

**A PRACTICAL GUIDE FOR ADOPTION OF A REGULATION IN  
ACCORDANCE WITH  
THE CONNECTICUT UNIFORM ADMINISTRATIVE PROCEDURE ACT  
AND  
THE RULES OF THE LEGISLATIVE REGULATION REVIEW  
COMMITTEE**

*Pamela B. Booth, Administrator*  
Legislative Regulation Review Committee

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# **Requirements for Adoption of a Regulation In Accordance with The Connecticut Uniform Administrative Procedure Act**

With exceptions, a regulation is not valid until (1) it has been properly noticed, (2) it has had a public comment period, (3) it has been approved by the Attorney General and the Legislative Regulation Review Committee (LRRC)<sup>1</sup>, and (4) it has been properly filed with the Secretary of the State's Office. Three exceptions to this are listed under Emergency Regulations, Disapproved Regulations and Technical Amendments.

The statutory requirements for the adoption of regulations are contained in Sections 4-168, 4-168a, 4-169, 4-170, and 4-172 of the Connecticut General Statutes.

Outlined are the requirements for the submittal of regulations.

## **I. Agency Procedures**

### **I. Notice of Intent to Adopt, Amend, or Repeal a Regulation**

- A. An agency must publish notice of its intended action
  - 1. In the Connecticut Law Journal
  - 2. At least 30 days prior to submission to LRRC
- B. The published notice must include
  - 1. Either a statement of the terms, or the substance of the proposed regulation, or a detailed description of the issues and subjects involved
  - 2. A statement of purpose for the regulation (In Plain English)
  - 3. A reference to the statutory authority for the regulation
  - 4. The time, place, and manner by which interested parties may present their views on the regulation
- C. The notice must
  - 1. Be published in the Connecticut Law Journal
  - 2. Be mailed to each joint standing committee of the General Assembly having cognizance of the subject matter of the regulation
  - 3. Be mailed to all parties requesting advance notice of the agency's regulation adoption proceedings  
(Agencies may charge a reasonable fee for such notice based on estimated cost of providing the service.)
- D. The agency must provide a copy of the proposed regulation to any person requesting it and may charge a reasonable fee for the copy.
- E. Mandated regulations require
  - 1. Publication in the Connecticut Law Journal within 5 months after the effective date of the Public Act or the time specified in the Public Act

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<sup>1</sup> All proposed regulations must be submitted on official forms, obtainable from the Secretary of the State's Web-site and at the Legislative Regulation Review Committee Web-site, or computer generated to replicate the official form.

2. Written statement of reasons for failure to publish within required time frame provided to the Governor and the LRRC
- F. Proposed regulations
1. Must be submitted to the LRRC within 180 days of publication in The Connecticut Law Journal
    - a. Failure to submit regulations within required time frame requires that the administrative head of an agency provide written explanation for noncompliance
    - b. A filing extension shall be requested by the administrative head of an agency
    - c. LRRC can grant an extension with the affirmative vote of two-thirds of its members - present & voting
    - d. If no extension is granted, the agency head must personally appear before the LRRC at a time and place prescribed by said committee
    - e. With a two-thirds vote of the members, the committee may then report non-compliance to the Governor

## **II. Fiscal notes**

- A. An agency must prepare a fiscal note after notice of intent is published
1. It must include
    - a. Estimated cost to or revenue impact on the state
    - b. Estimated cost to or revenue impact on municipalities<sup>2</sup>
    - c. Regulatory flexibility analysis, if applicable
    - d. Small Business Impact Study (where applicable)<sup>3</sup>
    - e. Revisions, as necessary, when changes in a proposed regulation effect fiscal note (see also Revision of Proposed Regulation)
    - f. It must be made available for public inspection and copying

## **III. Public Comment Period**

- A. An agency must afford all interested persons reasonable opportunity to submit data, views or arguments
- B. Comments
1. May be written
  2. May be oral at a public hearing
- C. An agency may hold a public hearing as a matter of course
- D. An agency shall hold a public hearing if requested, within 14 days after publication of notice, by
1. At least 15 persons
  2. A governmental subdivision or agency
  3. An association consisting of not less than 15 people

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<sup>2</sup> The governing body of any municipality, if requested, must provide, within 20 working days, the agency with any information which may be necessary for analysis in preparation of a fiscal note.

