



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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Temporary Rules

What are temporary rules?

Temporary rules, or temporary regulations, are legislative rules promulgated by agencies that include an expiration date. Unlike permanent rules, which remain in effect indefinitely unless modified or revoked, temporary rules are intended to remain in effect only for a limited time.

Why do agencies use temporary rules?

Temporary rules are promulgated in several situations, including:

- (1) *Emergency situations.* When immediate action is needed, such as responding to a crisis or unforeseen event, agencies may enact temporary rules to adapt their policies quickly. For instance, many agencies enacted temporary regulations to enable necessary policy adjustments in light of the COVID-19 pandemic.
- (2) *Limited-time applicability.* Agencies use temporary rules when they recognize certain regulations will only be necessary for a limited period. For example, the Coast Guard establishes safety zones in response to changing conditions using temporary rules. Another example is the use of temporary rules to implement new policies and facilitate a compliance period during regulatory transition.
- (3) *Regulatory Learning.* Agencies occasionally use temporary rules when they establish pilot programs or commit to reviewing rules' performance at a scheduled future date.

When legal issues are associated with temporary rules?

The Administrative Procedure Act (APA) does not address the use of expiration dates in agency rules. However, agency or program-specific statutes may permit or direct their use in specific circumstances. By way of example, section 7805(e) of the Internal Revenue Code permits the Secretary of the Treasury to issue temporary regulations that may remain in effect for up to three years.

Agencies often use temporary rules in circumstances in which the good-cause exemption to notice-and-comment rulemaking also applies. This exemption permits agencies to forgo notice and comment if doing so would be "impracticable, unnecessary, or contrary to the public interest." Courts tend to interpret these exemptions narrowly, suggesting they may be unfavorable for excessive use of this exemption. To determine if there is a good cause for a temporary rule to be exempted from notice-and-comment requirements, agencies should consider, among other things, the rule's contentiousness, significance, and urgency (see [ACUS Rec. 2024-6](#)).

How does an agency promulgate temporary rules?

When promulgating a temporary rule, agencies must specify an effective date and expiration date. If the agency did not engage in notice-and-comment rulemaking prior to adopting the temporary rule, they usually invite the public to submit comments after the rule is published. The agency may then respond to this feedback or modify the regulation based on the comments received.

A temporary rule will appear on the *Code of Federal Register* (CFR) if its duration is approximately a year or longer (depending on proximity to the publication date of the CFR) and shorter than three years. When agencies publish temporary rules in the Federal Register, they typically indicate that the rule is temporary in the "Action" caption of the notice and include relevant dates in the "Date" caption. A "T" will be added to the section number in the CFR to signal its temporariness (see [Document Drafting Handbook](#)).

Additional Resources

Office of the Federal Register, [Document Drafting Handbook](#)
ACUS Rec. [2024-6 Public Engagement in Agency Rulemaking Under the Good Cause Exemption](#)
ACUS IIB-014, [Notice-and-Comment Rulemaking](#)
Kristin E. Hickman, [Interim-Final or Temporary Regulations: Playing Fast and Loose with the Rules \(Sometimes\)](#), Notice & Comment, Yale J. on Reg. (Feb. 1, 2018)