

EXHIBIT A

□ Alabama

Alabama law expressly requires APA rulemaking for elections. The Secretary of State is the State's chief elections official and "is granted rule making authority for the implementation of Chapter 2 under the Alabama Administrative Procedure Act. Ala. Code § 17-1-3.

See also Ala. Code § 41-22-5 (at least 35 days' notice required).

□ Alaska

Alaska law expressly requires the director of state elections to adopt rules for the administration of elections via APA notice and comment rulemaking procedures. Alaska Stat. § 15.15.010. *See also Coghill v. Boucher*, 511 P.2d 1297 (Alaska 1973) (regulations on early counting of votes are not exempt from the requirements of the Administrative Procedure Act).

See also Alaska Stat. § 44.62.190 (at least 30 days' notice required).

□ Arkansas

State AG opinion clarifies that rules promulgated by State Election Board are subject to APA: Op. Ark. Att'y Gen. 118 (1990), 1990 Ark. AG LEXIS 110.

See also Ark. Code Ann. § 25-15-204(a)(1)(A) ("at least 30 days" published notice required prior to adoption of regulation).

□ California

Rules and regulations promulgated by the Secretary of State that govern elections are subject to the APA. *County of San Diego v. Bowen*, 166 Cal. App. 4th 501 (2008).

See also Cal. Gov't Code § 11346.4(a) (at least 45 days' notice).

□ Colorado

Secretary of State's election rules are subject to APA. *Hanlen v. Gessler*, 333 P.3d 41, 49 (Colo. 2014) (APA applies to election rules but Secretary lacks authority to promulgate rules that conflict with statutory provisions).

See also Colo. Rev. Stat. § 24-4-103(3)(a) (notices of proposed rulemaking must state the time/place/nature of rule-making proceedings “that shall not be held less than twenty days after such publication”); *id.* at § 24-4-103(4)(a) (after notice is issued, agency “shall hold a public hearing” to allow interested persons to submit written or oral comments).

□ Connecticut

Rules of State Elections Enforcement Commission are subject to the Uniform Administrative Procedure Act. *Markley v. State Elections Enf't Comm'n*, 259 A.3d 1064, 1070 (Conn. 2021) (applying State UAPA to administrative appeal from action of State Elections Enforcement Commission).

See also Conn. Gen. Stat. § 4-168(a) (at least 30 days' public comment period required).

□ Delaware

The State Election Commissioner is expressly listed as an agency subject to the APA. 29 Del. Code § 10161(a)(47).

See also 29 Del. Code §§ 1134(a)(6), 10115 (regulations received from agencies by the 15th of the month are published in the Registrar the following month).

□ District of Columbia

The APA applies to all rules of general applicability that are substantive in nature. *Andrews v. Dist. of Columbia Police and Firefighters Ret. and Relief Bd.*, 991 A.2d 763, 772-73 (D.C. 2010).

See also D.C. Code § 2-505 (at least 30 days' notice required for rules).

□ Florida

All rules are subject to the APA, including election-related rules, unless expressly exempted. *Chiles v. Dep't of State, Div. of Elections*, 711 So.2d 151, 154 (Fla. Ct. App. 1998) (applying APA to declaratory statement issued by State Division of Elections). *See also Whiley v. Scott*, 79 So. 3d 702, 711 (Fla. 2011) (APA notice and comment rulemaking is required for all rules).

See also Fla. Stat. § 120.54(3)(a)(2) (rule must be published “at least 28 days before the intended action”).

□ Georgia

All rules, including rules of the State Election Board, are subject to the APA. *See Charles H. Wesley Educ. Found., Inc. v. State Election Bd.*, 654 S.E.2d 127, 129 (Ga. 2007) (30-day time period in for action by State Election Board on a petition to initiate APA rulemaking was not binding because the “initiation of rule-making proceedings is not a penalty for the failure to comply with the 30-day provision, but rather is one of the two possible alternative actions available to the agency which was requested to promulgate rules.”). *See also Caldwell v. Liberty Mut. Ins. Co.*, 282 S.E.2d 885, 887-88 (Ga. 1981) (APA defines rule broadly and rules are subject to APA unless expressly exempted).

See also Ga. Code Ann. § 50-13-4(a)(1) (at least 30 days’ notice required).

□ Hawaii

All rules, including rules of the Hawai'i Office of Elections, must be promulgated under the notice and comment procedures of the Hawai'i Administrative Procedure Act. *Green Party of Hawaii v. Nago*, 378 P.3d 944, 956-59 (Haw. 2016).

See also Haw. Rev. Stat. § 91-3(a)(1) (at least 30 days’ notice required).