<sup>3</sup> Fiscal forms may be found on the LRRC web-site

- E. An agency shall hold a public hearing if required by authorizing legislation
- F. An agency must fully consider all written or oral submissions

#### **IV. Revision of Proposed Regulations**

- A. An agency may decide to proceed with the proposed regulation as originally stated or revise the text of the proposed regulation
- B. At least 20 days prior to submitting a proposed regulation to the LRRC, an agency must mail, to all persons who made written or oral submissions, statements or arguments concerning the proposed regulation and requested notification, notice that the agency has decided to take action and that it has made available for copying and inspection
  - 1. The final wording of the proposed regulation
  - 2. A statement of the principal reasons in support of its intended action
  - 3. A statement of the principal considerations in opposition to its actions, based on written or oral comments, and its reasons for rejecting such considerations
- C. An agency must revise the fiscal note for a proposed regulation to indicate any changes made in the proposed regulation

#### **V Submission to the Attorney General**

- A. All proposed regulations must be submitted to the Attorney General (A.G.)
  - 1. Exception for emergency regulations (see subsection (f) of Section 4-168 of C.G.S.)
  - 2. A.G. has 30 days to approve regulation or give notice to the agency of any legal insufficiency
  - 3. Regulation is deemed approved if A.G. fails to give notice of insufficiency to agency within 30 days of receipt
  - 4. Review is for "legal sufficiency"<sup>4</sup>
- B. Filing must consist of
  - 1. The "original" regulation
  - 2. A certification page, applicable portions completed
  - 3. Signature of the proper authority

#### **VI. Submission to the Regulation Review Committee**

- A. Regulation packet
  - 1. "Original" hard copy and a copy of entire proposed regulation packet e-mailed to the Legislative Regulation Review Committee's dedicated regulation filing e-mail address @:  
RRAgencySubmittal@cga.ct.gov
    - a. One letter size copy

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<sup>4</sup> Absence of conflict with Connecticut General Statute, agency regulations, federal law or regulations, or the United States or Connecticut Constitutions

- b. On Form R-39 REV. 2/2012 from the Secretary of State's Office web-site@:  
[http://www.sots.ct.gov/sots/lib/sots/legislativeservices/regulations/form\\_r\\_39\\_word.doc](http://www.sots.ct.gov/sots/lib/sots/legislativeservices/regulations/form_r_39_word.doc)
  - c. Must contain certification by A.G. and agency authorized individual (Commissioner, etc.)
  - d. Must contain a fiscal note
  - e. Must contain a Small Business Impact Study (Where appropriate)
  - f. Must contain a summary of any public testimony, written or oral
  - g. Must contain a statement of purpose – In Plain English
  - h. Must contain a submittal letter from agency head or his designee<sup>5</sup>
  - i. Must be submitted to LRRC within 180 days of Publication of Notice of Intent to Adopt, if mandatory regulation
  - j. Must have statement regarding any delay in filing, if mandatory regulation
  - k. May contain summary of regulation
- B. Additional copies of regulations by electronic submission at time of submittal to
- 1. Office of Fiscal Analysis
  - 2. Committee of cognizance

## **VII. Filing with the Secretary of State's Office**

- A. All LRRC approved regulations must be filed by the agency
- 1. Filing shall be the original approved regulation including
    - a. Signed certification page
    - b. All technical correction or deletions made
    - c. Showing all changes to existing text in brackets & new text either underlined or in caps
  - 2. One exact photocopy (except for emergency regulations)
    - a. Need copy of the Governor's letter for emergency regulations
    - b. Need copy of Commissioner's letter for emergency regulations
  - 3. A copy of the LCO report, if any
  - 4. Regulation removed from any binder
  - 5. Letter to Secretary of State's office addressed to Bernie Liu,
  - 6. Must be within 14 days of approval
  - 7. If agency does not file it must notify LRRC of failure to file within five days following the 14 day filing period
- B. Effective date can be
- 1. Upon filing with the Secretary of the State<sup>6</sup>
  - 2. Later as stated in the authorizing legislation
  - 3. Later as specified on the certification page by an agency
- C. Secretary of State will no longer provide a copy of the certified regulation to the Commission on Official Legal Publications. Agencies are now required to send a

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<sup>5</sup> Letter should contain the name and phone number of a contact person for the regulation

<sup>6</sup> Not later than 20 days thereafter if an emergency regulation

clean copy ready for publication electronically to COLP.

