

Connecticut's Emergency Regulation Adoption Process

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You asked for an overview of Connecticut's emergency regulation adoption process.

Summary

In Connecticut, the regulation adoption process is generally governed by the Uniform Administrative Procedure Act (UAPA) and requires a series of actions by the agency seeking to adopt the regulation, including posting notice of the proposed regulation and having a public comment period, obtaining attorney general approval, notifying legislative committees of cognizance, obtaining Legislative Regulation Review Committee (LRRC) approval, and submitting the final regulation for posting with the secretary of state (see OLR Report [2019-R-0119](#) for more details on this process). However, under certain circumstances and to address urgent needs, executive branch agencies can bypass the typical process and adopt emergency regulations. The authority to use this process and its requirements are outlined in [CGS § 4-168\(g\)](#). In recent years the legislature has also passed laws notwithstanding this law, and directed agencies to promulgate regulations following the emergency, rather than typical, process to more immediately regulate certain issues (such as [CGS § 12-865](#)).

Emergency Regulation Process

An agency can use the emergency regulation adoption process if it finds that adoption of a regulation with less than 30 days' notice is required (1) due to imminent peril to public health, safety, or welfare or (2) for the Department of Energy and Environmental Protection (DEEP) to comply with provisions of the interstate fishery management plans adopted by the Atlantic States Marine Fisheries Commission or to meet unforeseen circumstances or emergencies affecting

marine resources. Under this simpler process, an agency can adopt a regulation without any, or with a lesser period of, prior notice, public comment, or a hearing.

The agency must state in writing, and the governor must approve in writing, the reasons for using this process. The agency must electronically submit its proposed emergency regulation with a statement of purpose to the LRRC. The LRRC can then either approve or deny approval of the emergency regulations, either in whole or in part, not later than 15 days after they are submitted, either at a regular scheduled meeting or at a special meeting called by either the LRRC chairperson or any five or more committee members. If the committee does not act within the 15 days, the emergency regulation is deemed approved. Approved regulations take effect when they are posted by the secretary of the state on the eRegulations System, which is the official version of the Regulations of Connecticut State Agencies (RCSA) and the electronic repository for the regulation-making record. Agencies must also take steps to make emergency regulations known to those who may be affected by them. Often they do this by posting these regulations on the agency website. If the LRRC disapproves an emergency regulation in whole or in part, it must notify the agency as to its reasons.

Approved emergency regulations are not incorporated into the RCSA, are temporary, and last no more than 180 days. For emergency regulations related to marine resources, as described above, the DEEP commissioner may request a 60-day extension from the LRRC, either when the regulation is submitted or else not less than 15 calendar days before the emergency regulation expires. If the LRRC does not act on the request for extension, it is deemed approved.

Agencies may adopt permanent regulations that are identical or substantially similar to emergency regulations, but that does not extend the effective date of the underlying emergency regulation. Where an emergency regulation is in place and an agency does not take all the required steps to make it permanent, including, among other things, (1) posting notice of intent to adopt regulations; (2) preparation and submission of a fiscal note (as required by [CGS § 4-170](#)); and (3) securing approvals of both the attorney general and LRRC, the emergency regulation ceases to be effective on its expiration date. Emergency regulations can also be rendered ineffective by judicial action or when replaced by permanent regulation (the secretary of state's website advises interested parties to confirm with the relevant agency if a particular emergency regulation is currently in effect).

Use of Emergency Regulation Adoption Process

The emergency regulations adoption process has been used numerous times since it was established within the UAPA. Two recent examples include the Connecticut Department of Labor's adopting the federal Department of Labor's [Emergency Temporary Standard–Occupational](#)

[Exposure to COVID-19](#) and [expansion of access to medical marijuana for people with degenerative spinal disorders](#), in advance of a more permanent regulatory expansion that was estimated to take up to one year. On the date of this report's publication there are no active emergency regulations, however, the archive of past (expired) emergency regulations and their related regulatory records can be found on the "[Emergency Regulations](#)" tab of the eRegulations System and the "[Emergency Regulations \(2013-2015\)](#)" tab of the same system (just one emergency regulation was adopted between July 1, 2013, and March 23, 2015). The complete records of emergency regulations adopted before July 1, 2013, are on file with the secretary of the state.

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