□ Idaho

The APA applies to all rules issued by an agency, unless expressly exempted. *Carman v. Comm'r of Pardons and Parole*, 809 P.3d 503, 504 (Idaho 1991) (Board of Corrections is not an “agency” because it is expressly exempted by the APA). *See also Hansen v. Denney*, 346 P.3d 321 (Idaho Ct.

App. 2015) (APA’s exhaustion requirement is inapplicable to an appeal from adverse election law decision of the Secretary of State because another statute, Idaho Code § 34-215(1) specifically addresses appeals by persons “adversely affected by an act . . . by the secretary of state . . . under any election law.”).

See also Idaho Code § 67-5222 (following publication of proposed rule, the public shall have “not less than twenty-one (21) days” to provide comments).

□ Illinois

State Board of Election rules are subject to notice and comment rulemaking. Ill. Admin. Code tit. 26, § 125.620 (any proposed adoption/amendment/repeal of a rule of State Board of Elections shall provide a public comment period of at least 45 days).

□ Indiana

All “rules” that have the effect of law and affect substantive rights must be adopted via APA notice and comment rulemaking procedures. *Ward v. Carter*, 90 N.E.3d 660, 662-65 (Ind. 2018).

See also Ind. Code § 4-22-2-23(c) (at least 30 days’ public comment period required).

□ Iowa

Iowa law expressly requires the Secretary of State to promulgate rules via the notice and comment rulemaking procedures of the APA. Iowa Code § 4j7.1(1). *See also Miller v. Iowa Voter Registration Comm’n*, 13 N.W.3d 1, 12, 14 (Iowa 2024) (Secretary of State’s maintenance of voter rolls in compliance with state and federal election law is an administrative rule subject to judicial review under the Iowa Administrative Procedures Act).

See also Iowa Code § 17A.4(1)(a)-(b) (rulemaking notice “shall be published at least thirty-five days in advance of the action” and interested parties thereafter shall have “not less than twenty days” to submit comments).

□ Kansas

Any “rule or regulation” of general applicability that has the effect of law is subject to APA notice and comment rulemaking procedures. *Am. Trust Adm’rs, Inc. v. Sebelius*, 44 P.3d 1253, 1259-60 (Kan. 2002) (bulletin issued by State Commissioner of Insurance had effect of law and must abide by notice and comment rulemaking).

See also Kan, Stat. Ann. § 77-421 (at least 60 days’ notice required for agency rules or regulations).

□ Kentucky

Any agency action of general applicability that implements laws or affects private rights is subject to APA notice and comment rulemaking procedures. *Bowling v. Ky. Dep’t of Corr.*, 301 S.W.3d 478, 491-92 (Ky. 2009) (death penalty drug protocol “indisputably affects private rights” and must be adopted via APA processes).

See also Ky. Rev. Stat. Ann. § 13A-270(c)(1) (comment period of at least 30 days: comment period “shall run until 11:59 p.m. on the last day of the calendar month following the month in which the administrative regulation was published in the Administrative Register”).

□ Louisiana

The APA applies to the Department of Elections and Registration manual. La. Op. Att’y Gen. 227 (1998) 1998 La. AG LEXIS 307, *2-3, 5 (Louisiana APA defines “rule” to include any agency action “which has general applicability and the effect of implementing or interpreting substantive law or policy”; thus, if Elections manual implements substantive law or policy, or is binding on state election registrars, it must be promulgated via APA processes)

See also La. Stat. Ann. § 49:951(8) (defining “rule”); *id.* at § 49:953(A) (at least 90 days’ notice required)

□ Maine

Maine regulations expressly require the State Commission on Governmental Ethics and Election Practices to provide notice and opportunity to be heard pursuant to the Maine APA. 94-270-2 Me. Code R. § 2(1). *See also* Me. Stat. tit. 1, §§ 1001-02(1) (defining purpose of Commission and granting it authority to promulgate rules and regulations); *id.* at tit. 1, § 1008(2) (giving Commission authority to administer election code).

See also *Calnan v. Hurley*, 314 A.3d 267, 275-76 (Me. 2024) (both “technical” and “substantive” rules require notice and comment period); Me. Stat. tit. 5, § 8071 (defining technical versus substantive rules under APA); *id.* at tit. 5, § 9052 (notice and opportunity to be heard required by APA).

□ Maryland

Generally applicable policies that affect the rights of the public or procedures available to the public are “regulations” and must conform to APA notice and comment rulemaking procedures. *State v. Roshchin*, 130 A.3d 453, 466 (Md. Ct. App. 2016).

