

A Sketch of the Rulemaking Process

Purpose of Administrative Rules

Administrative rules are often written to define and describe how legislation will be implemented and enforced. The administrative rules process serves four basic purposes requiring:

- Limited opportunity for both the Governor and the Legislature to exercise oversight over the rulemaking process
- Opportunity for the public to offer comments and criticisms on the proposal
- Limited opportunity for both the Governor and the Legislature to exercise oversight over the rule-making process
- 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, called the “Iowa Administrative Procedures Act” (IAPA) defines specific procedures which must be followed for:

- Implementing or modifying administrative rules.
- Regulating contested cases which are trial-type hearings, and,
- Judicial review of any agency action.

These procedures do not provide the public 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 public comments.

The entire administrative rulemaking process takes a minimum of 108 days to complete and involves two main procedures including 1) public notice, and 2) implementation for the “final” adoption, publication and distribution of the actual 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 bi-weekly magazine containing the text of all notices and final rules.

When a rule is under notice anyone may offer comments on that proposal. If requested by 25 people or more, or a group representing twenty five or more people, the agency is required to provide a public hearing on the proposed rule. Agencies frequently schedule public hearings on their own initiative. During the implementation process there is no additional opportunity for public comment. This period is used to prepare the rule in its final form and publish it in the Iowa Administrative Code which contains the text of all rules adopted by Iowa’s 110 plus governmental agencies.

Emergency rulemaking

An “emergency” rulemaking procedure exists for those 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. Approximately twenty percent of the administrative rules implemented by agencies are adopted on an “emergency” basis.

Review of Proposed Rules

Both the Governor and the Legislature review agency rulemaking on an ongoing basis. The legislature’s Administrative Rules Review Committee (ARRC) meets monthly to review all proposed and “final” rules that are currently in process. The public is welcome to attend these meetings and may make presentations on these rulemaking proposals. The Governor’s Administrative Rules Coordinator also sits on the committee as an ex-officio non voting member.

Both the Governor and the ARRC can “object” to any rule. In effect an “objection” is a written opinion that either the Governor or the ARRC finds a rule to be unlawful. If the rule is later challenged in court, the objection requires the agency to come forward and to prove the validity of its rule. The Governor can rescind any proposed rule up to 70 days after it has become effective. The committee can delay the effective date of a proposed rule pending additional review by the legislature itself. The legislature may rescind any administrative rule by joint action of the two houses.