (IAB), which is a biweekly publication containing the text of all notices and final adopted rules.

When a rule is under notice, anyone may offer comments on that proposal. If requested by the Administrative Rules Review Committee (ARRC), 25 or more people, a group representing 25 or more people, another agency, or a governmental subdivision, the agency is required to provide a public hearing on the proposed rule. Agencies frequently schedule public hearings on their own initiative. This notice period is used to prepare the rule in its final form for adoption. The adopted language may vary from what was proposed in the notice, based on



feedback from the public or for other reasons. The adopted rule is then published again in the IAB and also in the Iowa Administrative Code, which contains the text of all rules adopted by Iowa's 100 plus executive branch agencies.

## **Emergency rulemaking**

Emergency rulemaking procedures exist for situations where a rule must be implemented faster than the normal process would allow. Under some circumstances, this type of rule can take effect prior to any public notice. Procedural safeguards exist to still allow for oversight of and public input on emergency rules.

## **Review of Proposed and Adopted Rules**

Both the Governor and the General Assembly review agency rulemaking on an ongoing basis. The ARRC meets monthly to review, on behalf of the General Assembly, all proposed and adopted rules from the most recent issues of the IAB. Review includes questioning of agency personnel by ARRC members. The Governor's Administrative Rules Coordinator also sits on the committee as an ex-officio, non-voting member. The public can attend these meetings and offer oral or written comments to the ARRC on proposed or adopted rules.

The ARRC can delay the effective date of an adopted rule pending additional review by the General Assembly itself. The ARRC, Governor, or Attorney General can object to any rule. An objection is a written finding that the ARRC, Governor, or Attorney General has determined a rule to be unlawful in some respect. If the rule is later challenged in court, the objection requires the agency to prove the legal validity of its rule. The Administrative Rules Coordinator preclears all noticed rules before they are published in the IAB. The Governor can rescind any proposed rule up to 70 days after it has become effective. The General Assembly can nullify any administrative rule by a joint resolution enacted by the two chambers.

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