

**RGGI States' Rulemaking Schedules [April 13, 2005 DRAFT]**

	<b>Pre Rulemaking: <i>Informal</i></b>	<b>Pre- Rulemaking: <i>Formal</i></b>	<b>Rulemaking</b>	<b>Court Ruling On Validity or Applicability</b>	<b>Expected Time Frame and Comments</b>
<b>NY</b>	Informal pre-rulemaking outreach is not a legal req. but can take months.	Governor's Office of Regulatory Reform ("GORR") review, i.e., outreach to regulated community.  Include GORR in step 1, and GORR participation may speed up.	6 mos.  Possible extension - 6 mos.	4 months following effective date of rule to bring action in state court.	1 year (Includes New York Environmental Board approval).
<b>MA</b>	Draft TSD  Internal Briefings		<p>Send regulation and TSD through the Executive Office of Environmental Affairs, the Office of Commonwealth Development (OCD), and Administration and Finance (A&amp;F)</p> <p>Notice other MOU agencies 1 Month</p> <p>Public hearing notice (30 day) 1 Month</p> <p>Hold public hearing(s) and accept public comment 2 Weeks</p> <p>Summary of issues to management 1 Month</p> <p>Response to Comments, Decision Memorandum, Final regulation, C/B analysis and Internal DEP Review and Signature Routing form completed 2 Months</p> <p>DEP, EOE, OCD Management review 1 Month</p> <p>A&amp;F review; include EO384 "Final Regulation Review Submission" form 3 Weeks</p> <p>Submit regulation (hardcopy and electronic) and "Filing &amp; Publication Form" to Secretary of State 1 Week</p> <p>Promulgation = Publication in the Massachusetts Register 2 Weeks</p>		Approx. 11 months

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<b>DE</b>	Stakeholder meetings (1-3 mos.)	<p>Start Action Notice - prepared by DNREC staff, submitted to Division Director to DNREC Registrar (1-3 months)</p> <p>DNREC Registrar distributes SAN to all Divisions for comment (2 weeks). Comments w/ SAN submitted to Secretary.</p> <p>Department Secretary approves/modifies/rejects SAN. DNREC Registrar notifies individuals/offices. (1 week?)</p> <p>Work group meetings to develop concept with selected stakeholders (1-6 months)</p>	<p>Stakeholder Work Groups (1-3 months)</p> <p>Public Workshops Policy requires publication of notice 20 days prior to workshops, in 2 separate newspapers. 1-3 workshops are advised depending on breadth of reg and public interest</p> <p>Public Hearing Notification of public hearing must be published in 2 separate newspapers at least 20 days prior to public hearing. The proposed regulation and a hearing notice must be submitted to the Delaware Register of Regulations by the 15th of the month in order to be published in the following month's Register (which is published the 1st of every month). The hearing may not be held less than 20 days following publication in the State Register</p> <p>The opportunity for public comment (the "record") shall be held open for a minimum of 30 days after their publication, unless the "Hearing Officer" decide to keep the record open for a longer period of time.</p> <p>Significant changes to the reg following the hearing require the process start over. Less significant changes are made and the reg is published in final form in the State Register. Regs become final 10 days following publication.</p> <p>Appeals of regs are allowed for 14 days following publication. If appealed, the appeal process can last for an additional 60-120 days – but does not stay the regs during appeal process</p>	Legal Review A judgement is issued by the Attorney General as to whether the proposed action represents a taking of property without compensation. The regulation is not effective until an opinion is issued.	6 months to a year