- D. COLP will:
  - 1. Will publish the regulation in the Connecticut Law Journal
  - 2. Will add it to the Regulations of Connecticut State Agencies (updated at least once a year)

## Committee Procedures

### **VIII. Deadlines for LRRC Consideration for Proposed Permanent Regulations**

- A. First submittal = 65 days from date of submittal
- B. Second submittal (after rejection without prejudice) = 35 days from date of submittal
  - 1. Submittal date as dictated by statute (section 4-170(b))
    - a. If a regulation is submitted on or before the 1st Tuesday of the month the submittal date is deemed the 1st Tuesday of the month submitted
    - b. If a regulation is submitted after the first Tuesday of any month, the regulation is held until the following month and the submittal date is deemed the 1st. Tuesday of that month
- C. Substitute pages can be submitted
  - 1. When requested by the LRRC
  - 2. At agency discretion, up to one week prior to the LRRC meeting at which the regulation is to be acted upon. (Not including the day delivered to the LRRC, i.e.: if the committee meeting is on Tuesday, substitute pages must be submitted on or before Monday of the preceding week.)

### **IX. Assigning LRRC Number to a Regulation**

- A. Ascending numeric order as received, i.e. 1, 2, 3, etc.
- B. Proceeded by the year in which it was first submitted, i.e. 98-1, 98-2, etc.
- C. Resubmitted regulations are identified by the addition of a small letter to the sequence, i.e., 98-1(a), 98-1(b), 97-99(a), etc.
- D. Emergency regulations (see also Chapter III) are numbered by year and in order, as well, E 98-1
  - 1. E means "emergency"
  - 2. Prior to Committee action, a substitute submitted for an emergency regulation receives an additional number, i.e.: E98-1 (1)

### **X. Committee Meetings**

- A. Regular monthly meetings are the fourth Tuesday of each month
- B. Special meetings to consider "emergency regulations" can be called by either chair or at the request of any member
- C. Meetings are subject to The Freedom of Information Act

- D. All meetings are noticed in the Legislative Bulletin
- E. Meeting agendas & minutes are available on the LRRC intra & internet web sites
- F. Copies of the proposed regulations are available online or may be requested, with at least a one-day notice
- g. All documents pertaining to a given regulation are now available on line. Access them through regulations by year. (Click on the regulation number to bring up list of documents, then click on the document you are interested in)

## **XI. Committee Actions**

- A. Approve
  - 1. May approve in whole or in part
  - 2. Approved "original" regulations are returned to the agency
    - a. For submittal to the Secretary of the State
    - b. With a signed and dated certification page, which indicates the LRRC action
    - c. With a letter stating the committee's action and indicating any changes required in the regulation prior to filing the "original" regulation with the Secretary of the State
- B. Disapprove
  - 1. May disapprove in whole or in part
  - 2. Disapproved "original" regulations are returned to the agency <sup>7</sup>
    - a. With a signed and dated certification page, which indicates the LRRC action
    - b. With a letter detailing the committees action
    - c. May not be returned to LRRC
      - (1) Exception: substantially changed, as to be, "New" regulation
    - d. Agency may not issue any regulation, directive or take any action to implement disapproved regulation or any disapproved part of a regulation
    - e. The General Assembly may overturn the LRRC Disapproved action
- C. Reject without prejudice
  - 1. May reject in whole or in part
  - 2. Rejected "original" regulations are returned to the agency
    - a. With a signed and dated certification page, which indicates the LRRC action
    - b. With a letter detailing reasons for the rejection, and corrections and/or deletions
    - c. For revision
  - 3. **Mandated** regulations shall be resubmitted by the first Tuesday of the second month following their rejection without prejudice
    - a. Those regulations, which are required by State Statute
    - a. Those regulations required by a Special Act

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<sup>7</sup> On or before February 15 of each regular session of the General Assembly, the Legislative Regulation Review Committee shall submit a copy of all proposed regulations, which were disapproved. Disapproved regulations are referred to the committee of cognizance by the Speaker of the House and the President Pro Tem of the Senate for reconsideration. This would include a public hearing.

- b. Must be reviewed by the Attorney General after revised prior to Re-submittal if changes have been deemed substantive
- c. Need not be republished in the CT. Law Journal
- d. With a summary of the revisions, identified by paragraph
- 4. Any other regulation rejected without prejudice may be revised and re-submitted in the manner stated above
- 5. In either situation, the re-submittal letter should make reference to the Number of the previous regulation
- 6. Resubmitted regulations have a 35 day deadline from submittal date: i.e., if a regulation is submitted prior to the first Tuesday of any month the regulation will be on that month's agenda

## **Emergency Regulations**

### **XII. Bases for Emergency Regulations**

- A. Imminent peril to
  - 1. Public health
  - 2. Public safety
  - 3. Public welfare
- B. Comply with federal regulations or be penalized
- C. And the agency states reasons in writing
- D. And the Governor approves

