

## 16.2 TYPES OF RULEMAKING PROCEEDINGS

There are four types of rulemaking proceedings: rulemaking without a hearing; rulemaking with a hearing; exempt rulemaking, that is rules adopted with legislative exemptions from the APA requirements; and expedited rulemaking, an abbreviated process that must be authorized by the legislature.

Rulemaking without a hearing (sometimes called noncontroversial rulemaking) is discussed in chapter 20. In rulemaking without a hearing, the agency, on notice to the public and after publication of the proposed rule and preparation of a statement of need and reasonableness supporting it, may adopt a rule without a hearing unless twenty-five members of the public request a hearing.

In rulemaking with a hearing, the agency gives notice, publishes the proposed rule, prepares a statement of need and reasonableness, and holds a more or less formal public rulemaking hearing on the record. Rulemaking with a hearing is discussed in chapter 21.

Exempt rules, discussed in chapter 21, is an expedited rulemaking method under which rules may be adopted without a hearing after publication of a notice of intent to adopt rules and expiration of a 30-day public comment period. No statement of need and reasonableness is required for exempt rules. Some exempt rules are limited in their effectiveness to two years.

Expedited rules are discussed at § 21.6. The process is essentially notice and comment rulemaking, without a hearing or a statement of need and reasonableness, but with a legal review by the office of administrative hearings. The legislature must specifically authorize the use of this process for a set of rules and it can also provide that a hearing will be held if 100 people request one.