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<b>NJ</b>	<p>Optional formal pre-proposal process: pre-proposal preliminary proceeding.</p> <p>30-day comment period.</p> <p>Likely informal stakeholder process prior to formal pre-proposal and/or proposal</p>	Formal pre-proposal and/or proposal.	Adoption must be within one year from date of publication in NJ	<p>The public may challenge the rule in the Appellate Division within 45 days. This applies to challenges based on the substance of the rule.</p> <p>The time period comes from the Appellate Division rules, which require challenges to agency action to be filed within 45 days. A challenge based upon failure to observe proper procedural requirements in promulgating a rule must be brought within a year of the effective date of the rule.</p> <p>Proposals, rather than adoption documents are forwarded to the Legislature for comment. So there is no post-adoption requirement for Legislative review.</p>	9 months to 1 year (incl. informal and formal process).
<b>VT</b>	Informal outreach is typical, including contacts with the state's public advocate and attorney general.	<p>Prefiling of proposed rule with Interagency Committee on Administrative Rules ("ICAR") 15 day before filing with Sec. of State.</p> <p>After meeting with ICAR, proposed rule filed with Sec. of State.</p>	<p><u>File</u> proposed rule with with Sec. of State; <u>publication</u> 13 and 20 days after filing date.</p> <p>(Optional <u>public hearing</u> no sooner than 10 days after second publication date.</p> <p><u>Comments</u> accepted through 7<sup>th</sup> day following last public hearing).</p> <p>Filing final proposal with Legislative Committee on Administrative Rules ("LCAR"). LCAR has 45 days to take action on filing.</p> <p>If LCAR objects to rule, within 14 days of receipt of notice of objection, agency must respond in writing. 45 day clock starts again with refiling.</p> <p>Adoption: An agency has 8 months from date of initial filing with Sec. of State to adopt unless extended by action or request of LCAR.</p> <p>Effective date: 15 days after adoption unless specified for later.</p>	Once effective, (declarative) action can be brought anytime.	8 months.

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NH		<p><u>Air Resources Council</u> Public meeting 15-day period to comment.</p> <p>If written comments received, DES must respond in writing.</p> <p><u>Fiscal Impact Statement</u> <u>("FIS")</u>: Agency completes form, submits it and rule (initial proposal) to Legislative Budget Assistant, who has 10 working days to prepare and return FIS to agency.</p>	<p><u>Notice</u> Agency completes and submits form, FIS, rule (initial proposal), and appendix to Office of Legislative Services (OLS).</p> <p>OLS <u>publishes</u> notice in Rulemaking Register ("Register") (published weekly); DES publishes hearing notice in Manchester Union Leader.</p> <p><u>Hearing</u> must be least 20 days after notice published in Register.</p> <p>(Fed. law req. SIP hearing must be at least 30 days after hearing notice published in newspaper or Register.</p> <p>Public has 10 days after hearing to submit written <u>comments</u>; OLS is required to submit comments on proposed rule.</p> <p>Possible request for amended FIS.</p> <p><u>Final Proposal</u> Agency completes and submits form, amended FIS (if any), incorporation by reference statement (if any), and final proposed rule to OLS.</p> <p>Final proposed rule goes to the Joint Legislative Committee on Administrative Rules (JLCAR).</p> <p>JLCAR holds one public hearing a month; and may approve, conditionally approve, or object to rule.</p> <p>Agency has 45 days to respond to preliminary objection.</p> <p>JLCAR can take no action, approve, or make final objection and/or vote to sponsor a joint resolution.</p> <p>Agency may adopt rule unless JLCAR votes to sponsor a joint resolution.</p> <p><u>Adoption</u> Agency rule authority must sign prescribed cover letter and file rule with OLS.</p> <p>Rule takes effect at 12:01 a.m. on day after filing.</p> <p><u>Certification</u> OLS provides copy of codified rule to agency for proofreading; Agency proofs and returns rule to OLS; and OLS issues certified rule to agency for publication and posts on internet</p> <p>No post-adoption requirement for Legislative review.</p>	<p>The public may challenge the rule in the Appellate Division within 45 days.</p> <p>This applies to challenges based on the substance of the rule.</p> <p>The time period comes from the Appellate Division rules, which require challenges to agency action to be filed within 45 days.</p> <p>A challenge based upon failure to observe proper procedural requirements in promulgating a rule must be brought within a year of the effective date of the rule.</p> <p>Proposals, rather than adoption documents are forwarded to the Legislature for comment. So there is no post-adoption requirement for Legislative review.</p>	<p>9 mos.</p> <p>Agency first needs statutory authority to start rule making; earliest expected legis. action this spring.</p>

