

To: Richard Ames, Chair, Gaming Regulatory Oversight Authority  
**From: Lucy Weber**  
**RE: Rulemaking/Temporary Rulemaking Approaches**  
**Date: 15 November 2013**

(Sent off in haste, probably without adequate proofreading.)

**Background:**

Re temporary rulemaking--I looked at the provisions of the Omnibus Bill, the Pennsylvania statute on temporary rulemaking, the NH Lottery Commission's existing statute on Rulemaking and exceptions from RSA 541-A, and the provision in NH RSA 541-A on interim rules. The NH interim rules process is not particularly helpful as the interim rules are only in effect for a period of 180 days. We have been told that 120 days is not a realistic timeline for the adoption of rules, and that 180 days would be more appropriate, I decided to track the Pennsylvania time lines, and to exempt our final choice off authority from the provisions of RSA 541-A for a period of three years, at the end of which time, permanent rules must be adopted. I can draft the exemption in one of two ways, I have provided two alternatives below—one tracking the no-frills version adopted by Pennsylvania, and the other in which I incorporated some, but not all, of the currently existing interim rules procedures. I have also included in this document cut-and-pastes of all the provisions that I looked at, so they are readily to hand for reference.

Re the permanent rulemaking provisions, I did not attempt any drafting, assuming the you and Ms. Williamson will look over what was in the Omnibus and adapt it as needed, but I note that some limited permanent exceptions to RSA 541-A are contained in the existing NH Lottery statute, and thought that some consideration might be given to similar permanent exceptions such as the ability to change the types of games, and perhaps incorporating by reference the appropriate industry standards for the exceptions.

**Thoughts and Questions for The Committee and/or White Sands re directions to take:**

How comfortable are Committee members with exceptions from RSA 541-A?  
What controls would allow the process to proceed with relative speed, but also with adequate oversight?

Should the adoption of final rules through the RSA 541-A JALCAR process be required before the application process can begin? It was in the Omnibus bill.

As I work through the options, it occurs to me that we ought to specify different rulemaking procedures for adoption of rules governing the application and licensing process and adoption of rules governing ongoing casino operations. Committee members thoughts?

The Omnibus bill includes a 120 day time limit for adoption of rules re application and licensing process, and final rules (presumable all of them) within one year.

We were told that the 120 days was too tight, and I am concerned that one year for adoption of final rules, particularly concerning operations, may also be too optimistic.

Should there be some issues which are permanently exempt from RSA 541-A, as are some of the decisions of the Lottery Commission? (eg types of games, etc, with the stipulation that they comply with the relevant industry standard to be incorporated by reference?)

### **Possible options for temporary rulemaking:**

#### **Option #1: The Pennsylvania model—or the Keep It Simple model.**

\_\_\_\_. **Temporary rules.**

(a) **Promulgation.**--In order to facilitate the prompt implementation of this chapter, the \_\_\_\_ commission may adopt temporary rules after a public hearing, the adoption of which temporary rules shall not be subject to RSA 541-A. The temporary rules adopted under this section (paragraph? subsection?) shall expire no later than three years following the effective date of this chapter.

(b) **Expiration.**--The authority provided to the board to adopt temporary rules in subsection (a) shall expire three years from effective date of this chapter. Rules adopted after this period shall be adopted under RSA 541-A.

#### **Option #2: Still keeping it simple, but with separate requirements for application and licencing and for operations.**

\_\_\_\_. The \_\_\_\_ commission shall initiate the rulemaking process immediately upon the effective date of this chapter.

\_\_\_\_. Rules governing the application and licensing process shall be adopted within 180 days of the effective date of this chapter and prior to issuance of any requests for applications. In order to facilitate the prompt implementation of this chapter, the \_\_\_\_ commission may, in its discretion, adopt temporary rules after a public hearing, the adoption of which temporary rules shall not be subject to RSA 541-A. Temporary rules so adopted shall expire one year from the effective date of this chapter. Final rules governing the application and licensing process shall be adopted under RSA 541-A within one year of the effective date of this chapter and prior to the date applications for gaming or technology providers are due.

\_\_\_\_. For all other rules required by this chapter, the \_\_\_\_ commission may, in its discretion, adopt temporary rules after a public hearing, the adoption of which temporary rules shall not be subject to RSA-541-A. Temporary rules so adopted shall expire three years from the effective date of this chapter. Final rules shall be adopted under RSA 541-A no less than three years from the effective date of this chapter.

