



Administrative Rules Overview

6/1/2012



Introduction

- This class covers processes for developing DHS administrative rules and employee and provider manuals.
- This is intended to be an inter-active class. The processes that you will learn continue to change over time. Your input in how those processes may be made better are gratefully acknowledged.
- Target audience: Policy Staff

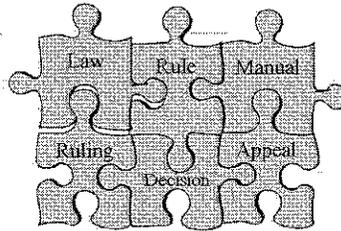


Administrative Procedures Act (APA)

Iowa Code Chapter 17A :

“Iowa Administrative Procedure Act”

Sets minimum procedures for a state agency to follow when it takes action that affects the rights and duties of the public.



Purpose of APA

The purpose of the APA is to increase:

- Legislative oversight of agency actions
- Public accountability for agencies
- Public access to government information
- Public participation in government decision-making



What is a rule?

A rule is a statement of general applicability that:

- Implements Federal or State law or policy, or
- Interprets Federal or State law or policy, or
- Prescribes State law or policy, or
- Describes the agency's:
 - Organization
 - Procedure
 - Practice requirements



When is a rule not required?

Rules are not required for statements concerning:

- Internal management of the agency
- Residents of a state facility
- Prices of goods or services furnished by DHS (as opposed to fees)
- Criteria for audits, inspections, or negotiations



What gives us the right to make rules?

- Rule making is a delegation of legislative authority
- Administrative rules have the force of law
- An administrative agency has no independent law-making power
- Rule making authority must be expressly delegated by statute
- Agencies can act only within the authority of the statute



When is a rule valid?

A rule is valid when:

- It is based on a law that:
 - Is constitutional
 - Specifically authorizes the agency to make rules
- It has completed the required rule-making process
- It is within the authority of the agency and is reasonable



What rules are required?

Rules must describe:

- Agency structure, programs and mission
- Methods for public to get information or make requests
- Nature and requirements of all formal and informal procedures available to the public
- Description of all forms and instructions used by the public
- Standards, principles and procedural safeguards



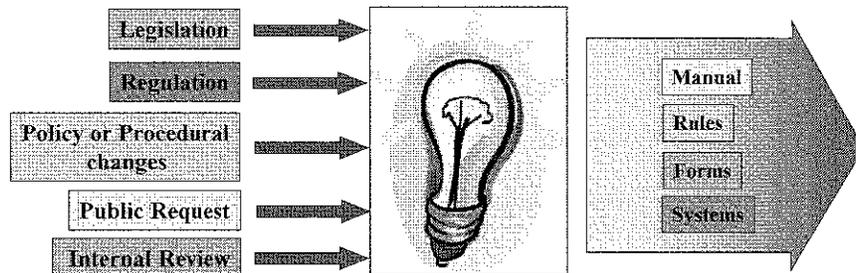
Where are the rules?

Rules are published by the Legislative Services Agency (LSA) in:

- **Iowa Administrative Code:** The published collection of the administrative rules of all state agencies
- **Iowa Administrative Bulletin:** A biweekly pamphlet announcing rules proposed or adopted by state agencies
- Copies may be found on the DHS Policy Analysis web site: www.dhs.iowa.gov/policyanalysis



What causes a rule to be needed or clarified?



“In the beginning, there was an idea!”



What does DHS have to do to make a rule?

- Identify and develop proposed rule changes
- Publish a notice of proposed changes
- Gather comments from the public
- Submit to administrative and legislative oversight
- Adopt final rules
- Publish final rules



Who has rule-making power?

- Council on Human Services
- Mental Health, Intellectual Disabilities, and Brain Injury Commission
- *hawk-i* Board
 - Decides whether to adopt a rule
 - Decides how a rule should be worded



Who has oversight of rules?

- Council, Board, or Commission
- Administrative rules coordinator
- Attorney General
- Administrative Rules Review Committee (ARRC)
- General Assembly



What's my part in all this?

- Develop policy: decide what to do
- Develop procedures: decide how to do it
- Prepare rule changes
 - Draft changes
 - Prepare rule packet
 - Get administrative & fiscal approval
 - Submit to Policy Analysis
 - Review products
 - Respond to comments



What does Policy Analysis do?

- Work with Policy Staff on proposed rule changes
- Make sure rule is in proper form
- Make sure public hearings are scheduled if needed
- Prepare transmittal forms
- File the rule with Governor's office & Administrative Code Editor
- Maintain public rules docket & web site
- Collect and summarize comments
- Make changes to rules as needed



How long does it take?

For a regular rule:

- 19 days for initial publication
- 35 days for comment
- 19 days for final publication
- 35 days for implementation
- Add in approval by Council, Board, or Commission

(6 months Total Time)



How long does it take?

For an emergency rule:

- Adopted with out notice but implemented regularly (4 months)
- Adopted emergency after notice (4 months)
- Adopted without notice and implemented immediately (2 months)



When can the process be shortened?

- May waive comment period if:
 - Unnecessary
 - Impracticable
 - Contrary to public interest
- May waive implementation period if:
 - Legislation permits it
 - Confers a benefit or removes restriction
 - Imminent peril to public health or safety



What can the rules committee do?

- Direct the agency to do more consensus building on proposed rules
- Delay the effective date of the rule
 - By 70 days
 - Until the end of the next legislative session
- Refer the rule to the General Assembly



What do I submit to change a rule?

- Administrative Rule Transmittal
- Text of proposed changes
- Information on Rules
- Administrative Rules Fiscal Impact Statement

Available at: [Hoover3s1/Policy.771/Rules/help for rules & manual writing/templates](https://www.hhs.gov/Policy.771/Rules/help%20for%20rules%20&%20manual%20writing/templates)



How do I write a rule?

- Find your rule-making authority
- Find where your rule fits with current rules
- Make your rule match the structure and terms of the context
- Show deleted text by strike-through or new text by underlining



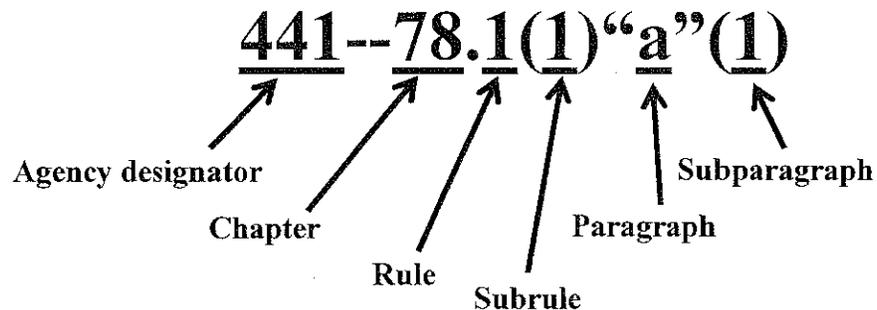
How is a rule structured?

The rule is structured by:

- Agency (Human Services: 441)
- Title (program area)
- Chapter
- Division (optional)
- Rule 441--24.1(225C)
- Subrule 24.3(3)
- Paragraph 24.3(3)“b”
- Subparagraph 24.3(3)“b”(6)
- Implementation statement (by rule or chapter)



Elements of a rule naming convention





**Where Do I
Get More Information?**

- DHS Policy Analysis web site:
<http://www.dhs.iowa.gov/policyanalysis/>
- Iowa Legislative Services Administrative Rules web site:
<https://www.legis.iowa.gov/lsw/administrativeRules>
- DHS rules share:
Hoover3s1/Policy.771/Rules