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<b>ME</b>		<p><u>Early Development</u> (1 month – 1 year)</p> <p>Ok need w/ Bureau director, deputy commissioner</p> <p>Write draft rule</p> <p>Determine if rule places unfunded requirements on towns.</p> <p>If needed, conduct workshop.</p> <p><u>Internal Review</u> (4-6 wks)</p> <p>Circulate draft w/in agency</p> <p>Brief Commissioner &amp; Deputy Commissioner</p> <p>Send to AAG for review</p> <p>Complete “Rulemaking Statement of Necessity”</p>	<p><u>Posting to Public Hearing</u> (~1month)</p> <p>Submit final draft rule and memo to Board of Environmental Protection (BEP). (2-4 wks. prior to mtg.)</p> <p>Present proposed rule to BEP.</p> <p><u>Public Hearing and Comment Period</u> (~2 mos. after posting)</p> <p>Submit Notice of Rulemaking Proposal (MAPA-III) for publication in Kennebec Journal (30 days prior to hearing)</p> <p>Submit MAPA-III, fact sheet and proposed rule to Secretary of State (25-32 days prior to hearing)</p> <p>Mail MAPA-III to interested parties (20 days prior to hearing)</p> <p>Submit MAPA-III and Fact Sheet to Legislative Council and Legislature’s Natural Resources Committee (NRC).</p> <p>Hold Public Hearing (before Board of Environmental Protection, first and third Thursday of each month)</p> <p>Receive written comments (14 days after hearing).</p> <p>Write response to comments (Supplemental Basis Statement) and Revise rule as necessary</p> <p><u>Final Adoption</u> (45-120 days after hearing)</p> <p>Send revised rule, comments and response to comments to AAG.</p> <p>Send Memo to NRC (intent to adopt rule)</p> <p>Submit revised rule, supplemental basis statement, cover memo to Board packet (2-4 wks prior to meeting)</p> <p>Present rule to BEP for adoption.</p> <p>Provide adopted rule, rulemaking cover sheet (MAPA-I) signed by Commissioner and AG),</p> <p>MAPA checklist, fact sheet, notice of adoption (MAPA-IV), memo to AG’s office requesting approval to Secretary of State.</p> <p>Receive final rule with effective date from SOS.</p>		<p>6 months – 1 year</p> <p>*This may have to go through the legislature.</p>

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<b>CT</b>	<p>Preparation of Internal Draft (6-9 mos)</p> <p>State Implementation Plan Revision Advisory Committee (“SIPRAC”) can review.  (1 month to 4 years)</p>	<p>Prehearing Review of other state agencies:</p> <ul style="list-style-type: none"> <li>• AG (courtesy legal sufficiency)</li> <li>• Office of Policy Management (fiscal impact in state)</li> <li>• Gov. Office (state goals and priorities)</li> <li>• Dept. Econ. &amp; Community Dev. (impact on small business).</li> </ul> <p>(1-7 mos.)</p>	<p><u>Public Hearing Notice</u> W/ out SIP – CT Law Jrnl, 30 days prior to hearing, mailing \$50 list.</p> <p>W/ SIP – same plus 4 state newspapers (also proposed reg. must be available in pub. libraries, at EPA, and surrounding state env. agencies).</p> <p><u>Comment Period</u> May close day of hearing or within a short time after. Response to comments set out in Hearing Report. Proposed reg. is revised (speed of report preparation depends on number and complexity of comments).</p> <p><u>Post-Hearing Review and Notice</u> AG issues formal legal sufficiency determination. Notice of Availability sent out 20 days prior to Leg. Rules Com. Hrgs.</p> <p><u>Legislative Review</u> Reg. must be submitted 1<sup>st</sup> Tues. of month to be heard 4<sup>th</sup> Tues. Leg. Rules Com. Must act w/in 65 days of submission or reg. is deemed “approved.”</p> <p>Reg. is not effective until approved by Leg. Rules Com. &amp; signed by Sec. of State, who usually signs at time of filing.</p> <p>Effective date usually same as signing date unless otherwise specified.</p> <p>Is submission of SIP change to EPA?</p>		<p>New Reg.: 8 months or more.</p>
<b>RI</b>	<p>Stakeholder process 4 mos.</p>	<p>Internal Review Econ. Dev. Comm. (Small Business) 2 mos.</p>	<p>Notice of public hearings and comment period (30 days prior to hearing date).</p> <p>Public Hearing Post hearing (3 mos.) File with Sec. of State. (Adoption) Effective 20 days after filing</p>	<p>No contest of a rule on the grounds of noncompliance with administrative procedures may be commenced after two years of the effective date.</p>	<p>New Reg. 6-12 mos.</p> <p>Stakeholder process and post hearing period are most flexible.</p>