#### **Option #3: Starting with Option #2, add in some, but not all, of the requirements for interim rulemaking contained in RSA 541-A. (Personally, I**

lean towards this one, but would like to hear the thoughts of the Commission, particularly as to specifics.)

\_\_\_\_. The \_\_\_\_\_ commission shall initiate the rulemaking process immediately upon the effective date of this chapter.

\_\_\_\_. Rules governing the application and licensing process shall be adopted within 180 days of the effective date of this chapter and prior to issuance of any requests for applications. In order to facilitate the prompt implementation of this chapter, the \_\_\_\_\_ commission may, in its discretion, adopt temporary rules after a public hearing, the adoption of which temporary rules shall not be subject to RSA 541-A. Temporary rules so adopted shall expire one year from the effective date of this chapter. Final rules governing the application and licensing process shall be adopted under RSA 541-A within one year of the effective date of this chapter and prior to the date applications for gaming or technology providers are due.

\_\_\_\_. For all other rules required by this chapter, the \_\_\_\_\_ commission may, in its discretion, adopt temporary rules after a public hearing, the adoption of which temporary rules shall not be subject to RSA-541-A. Temporary rules so adopted shall expire three years from the effective date of this chapter. Final rules shall be adopted under RSA 541-A no less than three years from the effective date of this chapter.

\_\_\_\_. In adopting temporary rules under this chapter, the \_\_\_\_\_ commission shall comply with the following requirements:

- (1) Notice of a proposed temporary rule shall be published in a newspaper of daily statewide circulation and on the \_\_\_\_\_ commission's web site.
- (2) Notice of the proposed interim rule shall include:
  - (a) The name and address of the \_\_\_\_\_ commission.
  - (b) Citation to the statutory authority for the proposed interim rule.
  - (c) The rule number and title.
  - (d) A concise summary explaining the effect of the proposed interim rule.
  - (e) The name, address, and telephone number of an individual in the agency able to answer questions on the proposed interim rule.
  - (f) The date, time and place of the public hearing on the proposed temporary rule, which shall be no less than 14 days from the date of the published notice of the proposed temporary rule.
  - (g) A statement that written public comment shall be accepted by the \_\_\_\_\_ commission for a period of 14 days after the public hearing.
- (3) A public hearing shall be held no less than 14 days after the publication of notice.
- (4) The \_\_\_\_\_ commission shall accept written public comment for a period of 14 days after the close of the public hearing.
- (5) The \_\_\_\_\_ commission shall act on the adoption of the proposed temporary rules within \_\_\_\_\_ days of the close of the comment period.

## Appendix--Materials used in creating this memo:

### From the SB152 Omnibus amendment:

284-B:3 Rulemaking.

I. The lottery commission shall adopt rules, that include as a minimum guidance from the International Association of Gaming Regulators, under RSA 541-A, relative to:

(a) License renewals, and making recommendations for the suspension or revocation of any license issued under this chapter.

(b) Conducting all investigations in conjunction with the attorney general required under this chapter with regard to the application of any applicant for any license.

(c) Conducting hearings pertaining to civil violations, rules, and penalties required under this chapter.

(d) Establishing standards for licensure and a reasonable fee structure for the licensing and renewal of licenses for gaming licensees and technology providers consistent with this chapter.

(e) Establishing technical standards for approval of video lottery machines, including mechanical and electrical reliability and security against tampering, as deemed necessary to protect the public from fraud or deception and to insure the integrity of the operation.

(f) **Establishing a process for registering of non-key gaming employees.**

(g) Ensuring that all licensees update the lottery commission with regard to any change in ownership or material change in information or data regarding the licensee that the commission determines is necessary and appropriate.

(h) Prescribing procedures for the fingerprinting of an applicant, key employee, or employee of a licensee, or other methods of identification which may be necessary in the judgment of the lottery commission to accomplish effective enforcement of restrictions to access to the gaming location.

(i) Prescribing the manner and procedure of all hearings conducted by the lottery commission or any hearing examiner, including special rules of evidence applicable thereto and notices thereof.

(j) Prescribing the method of collection of payments of taxes, fees, and penalties.

(k) Defining and limiting the areas of operation, the rules of authorized games, odds, and devices permitted, and the method of operation of such games and devices.

(l) Prescribing grounds and procedures for the issuing of sanctions, including but not limited to, the revocation or suspension of licenses.

(m) Governing the manufacture, distribution, sale, and servicing of video lottery machines and table game devices and associated equipment.

