**[REVISED IN 2020\*\*] ESTIMATED COSTS FOR RULEMAKING\***

|  | MajorRule | MediumRule | SmallRule | Noncontroversial Procedural1-2 pageAmendment |
| --- | --- | --- | --- | --- |
| **Staffing Costs** |  |  |  |  |
| Program staff ($40 w/fringe) | 124,800 | 62,420 | 24,000 | 3,600 |
| Rules staff ($40 w/fringe) | 124,800 | 41,600 | 12,000 | 2,400 |
| Clerical support ($26 w/fringe) | 8,320 | 5,200 | 3,900 | 1,560 |
| **\*\*Office of Attorney General** |  |  |  |  |
| **Legal fees ($133/hour)** | 11,438 | 7,182 | 1,330 | 798 |
| **\*\*Office of Administrative Hearings** |  |  |  |  |
| **Admin. Law Judge ($215/hour)** | 29,025 | 10,750 | 2,150 | 860 |
| Filing Fee | 50 | 50 | 50 | 50 |
| **\*\*State Register ($135/page)** |  |  |  |  |
| Request for Comments  | 270 | 270 | 135 | 135 |
| Notice of Intent to Adopt Rules (with rule text published)  | 7,560 | 3,375 | 1,350 | 810 |
| Notice of Adoption (without rule text published) | 60 | 60 | 20 | 20 |
| **Miscellaneous** |  |  |  |  |
| Mailings | 925 | 694 | 370 | 333 |
| Duplicating | 1,500 | 825 | 500 | 250 |
| Transcripts | 1,000 | 750 | 500 |  |
| Committee costs, outstate meetings | 500 | 200 |  |  |
|  |  |  |  |  |
| **TOTAL Estimated Costs** | **$310,248** | **$133,376** | **$46,305** | **$10,816** |

\***THESE ROUGH ESTIMATES ARE ILLUSTRATIONS—A FRAMEWORK FOR BEGINNING AGENCY ANALYSIS. THEY DO NOT REFLECT ACTUAL COSTS. RULEMAKING AND AGENCY STAFF CAN PROJECT COSTS MORE CLOSELY AS RULEMAKING BEGINS (SEE COMMENTS BELOW).**

For simplicity, the cost chart above and description below use the terms “major rule,” “medium rule,” “small rule,” and “procedural rule.” As anyone with any length of rulemaking experience knows, the landscape includes many facets that defy such straightforward categories. The material in this appendix is designed to give you some rules of thumb to help you predict the costs unique to your agency and project. The following list suggests other factors to consider in your characterization and is by no means exhaustive:

* the complexity of the record
* the number of exhibits that support the rule
* the volume of the exhibits
* the number of controversies that must be resolved
* the level of controversy
* the technical nature of the subject matter
* the technical complexity of the rules
* the number of speakers at the hearing
* the diversity and uniqueness of the subjects presented in the comments

You could certainly come up with more. But simply put, you will need to do your own analysis of whether there are factors that elevate your relatively short rule into a higher category due to the commensurate costs involved or reduce the expense of what might otherwise look like a long one. Are there factors that this chart does not contemplate?

*Major rule*

Extensive revision or start-from-scratch development of *long* (more than 50 pages of text), *controversial* (will almost certainly go to public hearing) rule. Typically requires many meetings with public advisory committee.

The estimated costs relating to the Office of Administrative Hearings presumes that there will be a hearing (possibly more than one), a filing fee, ALJ preparation time, telephone conferences or consultations, and ALJ review time. To establish estimated costs for each rulemaking, the agency might find it helpful to review the costs of its previous rulemaking projects and its current fixed costs (such as the hourly rates for AG legal fees and the ALJ).

*Medium rule*

Extensive revision or start-from-scratch development of rule between 15 and 49 pages of text, which could go to hearing or could be noncontroversial (no public hearing required). Involves advisory committee work but fewer meetings than major rule.

The estimated costs relating to the Office of Administrative Hearings presumes that there will be a hearing (possibly more than one), a filing fee, ALJ preparation time, and telephone conferences. In establishing estimated costs for each rulemaking, the agency might find it helpful to review the costs of its previous rulemaking projects and its current fixed costs (such as the hourly rates for AG legal fees and the ALJ).

*Small rule*

Rewrite of or amendments to a noncontroversial rule between three and 14 pages of that may not require committee work because change responds to state or federal law.

The estimated costs relating to the Office of Administrative Hearings presumes that there will not be a hearing, but that there will be a filing fee and other fees such as ALJ preparation time. In establishing estimated costs for each rulemaking, the agency might find it helpful to review the costs of its previous rulemaking projects and its current fixed costs (such as the hourly rates for AG legal fees and the ALJ).

*Noncontroversial technical or procedural amendment*

Minor changes to any rule that require mainly editing and notice in the State Register.

The estimated costs relating to the Office of Administrative Hearings presumes that there will not be a hearing, but that there will be a filing fee and other fees such as ALJ preparation time. In establishing estimated costs for each rulemaking, the agency might find it helpful to review the costs of its previous rulemaking projects and its current fixed costs (such as the hourly rates for AG legal fees and the ALJ).

 ESTIMATE OF HOURS SPENT ON RULE

|  | Major/Large rule (controversial or with hearing) | Medium rule (possible hearing or longer rule) | Small/Non-Hearing rule | Minor rule (ex. expedited process or short rule) |
| --- | --- | --- | --- | --- |
| Program Staff |  3120 |  1560 |  600 |  90 |
| Rulemaker |  3120 |  1040 |  300 |  60 |
| Clerical |  320 |  200 |  150 |  60 |
| Legal Review |  86 |  54 |  10 |  6 |
| OAH Services  |  135 |  50 |  10 |  4 |

**\*\*[REVISED IN 2020]** **Rulemaking Editor’s Notes:**

* **In Fiscal Year 2020, the Office of the Attorney General’s billing rates are increased to $133 per hour for attorney time.**
* **In Fiscal Year 2021, OAH’s billing rates are increased to: $215 per hour for judicial time; $105 per hour for staff attorney time.**
* **In Fiscal Year 2021, the State Register’s estimated rate is $135 per page.**