

Summary of Arkansas's Administrative Procedure Act

The Administrative Procedure Act outlines the steps that must be completed prior to the adoption, amendment, or repeal of any rule. The Board must give at least thirty (30) days' notice of its intended action. The thirty-day period begins on the first day of the publication of notice. The notice must include a statement of the terms or substance of the intended action or a description of the subjects and issues involved and the time, the place, and the manner in which interested persons may present their views on the intended action or the subjects and issues involved. The notice is published in a newspaper of general daily circulation for three (3) consecutive days and, when appropriate, in those trade, industry, or professional publications that the Board may select.

All interested persons are given a reasonable opportunity to submit written data, views, or arguments, orally or in writing. The Board also requires the Department to hold a public hearing where interested parties can come together to discuss their support of or opposition to the intended action. The Board and Department fully consider all written and oral submissions respecting the proposed rule before finalizing the language of the proposed rule.

Upon adoption of a rule, the Board, if requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, must issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

If the Board finds there is imminent peril to public health, safety, or welfare or compliance with federal laws or regulations requires adoption of a rule upon less than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule. An emergency rule may be effective for no longer than one hundred twenty (120) days.

You have the right to petition for the issuance, amendment, or repeal of any rule. Within thirty (30) days after submission of a petition, the agency shall deny the petition, stating in writing its reasons for the denial or initiate rule-making proceedings.

Below are the typical steps the Board utilizes in the rule-making process:

	<p style="text-align: center;">STEP 1</p> <p style="text-align: center;">Draft Developments & Attachments</p> <ol style="list-style-type: none">1. Identify the sources of regulatory authority (state and federal) for the proposed rule.2. Prepare proposed rule.	
	<p style="text-align: center;">STEP 2</p> <p style="text-align: center;">Review and Approval Process</p> <ol style="list-style-type: none">1. Upon completion of developing the draft of the proposed rule, it is circulated within the Department for internal review.	

	<p>STEP 3</p> <p>Board of Health Agenda</p>	
	<ol style="list-style-type: none"> 1. Place the proposed rule on the Board of Health agenda by contacting the Agency Director's office. 2. Presentation at a full board meeting is preferable. If implementation is needed at an earlier date, approval by the Executive Committee is acceptable. 3. The full Board of Health typically meets in January, April, July, and October on the 4th Thursday of each of these months. 	

	<p>STEP 4</p> <p>Approval from Board of Health to Proceed with Public Hearings</p>	
	<ol style="list-style-type: none"> 1. Attend the Board of Health meeting. 	

	<p>STEP 5</p> <p>Public Hearing, Notice, and Comment Period</p>	
	<ol style="list-style-type: none"> 1. Once Board of Health approval is obtained, the date for the public hearing can be determined. 2. Send notice of the Public Hearing to the newspapers for publishing. The notice must appear for three <u>(3) consecutive days at least thirty (30) days</u> prior to the hearing date. The thirty (30) day period begins on the first day of publication of the notice. 3. At the same time, mail a memorandum and a copy of the proposed rule packet and the public notice to interested persons. 	

	<p>STEP 6</p> <p>Submission of Proposed Rule</p>	
	<ol style="list-style-type: none"> 1. Supply the Subcommittee of the Legislative Council on Administrative Rules & Regulations and the House and Senate Interim Committees on Public Health, Welfare, and Labor a proposed rule packet. 2. This packet must be sent at least <u>thirty (30) days</u> prior to the end of public comment period (public hearing). 	

	<p>STEP 7</p> <p>Submission to the Governor</p>	
	<ol style="list-style-type: none"> 1. Prepare and deliver a rule packet to the Governor. If the proposed rule changes after this submission, keep the Governor aware of all changes. Governor must receive this packet thirty (30) days prior to the end of the public comment period (public hearing). 	

	<p>STEP 8</p> <p>Public Hearing</p>	
	<ol style="list-style-type: none"> 1. Hold the public hearing and take minutes of the meeting. 2. Comments received prior to the hearing may be verbally summarized at the hearing and/or made available for review by those who attend. 	

	<p>STEP 9</p> <p>Public Hearing Follow-up</p>	
	<ol style="list-style-type: none"> 1. Make revisions if the public hearing comments warrant such action. 2. Contact the Agency Attorney if hearing resulted in significant changes in the Proposed Rule/Regulation. Proceed with remaining steps, if hearing does not result in significant change(s). 	

	<p>STEP 10</p> <p>Legislative Council and the House and Senate Interim Committees on Public Health, Welfare, and Labor Meeting</p>	
	<ol style="list-style-type: none"> 1. Receive notification of date/time/place of the meeting by letter from the Legislative Council and the House and Senate Interim Committees on Public Health, Welfare and Labor. 2. Appear before the Legislative Council’s Administrative Rules and Regulations Subcommittee and the House and Senate Interim Committees on Public Health, Welfare, and Labor. <p>NOTE: Be prepared to answer all questions and concerns, including financial impact.</p>	

	<p>STEP 11</p> <p>Board of Health Meeting</p>	
	<ol style="list-style-type: none"> 1. Place the proposed rule on the Board of Health agenda by contacting the Agency Director’s office. 2. Appear before the Board of Health for the adoption of the Proposed Rule/Regulation 	

	<p>STEP 12</p> <p>Certification</p> <p>Obtain the Agency Director’s Signature</p>	
	<ol style="list-style-type: none"> 1. Obtain the Agency Director’s signature in the certification section of the adopted rule. 	

	<p>STEP 13</p> <p>Certification</p> <p>Obtain the Governor’s Signature</p>	
	<ol style="list-style-type: none"> 1. Send the rule to the Governor for approval/certification, along with a cover summary of the proposed rule. 	

	<p>STEP 14</p> <p>Distribution of Certified Adopted Rule/Regulation Copies</p>	
	<ol style="list-style-type: none"> 1. Prepare copies of the certified Adopted Rule/Regulation. 2. Obtain required signature on the transmittal sheet to the Arkansas Register. The “Authorized Officer” is the Agency Director or Chief Legal Counsel. 3. Hand-carry copies of the Certified Rule/Regulation to the Secretary of State’s office. <p>NOTE: Each rule becomes effective ten (10) days after it is filed with the Secretary of State, unless a later date is specified in the rule or by statute.)</p>	

	<p style="text-align: center;">STEP 15</p> <p style="text-align: center;">Distribution of Additional Certified Copies of the Adopted Rule/Regulation</p> <ol style="list-style-type: none">1. Send additional copies to the Legislative Council (Bureau of Legislative Research).2. Send additional copies to the Arkansas State Library (with certification sheet signed by Agency Director or Chief Legal Counsel.)	
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