(n) Prescribing minimum procedures for the exercise of effective control over the internal fiscal affairs of a gaming licensee, including provisions for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts, and reports of transactions, operations, and events, including reports to the lottery commission.

(o) Providing for a minimum standard of accountancy methods, procedures, and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures as may be necessary to assure consistency, comparability, and effective disclosure of all financial information.

(p) Requiring quarterly financial reports and the form thereof, and an annual audit prepared by a certified public accountant licensed to do business in this state, attesting to the financial condition of a licensee and disclosing whether the accounts, records, and control procedures examined are maintained by the licensee as required by this chapter.

(q) Governing the gaming-related advertising of gaming licensees and their employees and agents, with the view toward assuring that such advertisements are in no way deceptive and promote the purposes of this chapter; provided, however, that such rules shall require the words "Bet with your head, not over it," or some comparable language approved by the lottery commission, to appear on all billboards, signs, and other on-site advertising of a licensee operation and shall require the words "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER," or some comparable language approved by the lottery commission, provided such language shall include the words "gambling problem" and "call 1-800-GAMBLER," which shall appear legibly on all print, billboard, and sign advertising of a gaming location, provided further that such rules shall require the licensee to cooperate with the department of resources and economic development in developing and conducting advertising consistent with the department's power and duty to plan and conduct a program of information and publicity to attract tourists, visitors, industrial concerns and other interested persons from outside the state to the state of New Hampshire, to publicize the family-friendly attributes and natural beauty of the state, and to encourage, coordinate, and participate in the efforts of other public and private organizations or groups of citizens in order to publicize the facilities, industrial advantages, and other attractions of the state for the same purposes.

(r) Providing for the establishment and maintenance by the lottery commission of a list of persons who are to be excluded or ejected from any gaming location, because the person's criminal background or presence in a gaming location would be, in the opinion of the lottery commission, inimical to the interests of the state, including standards relating to persons to be excluded, and providing for a self-exclusion program to be established by gaming licensees, whereby persons who are problem gamblers can be excluded or ejected from a gaming location.

(s) Establishing the licensing process and approval process for selecting the provider of the central computer system.

(t) Regulating the operation of table games consistent with RSA 284-B:19, including requiring proper accountability controls to ensure game integrity.

(u) Monitoring the conduct of licensees and their principals and owners for the purpose of ensuring that licenses are not issued to or held by, or that there is no direct or indirect material support of a licensee, by, a person who has been deemed not fit for gaming under this chapter.

(v) Gathering facts and information applicable to the lottery commission's obligation to enforce this chapter, including but not limited to, any information or evidence that a violation of this chapter has occurred.

(w) Requiring a licensee to issue an annual report to the lottery commission explicitly stating its progress on meeting each of the stated goals and stipulations put forth in the licensee's original application. Inability to meet stated goals within a reasonable time frame, as determined by the lottery commission, shall result in additional fees as deemed fair and reasonable by the lottery commission. Failure to meet stated goals may also result in revocation of the license at any time by the lottery commission pursuant to the process set forth in this chapter. Nothing in this section shall preclude the lottery commission at any time from reviewing the business operations of a gaming licensee to ensure that the conditions of licensure are being met including, but

not limited to, the suitability of the gaming licensee and any affiliates and the fiscal stability of the gaming establishment.

(x) Providing for the conditioning, suspension or revocation of a gaming license upon a finding that a licensee:

(1) Has committed a criminal or civil offense under this chapter or under any other laws of the state of New Hampshire;

(2) Is not in compliance with gaming regulations or is under criminal investigation in another jurisdiction;

(3) Has breached a condition of licensure;

(4) Has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the gaming licensee continues to conduct business or employ;

(5) Is no longer capable of maintaining operations at a gaming establishment; or

(6) Whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

(y) Requiring the licensee to comply with state and local building codes, local zoning ordinances and bylaws, and any other applicable land use regulations.

