

APA Rulemaking Guide

Notice of Intent to Rule

The Rulemaking Review Process from Notice of Intent to Rule status can take anywhere from 3 to 12 months [R.S. 49:968(H)(1)].

If the 12-month timeframe has been exceeded, the agency must start the process over, beginning with a new Fiscal and Economic Impact Statement.

Listed below are the actions and timeframes for the entire rulemaking process:

- LEGISLATIVE FISCAL OFFICE—Submit Fiscal and Economic Impact Statement for approval. [§953(A)(3)(b)]
- SUBMIT NOTICE OF INTENT WITH APPROVED FISCAL STATEMENT TO STATE REGISTER—Also submit to House Speaker, Senate President, House and Senate Oversight Committees. [§953(A)(1)(b)(i)]
- NOTICE OF INTENT PUBLISHED IN LOUISIANA REGISTER—Publication date is the 20th of each month. [§954(B)(1)]
- PERIOD FOR REQUESTING PUBLIC HEARING—Within 20 days after Notice of Intent is published. [§953(A)(2)(a)]
- PUBLIC HEARING—35-40 days after Notice of Intent is published. [§953.A(2)(b)(i)]
- SUMMARY REPORT SUBMITTAL TO OVERSIGHT COMMITTEES—After possible hearing date and responses to public comments have been made. [§968(D)(1-5)]
- POSSIBLE LEGISLATIVE OVERSIGHT COMMITTEE HEARING—Between 5 to 30 days from submittal of Summary Report. [§968(D)(2)(a)]
- IF AGENCY RECEIVES FAVORABLE OVERSIGHT REVIEW—Agency adopts Rule. [§968(H)(1)]
- IF AGENCY RECEIVES UNFAVORABLE OVERSIGHT REVIEW, THE COMMITTEE SENDS NEGATIVE REPORT TO GOVERNOR—No later than four days after committee makes its determination. Agency and Office of State Register also receive a copy of the committee report. [§968(F)(2)]
- GOVERNOR APPROVES OR DISAPPROVES OVERSIGHT'S NEGATIVE REPORT—Governor has 10 days to agree or disagree with oversight's report. [§968(G)]
- AGENCY PROCEEDS WITH ADOPTION—After positive Oversight Review and/or Governor's Disapproval of a negative review, the agency can officially adopt the approved proposal to be printed as a Rule. [§968(H)(1)].
- FINAL RULE PUBLISHED IN LOUISIANA REGISTER—No earlier than 90 days and no later than one year after Notice of Intent was published in Louisiana Register [§968(H)(1)]. A Rule can be effective upon publication or a later date. [§954]

- GUBERNATORIAL SUSPENSION OR VETO—The Governor may veto or suspend the Rule within 30 days of Agency Adoption. [§970]
- JUDICIAL REVIEW OF VALIDITY OR APPLICABILITY—
 - A declaratory judgment from the district court of the parish of the Agency may declare a rule invalid or inapplicable if it finds that violates constitutional provision or exceeds statutory authority of the agency or was adopted without APA substantial compliance. [§963]
 - The proceedings for a determination based upon noncompliance with the APA must be commenced within 2 years from the date upon which the rule became effective. [§954(A)]
- LEGISLATIVE VETO, AMENDMENT, OR SUSPENSION—The legislature, by Concurrent Resolution may suspend, amend, or repeal any rule. (No time limitations) [§969]

Emergency Rule

An Emergency Rule is a temporary rule that can be effective upon adoption, continuing for 120 days. [§953(B) and §954]

- AGENCY ADOPTS EMERGENCY RULE—An Emergency Rule can be effective upon adoption or 60 days thereafter. [§954]
- LEGISLATIVE OR GUBNATORIAL NULLIFICATION—Action taken by legislature (presiding officers and/or Oversight Committees) or governor must be done within 60 days of adoption. Upon receipt of the report by the agency, the Rule shall be nullified and without effect. [§953(B)(4)(a)-(b)]
- DETERMINATION OF VALIDITY—A judge may declare the rule invalid it if finds that there is not sufficient evidence that the Rule must be adopted on an Emergency basis. The Emergency Rules remains in effect until such judgment is rendered. [§953(B)(3)]