



# What is Rule Making in New York?

The State Legislature and Governor are responsible for enacting laws in New York. Rule making powers of state agencies are derived from those state laws. Agencies empowered to develop “rules and regulations” are also responsible for adhering to any other applicable provisions of law, including any pertinent rule making processes in the State Administrative Procedure Act.

The phrase “rules and regulations” is often confusing. Actually, the two words are interchangeable. In New York, the term “rule” is used most frequently. Hence, the procedures followed by state agencies when developing rules generally have become known as “the rule making process;” which is designed to ensure that the public has opportunity to comment on, and participate in, the development of agency rules.

### **The rule making process**

The Department of State is responsible for producing the weekly New York State Register, which plays a central role in the rule making process. The Register contains rule making notices, including those pertaining to newly proposed rules and proposed changes to existing rules. Included in a “Notice of Proposed Rule Making” are the full text of the rule, or a summary if the text is over 2,000 words; the time, date and location of any public hearing(s); and the name and address of the agency contact person to whom comments may be addressed. Publication of this notice initiates the public comment period.

In some cases, public hearings will also be held to provide opportunity to provide oral comments on a proposed rule. Written and oral comments must be taken into consideration by an agency prior to adoption of a rule. Because it is important for citizens to have opportunity to comment, the Legislature has provided that agencies must accept comment for at least 60 days after the proposal is published in the Register. Agencies may elect to allow more than the minimum number of days for comment and to hold public hearings even if they are not required to do so.

After publication in the Register and receipt of public comment, an agency may either adopt, revise or withdraw the proposal. If adopted, the agency must file the full text of the rule with the Department of State. At the same time, a “Notice of Adoption” is submitted for publication in the Register, to indicate that the proposal has been adopted and the date that the adopted rule will become effective. If the agency wishes to make substantial changes to the proposed

rule, the agency must submit a “Notice of Revised Rule Making” and accept public comment for at least another 45 days. If a proposal is withdrawn, the agency cannot adopt the same or similar proposal without filing a new “Notice of Proposed Rule Making” and providing the public with a new minimum 60-day public comment period.

To help readers track rule making activities, the regular weekly Register contains an Action Pending Index that lists all proposed rules still under consideration. Additionally, a cumulative calendar year list of all rule making activity is printed as a supplement to the Register four times each year. This Quarterly Index includes the date each rule was proposed, revised, adopted or withdrawn, etc. By using these references, readers can follow the status of any proposed rule.

### **New York State Register**

Each subscription to the Register includes 52 weekly and 4 Quarterly Index issues. The price is \$80 for first-class mail or \$40 for periodical (second-class) mail. To order, send a check or money order payable to “NYS Department of State” to: Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Suite 650, Albany, NY 12231. The Register is also available to view online, free of charge, at <https://dos.ny.gov/state-register>.

### **Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR)**

The full text of all state agency rules is published in the NYCRR. This is a loose-leaf publication, broken down by agency into 23 Titles, that is supplemented semi-monthly with the text of new and amended rules.

The print version of the NYCRR is available as a full set, by individual Volume or by Title. When you purchase the printed NYCRR, you automatically receive semi-monthly supplements through the end of that calendar year’s filing. Thereafter, you may subscribe to an annual update service. For order information, please contact Thomson West, at 1-800-328-9352.

The Division of Administrative Rules may be reached: by telephone at (518) 474-6957; by fax at (518) 473-9055; or by e-mail at [adminrules@dos.ny.gov](mailto:adminrules@dos.ny.gov).

More resources for the rule making process, including forms and instructions, are available at: <https://dos.ny.gov/state-register>