(z) Governing the issuance of credit to a patron of a gaming establishment including, but not be limited to:

(1) Procedures for confirming that a patron has an established credit history and is in good standing;

(2) Whether the patron has a good credit history with the gaming establishment;

(3) Authorization of any credit instrument;

(4) Methods for acknowledging a credit instrument and payment of debt;

and

(5) Information to be provided by the patron to the gaming establishment to be shared with the commission for auditing purposes. Except as otherwise authorized by the commission through its rules under this chapter, no gaming establishment, nor any person acting on behalf of the gaming establishment, shall cash any check, make any loan or otherwise provide or allow to any person any credit or advance of anything of value, or which represents value, to enable that person to place a wager, or release or discharge any debt, either in whole or in part, or make any loan which represents any losses incurred by a player in gaming or simulcast wagering activity, without maintaining a written record of such credit or advance in accordance with the rules of the commission. Nothing in this subparagraph shall permit a gaming establishment to allow the use of credit cards on the gaming floor as direct inputs into video lottery machines nor in placing wagers at gaming tables nor shall anything in this subparagraph prohibit a gaming establishment from accepting credit cards for non-gaming-related purchases or services.

(aa) Designating impacted live entertainment venues and establishing standards for monitoring and enforcing a gaming licensee's agreement with impacted live entertainment venues; provided however, that, in making such designations and standards, the commission shall consider factors including, but not limited to, the venue's distance from the gaming establishment, venue capacity and the type of performances offered by that venue.

II. The lottery commission shall initiate the rulemaking process immediately upon the effective date of this chapter. Rules governing the application and licensing process shall be adopted within 120 days of the effective date of this chapter and prior to issuance of any requests for applications. Final rules shall be adopted within one year of

the effective date of this chapter and prior to the date applications for gaming or technology providers are due. The lottery commission may, in its discretion, initiate rulemaking in 2 phases by relying on the interim rulemaking authority in RSA 541-A:19 to facilitate the application and licensing process.

### **From Pennsylvania--Temporary Gaming Regulations Provision:**

**2010 Amendment.** Act 1 added section 1202.2.

#### **§ 1203. Temporary regulations.**

**(a) Promulgation.**--In order to facilitate the prompt implementation of this part, regulations promulgated by the board shall be deemed temporary regulations which shall expire no later than three years following the effective date of this part. The board may promulgate temporary regulations not subject to:

(1) Sections 201, 202 and 203 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(2) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

**(b) Expiration.**--The authority provided to the board to adopt temporary regulations in subsection (a) shall expire April 15, 2007. Regulations adopted after this period shall be promulgated as provided by law.  
(Nov. 1, 2006, P.L.1243, No.135, eff. imd.)

### **From the existing NH Lottery Statute:**

#### **Lottery**

#### **Section 284:21-i**

##### **284:21-i Administrative and Rulemaking Provisions. –**

I. The lottery commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission or in any licensee licensed under this chapter.

II. The lottery commission shall adopt rules under RSA 541-A after public hearing relative to:

(a) Holding and conducting drawings and the sale of tickets for such drawings;

(b) [Repealed].

(c) Establishing:

(1) The price for which tickets for drawings shall be sold; not to exceed \$30 per ticket.

(2) The method by which tickets sold for drawings shall be determined to be winning tickets.

(3) The money or prizes to be awarded holders of winning tickets.

(4) The assignment ability of winning tickets, including appropriate consumer protection provisions.

III. In establishing the money or prizes to be awarded the holders of winning tickets, the lottery commission shall be governed by the primary purpose of the lottery and

sweepstakes, to raise revenue for the benefit of public education. They shall conduct such studies and make such investigations, either directly or through their agents, as will apprise them of prizes and money awarded to the holders of winning tickets in similar drawings wherever held. They shall fix the prizes and amounts of money to be awarded winners in such manner as will yield the largest net revenue for the benefit of public education, bearing in mind the expenses to be incurred, and all other factors which tend to influence net revenue.

IV. The commission shall adopt a uniform set of rules under RSA 541-A and after public hearing applicable to all instant sweeps games, including, but not limited to, how prizes are claimed and how tickets are validated. The commission may establish the following requirements without adopting rules under RSA 541-A, provided such requirements are printed clearly on the tickets issued by the commission:

- (a) The name of the game;
- (b) The cost of the ticket;
- (c) The amount of instant prizes;
- (d) The method for determining winning tickets which is unique to that particular game.

V. (a) The commission shall adopt rules under RSA 541-A and after public hearing relative to daily numbers games, including, but not limited to:

- (1) Rules of the game.
- (2) Types of bets.
- (3) Prize payments for each type of bet.
- (4) Ticket validity, including the appeal process to the commission for decisions made by representatives of the commission appointed by the commission to carry out its rules.

(5) Requirements of ticket agents.

