

# Rulemaking Procedures

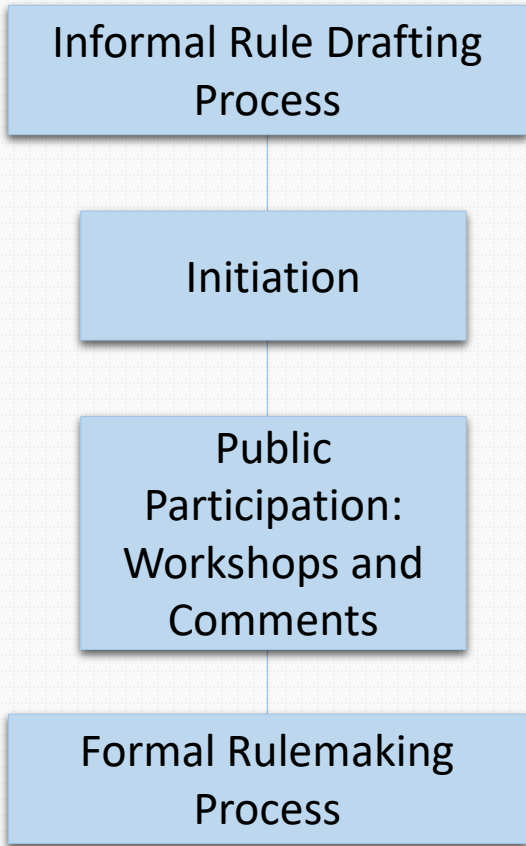
This document provides an overview of typical rulemaking procedures. Underlined text will link you to more information about that step in the glossary or to an external website. *This document is a general guide for the public. It is not a comprehensive list of all the applicable statutory and regulatory requirements for such projects. Every project is unique, and this general guide cannot anticipate or explain all issues that may arise in a case. For specific guidance, please refer to the applicable statutes, rules, and legal precedent, or seek legal advice. Please feel free to contact the [Clerk of the Commission](#) if you have questions about the information in this document.*

Under Vermont law, the Commission is authorized to adopt administrative [rules](#) on matters under its jurisdiction. Rules are formally adopted through the [State of Vermont's established rulemaking procedures](#) (see 3 V.S.A. §§ 836 – 848) and have the force and effect of law.

When the Commission determines that a rulemaking proceeding is necessary (whether in response to a lawful request, a legislative directive, or at the Commission's own initiative), there are generally two processes that follow:

- an informal process conducted by the Commission to gather information and develop a draft proposed rule, and
- the formal rulemaking process mentioned above that is required by law for the Commission to officially adopt a rule.

## Typical Procedural Steps



**Informal Drafting Process.** The Commission often conducts informal proceedings to develop a draft proposed rule that becomes the starting point for the State's formal rulemaking process. The informal proceedings provide the Commission with an understanding of the elements that should be incorporated into a proposed rule and give stakeholders and the public an opportunity to raise issues that should be considered.

Typically, the Commission conducts this informal drafting process as an [uncontested proceeding](#). In such a case, the Commission's [ex parte](#) rules do not apply. This means that Commissioners and Commission staff are permitted to communicate informally with anyone who wants to discuss the substance of the proposed rule or the process of the rulemaking. Such conversations can be particularly helpful during the development of a proposed rule.

In some cases the Commission may use [contested case procedures](#) if there is a need to develop a formal evidentiary record on which to base the proposed rule. The Commission's [ex parte](#) rules apply to contested case proceedings.

**Initiation.** The Commission typically issues an order initiating a rulemaking proceeding that sets out the first procedural steps for the drafting process and when they will occur.

**Public Participation.** When using uncontested procedures, the Commission's initial rulemaking process will typically include one or more opportunities for written comments and participation in one or more [workshops](#). When using contested case procedures, the Commission will issue a procedural order that establishes a process and schedule for hearings to develop an evidentiary record for use in drafting the proposed rule.

The Commission may also publish one or more proposed drafts of the rule for public comment before formally initiating the State's administrative rulemaking process.

Members of the public are welcome to comment at any point during the Commission's initial development of the proposed rule.

**The Formal Rulemaking Process.** After a draft proposed rule has been developed, the Commission follows the formal requirements of the State's administrative rulemaking process to officially adopt the rule. The formal rulemaking process is governed by portions of the Vermont Administrative Procedure Act ([3 V.S.A. §§ 836 - 848](#)).

Vermont's formal rulemaking process includes review of an agency's proposed rule by:

- the Interagency Committee on Administrative Rules,
- the Office of the Secretary of State, and
- the Legislative Committee on Administrative Rules.

There are established procedures, filing requirements, and opportunities for public participation as part of the formal rulemaking process. The process includes several opportunities for submitting public comments, including written comments and at least one [public hearing](#). The final adopted rule is filed with the Secretary of State and the Legislative Committee on Administrative Rules.

For more information about Vermont's formal rulemaking process, please visit the [Vermont Secretary of State's website](#).

The Secretary of State has also published a [PowerPoint presentation](#) that describes the process for adopting administrative rules.