See also Md. Code Ann., State Gov't § 10-101(g)(1)-(2) (defining “regulation”); *id.* at § 10-111(a)(3) (public comment period of “at least 30 days” following publication of proposed regulation).

□ Massachusetts

Any rule or regulation of “general application and future effect” that implements or interprets the law enforced or administered by an agency must conform to APA notice and comment procedures. *Att’y Gen. v. Town of Milton*, 248 N.E.3d 635, 645-46 (Mass. 2025); *Carey v. Commissioner of Correction*, 95 N.E.3d 220, 225 (Mass. 2018).

See also Mass. Gen. Laws ch. 30A, § 3 (if public hearing is not required, agency must give notice to public “at least twenty-one days prior to its proposed action”).

□ Michigan

All rules and regulations of general applicability that implement or apply any law enforced or administered by the agency is subject to APA notice and comment rulemaking procedures. *Martin v. Dep't of Corrections*, 3894 N.W. 2d 392, 393, 395-97 (Mich. 1986). *Accord O'Halloran v. Sec'y of State*, --- N.W.3d ---, 2024 WL 3976495, at **10, 13, 16 (Mich. 2024) (provisions of elections manual that do not “have the force and effect of law” are not subject to APA).

See also Mich. Comp. Laws § 24.207 (defining “rule”); *id.* at § 24.244 (at least 21 days’ notice for rules not requiring a public hearing); *id.* at § 24.241-242 (rules requiring public hearing must provide at least 10 days’ notice of the hearing); *id.* at § 24.245a (providing for legislative review of rules following public hearing).

□ Minnesota

Rules of general applicability that implement or make specific the law enforced or administered by an agency, or that govern its procedure, must be adopted using APA notice and comment rulemaking procedures. *In re Rate Appeal of Benedictine Health Ctr.*, 728 N.W.2d 497, 506-07 (Minn. 2007); *accord Johnson Bros. Wholesale Liquor Co. v. Novak*, 295 N.W.2d 238, 242 Minn. 1980).

See also Minn. Stat. § 14.14 (at least 30 days’ notice if public hearing is held); *id.* at § 14.22 (if no public hearing is held, public has 30 days to submit comments).

□ Mississippi

Mississippi APA applies to all rules unless expressly exempted. *Watkins v. Miss. Bd. of Bar Admissions*, 659 So.2d 561, 572 (Miss. 1995); *accord Methodist Specialty Care Ctr. v. Miss. Div. of Medicaid*, 305 So.3d 1088, 1102 (Miss. 2020) (state Medicaid plan is not a “rule” under the APA but a contract between the State and federal government).

See Miss. Code Ann. § 25-43-3.103(1) (rules must be published “at least twenty-five (25) days before the adoption of a rule”); *id.* at § 25-43-3.104(1) (following publication, agency shall provide public opportunity to comment for “at least twenty-five (25) days”).

□ Missouri

Agency statement of general applicability that implements law or policy is a “rule” subject to APA notice and comment rulemaking procedures. *Young v. Child. ’s Div., State Dep’t of Soc. Servs.*, 284 S.W.3d 553, 560 (Mo. 2009).

See Mo. Rev. Stat. § 536.021(2)(5) (30-day public comment period for proposed rule after publication).

□ Montana

All rules of general applicability must comply with APA notice and comment rulemaking procedures. *Southern Montana Tel. Co. v. Montana Pub. Serv. Comm’n*, 395 P.3d 473, 476 (Mont. 2017).

See also, Mont. Code Ann. 2-4-102(11)(a) (defining “rule”); *id.* at §§ 2-4-302 and -305 (at least 28 days for public comment required and at least 20 days’ notice required for public hearings).

□ Nebraska

Any rule or regulation with general applicability must be promulgated via APA notice and comment rulemaking procedures. *McAllister v. Nebraska Dep’t of Corr. Servs.*, 573 N.W.2d 143, 146-48 (Neb. 1998).

See also Neb. Rev. Stat. § 84-907(1) (all rules, except emergency rules, require a public hearing and notice of “least thirty days” is required before public hearing is held); *id.* at § 84-901.04(3) (emergency rules need not comply with usual notice requirements).

□ Nevada

Agency rules of general applicability that effectuate or interpret law or describe the organization, procedure or practice of an agency must comply with APA notice and comment rulemaking procedures. *See Nev. Operating Eng’rs Cont. Compliance Tr. v. Johnson*, 119 P.3d 720, 724-25 (Nev. 2005); *Cf. RNC v. Aguilar*, 558 P.3d 805, *4 (Table) (Nev. 2024) (Secretary of State’s memorandum interpreting state election statute is not

subject to APA because Nevada definition of “regulation” expressly excludes “[a]n interpretation of an agency that has statutory authority to issue interpretations”).

