

Idaho Administrative Rules/ Rules Process Overview

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Division of Financial Management
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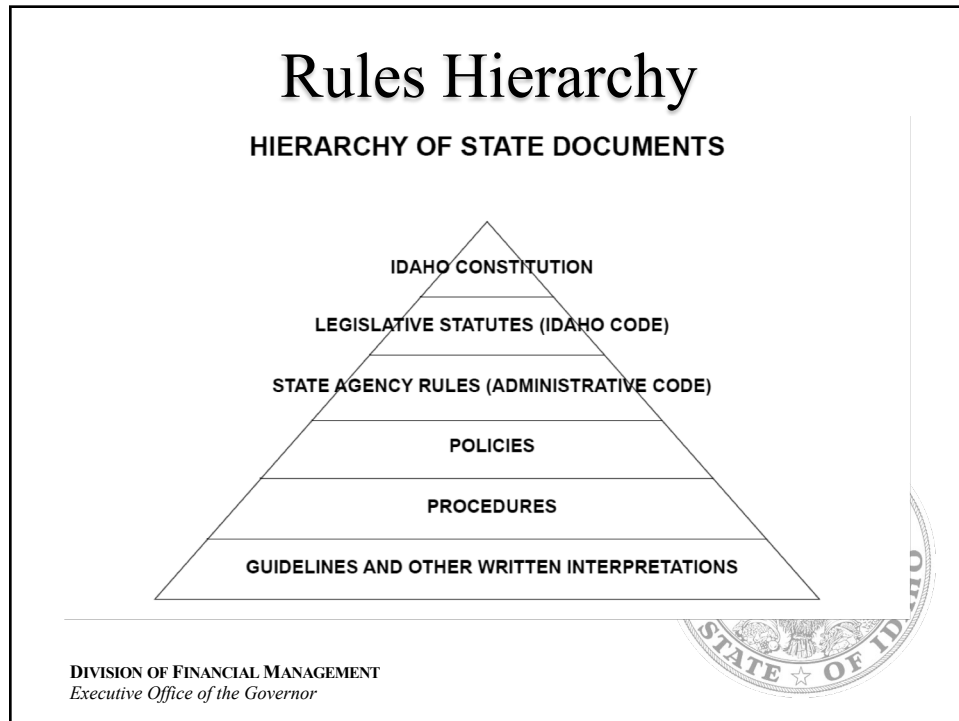
Outline

- **Rules Hierarchy**
- **Agencies' authority to adopt rules**
- **Regular Rulemaking process**
- **Zero-Based Regulation Exec Order**
- **Legislative Review**
- **Status of Current Rules**



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Agencies Authority to Adopt Rules

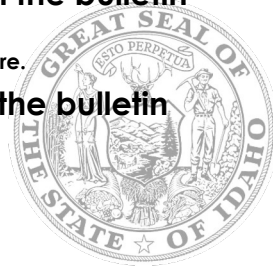
- **A Board, Commission, or Agency Administrator/Director must have statutory authority to adopt rules**
- **Agencies must follow the Administrative Procedures Act - Title 67, Chapter 52, Idaho Code**
- **3 types of Rules**
 - Temporary
 - Proposed
 - Pending
- **2 Sub-Types**
 - Fee Rule
 - Non-Fee Rule

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The Rulemaking Process

- **Agency Files Initial Notice for Negotiated Rulemaking**
- **Negotiated Rulemaking can be formal or informal in nature**
- **Agency files notice for the Proposed Rule**
- **Proposed rule adopted and prints in the bulletin**
 - **Not less than 21 days for public comment.**
 - **Informal negotiated rulemaking can continue here.**
- **Pending rule adopted and prints in the bulletin**
- **Legislative Review**



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Zero-Based Regulation EO in 2021-2026 (ZBR)

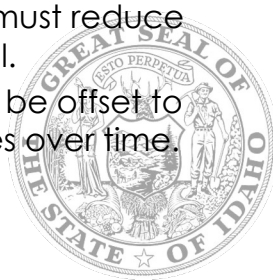
- Built off Red Tape Reduction Act in 2019.
 - 75% of all rules cut or simplified in one year.
 - Eliminated 250 chapters, 1,804 pages of regulations, close to 31,000 "restrictive" words.
- Established by Executive Order in 2020.
- Ongoing review schedule of their rule chapters.
 - ~20% each year.
- Goal: Throw every rule on the ground and picking them up piece by piece. Critical, comprehensive review.
- Several considerations (not exhaustive):
 - Evidence/need for the rule
 - Duplication of statute
 - Prospective Analysis
 - Cost-benefit analysis



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ZBR Process

- Agency identifies chapter up for review.
- Same notice and intent requirements under the APA, however:
 - At least two public meetings.
 - This is different from APA requirements.
 - Prospective Analysis published online.
- New rule chapter agency finalizes must reduce regulatory burden or remain neutral.
- New rules outside of schedule must be offset to prevent costly accumulation of rules over time.



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Legislative Review

- **Occurs during roughly the first 3 weeks of every legislative session**
- **Public and stakeholders can participate and weigh in on the rules.**
- **Legislative Review authority in the Idaho Consitution and in statute**



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Const. Art. III, § 29

§ 29. Legislative response to administrative rules

Currentness

The legislature may review any administrative rule to ensure it is consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement or enforce. After that review, the legislature may approve or reject, in whole or in part, any rule as provided by law. Legislative approval or rejection of a rule is not subject to gubernatorial veto under section 10, article IV, of the constitution of the state of Idaho.



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Status of Current Rules

- **Most rules final.**
 - Some fee rules not approved last year.
- **The last 4 years a portion or all of the rules have expired.**
- **Main Rules Website –**
<https://adminrules.idaho.gov/>



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