

## Checklist for Permanent Rulemaking

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- Appoint advisory committee or use other means to obtain public input, as appropriate.
- Prepare notice, including:
  - a. Date, time and place of hearing if one is scheduled;
  - b. A caption of up to 15 words identifying the subject of the rule-making;
  - c. An objective, simple, understandable summary of the rule and its purpose;
  - d. Statutory authority;
  - e. Statute or law the rule intended to implement;
  - f. Statement of need;
  - g. Documents relied upon;
  - h. Fiscal impact statement (including housing cost impact statement for certain agencies);
  - i. Explanation if advisory body not appointed;
  - j. Request for comment on how to mitigate negative economic impact on business.
- Give notice to:
  - a. Specified legislators (49 days);
  - b. Agency mailing list (28 days);
  - c. Secretary of State's Bulletin (21 days);
  - d. In accordance with agency notice rule.
- Hold hearing, if scheduled or requested, at accessible site (in geographic area, if required) and in compliance with Americans with Disabilities Act.
- Maintain rulemaking record.
- Revise proposed rule to reduce significant adverse economic impact on small businesses, if consistent with public health and safety.
- Adopt, amend or repeal rule after considering fully all written and oral submissions.
- File copy of adopted or amended rule with Administrative Rules Unit, Archives Division, Secretary of State, along with original and copy of Certificate and Order for Filing Permanent Administrative Rules and computer disk with rule in plain text and original format.
- File copy of adopted or amended rule with Legislative Counsel within 10 days of filing with Secretary of State, showing changes.
- Report to Legislature on rules with economic impact on business.

## Checklist for Statement of Need and Fiscal Impact

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### Statement of Need

- What need is the agency trying to address through the proposed rule change?
- How does the proposed rulemaking address that need?
- Can interested parties tell why the agency is proposing a rule change by reading the Statement of Need?

### Statement of Fiscal Impact

- Are any state agencies likely to be economically affected by the rule change? If yes, which ones?
- Are any units of local government likely to be economically affected by this rule change? If yes, which ones?
- Are any members of the public likely to be economically affected by the rule change? If yes, which ones?
- Can the agency provide an estimate of the economic impact on state agencies, units of local government and members of the public? If yes, what is the estimate for each?
- Has the agency included a cost of compliance on small businesses affected, including:
  - An estimate of the number of small businesses subject to the proposed rule;
  - An identification of the types of businesses and industries subject to the rule;
  - A description of expected reporting, recordkeeping, and administrative activities required to comply with the rule;
  - An estimate of the cost of professional services required to comply with the rule;
  - An identification of the equipment, supplies, and labor and increased administration required to comply with the rule; and
  - A description of how small businesses were involved in developing the rule.
- If the agency cannot provide an estimate of the economic impact on state agencies, units of local government or members of the public, does the statement of fiscal impact explain why an estimate is not possible?
- Does the agency need to provide a housing cost impact statement?
- Is the fiscal impact statement sufficient to notify those who might be economically affected to evaluate their position?

### Request for Public Comment

- Does the notice or fiscal impact statement invite public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact on business?

## Checklist for Temporary Rulemaking

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- Consider whether appropriate to appoint advisory committee or use other means to obtain public input.
- Prepare:
  - a. Rule;
  - b. Statement of findings that prompt action needed to avoid serious prejudice with specific reasons (need and justification);
  - c. Citation to statutory authority and statute(s) implemented;
  - d. Statement of need;
  - e. Documents relied upon and their location;
  - f. Housing cost impact statement (certain agencies only);
- Consider whether practicable to provide abbreviated notice and to hold hearing;
- Adopt, amend or suspend rule, after considering fully all written or oral submissions, if any.
- Notify affected persons.
- File with Administrative Rules Unit, Archives Division, Secretary of State, a copy of adopted or amended rule, along with original and copy of Certificate and Order for Filing Temporary Administrative Rules, a computer disk with rule in plain text and original format and two copies of statement of need and justification.
- File copy of adopted or amended rule with Legislative Counsel within 10 days of filing with Secretary of State, showing changes.
- Review rule and determine whether permanent adoption, amendment or repeal is necessary before temporary rule expires (at most, 180 days from effective date).