See also Nev. Rev. Stat. §§ 233b.038(1) (defining “regulation”); *id.* at § 233b.060(1) (at least 30 days’ notice required for proposed regulations)

□ New Hampshire

All rules of general applicability that implement, interpret or make specific a statute enforced or administered by an agency, or that prescribes or interprets an agency, policy, practice, or procedure that is binding on persons outside the agency, must comply with the APA notice and comment rulemaking procedures. *Maxi Drug North, Inc. v. Comm’r, N.H. Dep’t of Health and Human Servs.*, 907 A.2d 974, 977-79 (N.H. 2006).

See also N.H. Rev. Stat. Ann. § 541-a:1(XV) (defining “rule”); *id.* at § 541-a:3(IV) (all rules must have a public hearing and receive public comments); *id.* at 541-a:6 (“at least 20 days’ notice” required for agencies’ intent to hold public hearing); *id.* at § 541a:11(I) (public comments may be submitted for a period of at least 5 business days after the hearing unless a shorter period is specified in the original hearing notice).

□ New Jersey

Rules of general applicability, prospective effect, effects a material change in existing law, or interprets law or general policy is a “rule” that must abide by APA notice and comment rulemaking procedures. *Metromedia, Inc. v. Dir., Div. of Tax’n*, 478 A.2d 742, 750-51 (N.J. 1984).

See also N.J. Stat. Ann. § 52:14B-4(1) (agency shall give at least 30 days’ notice of intended action); *id.* at § 52:14B-4(3) (all interested parties shall have opportunity to comment on rules and if “sufficient interest is demonstrated in an extension of time” during that initial 30-day period, “the agency shall provide an additional 30-day period for the receipt of submission by interested parties.”).

□ New Mexico

New Mexico law expressly requires that all election rules promulgated by the Secretary of State, as the State's chief election officer, must comply with APA notice and comment rulemaking procedures. N.M. Stat. Ann. § 1-2-1(B)(2). *See also Weldon v. Sanders*, 655 P.2d 1004, 1009 (N.M. 1982) (memorandum issued by the Secretary of State had “no effect” because it was promulgated in violation of the State Rules Act).

See also State Rules Act, N.M. Stat. Ann. § 14-4-5.3(A) (public comment period of “at least thirty days” required after publication of proposed rules).

□ New York

Any agency regulation, statement, or code of general applicability that implements law, prescribes a fee, or constitutes the procedure or practice of an agency is a “rule that must be promulgated by APA notice and comment rulemaking procedures. *Schwartzfigure v. Hartnett*, 632 N.E.2d 434, 436-37 (N.Y. 1994).

See also N.Y. Admin. Proc. Act § 102(2)(a) (defining “rule”); *id.* at § 202 (at “least 60 days” notice required for proposed rules to allow public opportunity to submit comments).

□ North Carolina

APA applies to all rules of general applicability that implement or interpret a law or describe the procedure or practice requirements of an agency. The State Election Board is an “agency” subject to the State APA. *In re Appeal of Ramseur*, 463 S.E.2d 254, 258 (N.C. Ct. App. 1995). *See also Cabarrus Cnty. Bd. of Educ. v. Dep't of State Treasurer*, 839 S.E.2d 814, 824 (N.C. 2020) (when agency issues a rule, the “sole issue” is whether legislature intended exemption to apply and “implicit exemptions are very much the exception, rather than the rule, and should only be recognized in the event that it is abundantly clear that the General Assembly intended such result.”).

See also N.C. Gen. Stat. § 150b-2(8a) (defining “rule”); *id.* at § 150B-21.2 (public period of “at least 60 days” required after publication or until date of any public hearing, whichever is longer).

□ North Dakota

All “substantive” agency rules must comply with APA notice and comment procedures. *Johnson v. North Dakota Workers Comp. Bureau*, 428 N.W.2d 514, 518-19 (N.D. 1988); *North Dakota v. Nickel*, 806 N.W.2d 155, 157-58 (N.D. 2011).

See also N.D. Cent. Code § 28-32-10 (proposed rules must be published and at “least twenty days” must elapse between date of publication and date of public hearing); *id.* at § 28-32-12 (public hearing must be followed by a public comment period “of at least 10 days”).