### **XIII Procedures for adoption or disapproval**

- A. Must submit
  - 1. Letter of explanation of emergency
  - 2. The Governor's written approval
  - 3. The "original" proposed "Emergency" regulation with certification page
  - 4. A complete proposed regulation packet e-mailed to the LRRC
    - a. In the same format as a permanent regulation
    - b. 10 days prior to proposed effective date of the regulation
- B. May forgo
  - 1. Publication of Notice of Intent
  - 2. Public comment or hearing
  - 3. Approval of the Attorney General
  - 4. Fiscal note
- C. Committee may
  - 1. Approve
    - a. In whole or in part
    - b. At a regular or special meeting
    - c. Within 10 days from date submitted to the LRRC (excluding Saturday, Sunday or Holidays)
  - 2. Disapprove
    - a. In whole or in Part
    - b. At a regular or special meeting

- c. Within 10 days from the date submitted to the LRRC (excluding Saturday, Sunday, or Holidays)
  - 3. Take no action
    - a. "Emergency" regulation is deemed approved if no action is taken by its deadline date for committee action (10 days from submittal date, excluding Saturday, Sunday, or Holidays)
    - b. Agency must still file regulation with the Secretary of the State's Office
  - 4. Reject without prejudice
    - a. There are no provisions for this option
- D. Committee will
  - 1. Provide written notification to the agency of its actions
  - 2. Detail any objections to any portion of "emergency" regulation
- E. Filing with the Secretary of the State
  - 1. All approved "Emergency" regulations must be filed with the Office of The Secretary of State
  - 2. Upon filing, "emergency" regulations are in effect for 120 days
  - 3. A single 60-day extension may be granted, upon filing a written request with the Secretary of the State
  - 4. With the exception of the Department of Environmental Protection's Marine fisheries regulations, which can request an additional 60 days extension
- F. Preparing permanent regulation
  - 1. During the period an Emergency Regulation is in effect
  - 2. File before Emergency Regulation expires
  - 3. Follow procedures listed in parts I & II

## **II. Technical Amendments**

### **XIV Technical Amendments or Repealers**

- A. Bases for technical amendments or repealers
  - 1. Statutory transfer of functions, powers and duties of an agency to an other agency
  - 2. Statutory change in agency name
  - 3. Renumbering of section of General Statutes containing the authority for an existing regulation
  - 4. Repeal of statute under which regulation adopted
- B. Procedure
  - 1. No notice of intent required
  - 2. No public hearing required
  - 3. Must have approval from Attorney General's Office
  - 4. Must file proposed regulation with the LRRC as prescribed in Parts I & II
- C. Other changes

**All changes other than technical or repealers must go through the entire regulatory process**

### **III. Form and Content of Regulations**

This material is no longer provided in this section. A new publication from the Legislative Commissioners' Office entitled **Manual for Drafting Regulations** is available and is more comprehensive than the material previously included in this section. Legislative Commissioners' Office can provide you with this material.

## **A. AGENCY CHECK LIST FOR REGULATIONS**

- () DRAFT REGULATIONS, STATEMENT OF PURPOSE, FISCAL NOTE, SMALL BUSINESS IMPACT ANALYSIS (Where needed) and CERTIFICATIONS PAGE
- () APPROVAL OF AGENCY HEAD
- () PUBLISH NOTICE OF INTENT IN THE CONNECTICUT LAW JOURNAL
- () ALLOW FOR PUBLIC COMMENT
- () REDRAFT REGULATION IF NECESSARY; PREPARE STATEMENT EXPLAINING FINAL DRAFT
- () NOTIFY INTERESTED PARTIES OF AVAILABILITY OF FINAL DRAFT
- () REGULATION SIGNED BY AGENCY HEAD
- () SUBMIT REGULATION TO ATTORNEY GENERAL AND OFFICE OF POLICY AND MANAGEMENT
- () SIGNATURE OF ATTORNEY GENERAL
- () SUBMIT TO OFFICE OF THE LEGISLATIVE REGULATION REVIEW COMMITTEE THE "ORIGINAL" PROPOSED REGULATION HARD COPY AND THE COMPLETE PROPOSED REGULATION PACKET BY DEDICATED E-MAIL
- () SEND ELECTRONIC COPIES TO OFFICE OF FISCAL ANALYSIS AND THE COMMITTEES OF COGNIZANCE
- () ATTEND LEGISLATIVE REGULATION REVIEW COMMITTEE MEETING, WHEN PROPOSED REGULATION IS ON THE AGENDA
- () FILE APPROVED, SIGNED, "ORIGINAL" COPY WITH THE SECRETARY OF THE STATE'S OFFICE
- () CHECK FOR PUBLICATION IN THE CONNECTICUT LAW JOURNAL