(b) The commission or its designee may establish the following requirements relative to daily numbers games without adopting rules under RSA 541-A, provided that the commission or its designee gives notice of said requirements in a newspaper or daily statewide publication at least 24 hours in advance of taking any action:

- (1) Limitation on the number of bets.
- (2) Conduct of drawings, including cancellation and rescheduling of drawings.
- (3) Cost of tickets.

VI. The lottery commission shall adopt a uniform set of rules under RSA 541-A and after public hearing applicable to all games administered by the Multi-State Lottery Association, including, but not limited to, how prizes are claimed and how tickets are validated. The commission may establish the following characteristics without adopting rules under RSA 541-A, provided that the commission or its designee gives notice of said characteristics in a public announcement at least 10 business days in advance of taking any action:

- (a) Conduct of drawings.
- (b) The numbers and or symbols chosen from a set or sets of designated numbers or symbols to determine prize winners.
- (c) Prize value of each prize category for standard or promotional drawings.
- (d) The price of each bet.
- (e) The frequency of the drawings.

**Source.** 1963, 52:1; 200:1. 1967, 304:2. 1977, 462:3. 1985, 295:3. 1986, 164:4. 1996, 157:10. 2000, 217:1. 2004, 97:5; 257:7. 2005, 82:1. 2006, 233:4-6, 7, II. 2007, 263:4, 5. 2009, 117:1, eff. Aug. 21, 2009.

**From NH RSA 541-A, Interim Rules Provisions:**

## ADMINISTRATIVE PROCEDURE ACT

### Section 541-A:19

#### **541-A:19 Interim Rules. –**

I. An agency may adopt as an interim rule any rule which amends an existing rule, repeals an existing rule, or creates a new rule, and which is designed solely to allow the agency to:

(a) Conform with a new or amended codified state statute or chaptered session law, provided, however, that an agency shall not publish notice of a proposed interim rule more than 120 days after the effective date of the new or amended codified state statute or chaptered session law;

(b) Conform with a controlling judicial decision;

(c) Conform with a federal requirement which must be met sooner than the time periods allowed under RSA 541-A for a rule adopted under the procedures listed in RSA 541-A:3;

(d) Continue its rules which would otherwise expire prior to the completion of the readoption of the rules by the agency; or

(e) Minimize the time between the expiration of rules and their subsequent readoption by the agency.

II. An agency may adopt an interim rule under subparagraphs I(a), (b), or (c) without meeting the requirements of RSA 541-A:6 and RSA 541-A:9 through RSA 541-A:14 and an agency may adopt an interim rule under subparagraph I(d) or (e) without meeting the requirements of RSA 541-A:5 through RSA 541-A:14 provided the agency:

(a) Publishes notice of a proposed interim rule in a newspaper of daily statewide circulation and files the proposed interim rule, with the cover sheet as provided in paragraph IV, with the director of legislative services no later than the date of publication of the notice; or

(b) Files the proposed interim rule with the cover sheet as provided in paragraph IV, and the notice of the proposed interim rule with the director of legislative services, and has published notice in the rulemaking register.

III. Notice of an agency's intent to propose an interim rule shall include:

(a) The name and address of the agency.

(b) Citation to the statutory or other rulemaking authority for the proposed interim rule.

(c) Whether the proposed interim rule is an adoption, readoption, amendment, readoption with amendment, or repeal.

(d) The rule number and title.

(e) A concise summary explaining the effect of the proposed interim rule.

(f) A listing of people, enterprises, and government agencies affected by the proposed interim rule.

(g) A summary of the effect upon the state if the proposed interim rule were not adopted.

(h) The name, address, and telephone number of an individual in the agency able to answer questions on the proposed interim rule.

(i) The date the proposed interim rule will be filed with the director of legislative services.

(j) The expected date of review by the committee.

IV. Proposed interim rules filed under paragraph II shall include a cover sheet stating:

(a) The name and address of the agency.

(b) Citation to the statutory rulemaking authority for the proposed interim rule.  
(c) Whether the intended action is an adoption, readoption, amendment, readoption with amendment, or repeal.

(d) The rule number and title.

(e) A signed and dated statement by the adopting authority explaining why an interim rule is necessary, including documentary evidence to prove the agency is acting in accordance with the terms of this section and is not adopting an interim rule solely to avoid the time periods imposed by RSA 541-A, except as provided in paragraph I of this section.

(f) A listing of people, enterprises, and government agencies affected by the proposed interim rule.

(g) The name, address, and telephone number of an individual in the agency able to answer questions on the proposed interim rule.

V. A proposed interim rule filed under paragraph II no less than 14 days before a regularly scheduled committee meeting shall be placed on the committee's agenda for review for that meeting. Publication of notice shall occur no less than 7 days before a regularly scheduled meeting. If the agency has published notice in a newspaper, pursuant to subparagraph II(a), the agency shall file a copy of the notice as it was published no later than 3 days after the date of publication. Proposed interim rules filed less than 14 days before a regularly scheduled committee meeting shall be placed on the agenda for review at the following regularly scheduled committee meeting or at a special meeting, as determined by the committee.

VI. The committee shall vote to approve the rule or object under paragraph VII. Objections to a proposed interim rule may be made only once.

VII. The committee may object to a proposed interim rule if the rule is:

- (a) Beyond the authority of the agency;
- (b) Contrary to the intent of the legislature;
- (c) Determined not to be in the public interest; or
- (d) Deemed by the committee not to meet the requirements of paragraph I.

VIII. The following procedures shall govern committee review of interim rules:

(a) The director of legislative services shall notify the agency of any potential bases for committee objection by forwarding a copy of the proposed interim rule with comments noted thereon to the agency at least 7 days prior to the committee meeting at which the rule will be considered. Following receipt of the comments an agency may amend its interim rule to address the noted potential bases for objection. The agency may present the amended proposal to the committee for approval at the committee meeting. The committee may approve the rule as originally proposed or as amended.

(b) If the committee objects to the proposed interim rule as filed or as amended, it shall so inform the agency. In lieu of an objection, the committee may vote to conditionally approve the rule with an amendment, provided that the committee specified in its conditional approval the language of the amendment to address the basis for a preliminary objection. The committee shall notify the agency in writing of its conditional approval. Within 14 days of the meeting, the agency shall submit a written explanation to the committee in the form of a letter and an annotated text of the final proposed rule detailing how the rule has been amended in accordance with the conditional approval. The written explanation shall be signed by the individual holding rulemaking authority, or, if a body of individuals holds rulemaking authority, by a voting member of that body, provided that a quorum of the body has approved. Failure to submit a written explanation in accordance with the conditional approval and this paragraph shall cause the conditional approval to be deemed a committee vote to make a preliminary objection on the date of the conditional approval. If the committee legal counsel determines that the

agency has amended the rule in accordance with the conditional approval and this paragraph, the committee legal counsel shall promptly send written confirmation of compliance to the agency. The agency may then adopt the rule as amended.

(c) If the committee objects to the proposed interim rule as filed or as amended pursuant to subparagraph VIII(a), the committee shall send the agency a written objection stating the basis for the objection. An objection or a conditional approval shall require the assent of a majority of the votes cast, a quorum being present.

(d) If the committee makes an objection to the proposed interim rule pursuant to subparagraph VIII(c), the agency may cure the defect or withdraw the interim rule. The agency shall respond to a committee objection only once, and shall report its response in writing to the committee prior to its next regularly scheduled meeting. Failure to respond to the committee in accordance with this subparagraph shall mean the rulemaking procedure for that proposed interim rule is invalid; however, the agency is not precluded from initiating the process over again for a similar rule, provided the conditions in paragraph I are met.

(e) The committee shall review the response and vote to approve the response or continue the objection.

(f) The committee's objection shall not preclude the agency from adopting the substance of an interim rule by meeting the requirements of RSA 541-A:3.

IX. No proposed interim rule shall be adopted unless within 90 days of publication of the notice the committee votes to approve or conditionally approve the proposed interim rule.

X. No proposed interim rule shall be adopted unless the committee has voted to approve the proposed interim rule or conditionally approve the proposed interim rule, provided that the committee legal counsel has sent written confirmation to the agency pursuant to RSA 541-A:19, VIII(b). An adopted interim rule shall be filed with the director of legislative services no later than 30 days following committee approval or conditional approval. An interim rule shall be effective under RSA 541-A:16, III on the day after filing with the director of legislative services, or at a later date, provided the agency so specifies in a letter to the director of legislative services and the effective date is within 30 days following committee approval or conditional approval. Interim rules shall be effective for a period not to exceed 180 days. During the time an interim rule shall be in effect, the agency may propose a permanent rule to replace the interim rule once it expires, but it shall not adopt another interim rule to replace the expiring interim rule.

**Source.** 1994, 412:1. 2000, 288:17, 18. 2003, 309:1; 319:165. 2006, 145:8, 9, eff. July 21, 2006. 2011, 252:13, eff. Sept. 11, 2011.