□ Ohio

Any regulation or standard with a general and uniform operation promulgated by an agency and enforced under the authority of the laws governing such agency is a “rule” subject to APA notice and comment procedures. *Fairfield Cnty. Bd. of Comm'rs v. Nally*, 34 N.E.3d 873, 879-81 (Ohio 2015). *See also Ohio Democratic Party v. LaRose*, 2020 Ohio Misc. LEXIS 131, at ** 3, 11, 40 n.12, 53-54 (Ohio Ct. Common Pleas Sept. 15, 2020) (Secretary of State’s “directive” prohibiting ballot drop boxes at location other than county board of elections was adopted without public input and invalid as arbitrary and unreasonable).

See also Ohio Rev. Code Ann. § 119.01(C) (defining “rule”); *id.* at § 119.03(A) (notice of “at least thirty days” required before public hearing on any rule, and the date of such public hearing); *id.* at § 119.03(D) (public hearing must be conducted at which any affected person may appear and be heard, orally or in writing).

□ Oklahoma

Oklahoma law expressly states that any “rules or regulations” adopted by the Secretary of the State Election Board must comply with the APA. Okla. Stat. tit. 26, § 2-107. *See also Grand River Dam Auth. v. Oklahoma*, 645 P.2d 1011, 1014, 1019 (Okla. 1982) (generally applicable actions by agencies

that implement, interpret, or prescribe substantive law or policy are “rules” under Oklahoma’s APA and must undergo notice-and-comment rulemaking).

See also Okla. Stat. tit. 75, § 303 (public comment period of “at least 30 days” is required after publication of notice of intended rulemaking action).

□ Oregon

Oregon regulations expressly require the Elections Division of the Secretary of State to use the APA when making rules and declaratory rulings. Or. Admin. R. 165-001-0005. *See also Ellis v. Roberts*, 725 P.2d 886, 893 (Or. 1986) (en banc) (judicial review of Secretary of State’s order certifying ballot measure for placement on ballot must be brought within the 60-day period specified in the APA); *Reeves v. Wagner*, 434 P.3d 429, 436-38 (Or. Ct. App. 2018) (Oregon Election Director’s letter was a “final order” under the APA; party’s failure to comply with the APA’s 60-day time limit for challenging the Director’s requires dismissal).

Or. Rev. Stat. § 183.310(9) (defining “rule”); *id.* at § 183.335(1)(b) (notice of “at least 21 days” prior to effective date of proposed rule required).

□ Pennsylvania

“Substantive” rules have the “force of law” and must abide by APA notice and comment rulemaking procedures. *Pennsylvania Hum. Rels. Comm’n v. Norristown Area Sch. Dist.*, 374 A.2d 671, 677-79 (Pa. 1977).

See also 71 Pa. Cons. Stat. § 745.5(b) (agencies must hold a public comment period of “not less than 30 days” following publication of intended rulemaking).

□ Rhode Island

Rhode Island law expressly exempts the Rhode Island State Board of Elections from the APA. *See* R.I. Gen Laws § 42-35-18(b)(7). *See also Rhode Island Republican Party v. Daluz*, 961 A.2d 287, 294-95 (R.I. 2008) (the “APA has no place” in suit seeking to investigate alleged campaign finance violations).

□ South Carolina

Any agency statement of general applicability that implements or prescribes law, policy or practice requirements of an agency is a “regulation” subject to APA notice-and-comment rulemaking procedures. *Joseph v. South Carolina Dep’t of Labor, Licensing and Regul.*, 790 S.E.2d 763, 772-73 (S.C. 2016).

See also S.C. Code Ann. § 1-23-110(A)(1)-(3) (agencies must provide a notice in the State Register all regulations; a public hearing must be held if requested by 25 persons, a governmental entity, or an association with at least 25 members; the public hearing “must not be held sooner than thirty days from the date the notice is published”).

□ South Dakota

Any agency statement of general applicability that implements, interprets, or prescribes law, policy, procedure, or practice is a “rule” subject to APA notice and comment rulemaking procedures. *Rhines v. S.D. Dep’t of Corr.*, 935 N.W.2d 541, 545-46 (S.D. 2019).

See also S.D. Codified Laws § 1-26-1(7) (defining “rule”); *id.* at § 1-26-4(3), -(5) (agencies must have public hearing for permanent rules and provide notice at “least twenty days” before such hearing).

□ Tennessee

Agency rules of general applicability that implement or prescribe law or policy, or the procedure or practice governing proceedings before such agency, are subject to APA notice and comment rulemaking procedures. *Chastain v. Tennessee Water Quality Control Bd.*, 555 S.W.2d 113, 116 (Tenn. 1977). *See also Johnston v. Goins*, 2018 WL 3479772, *4 (Tenn. Ct. App. July 18, 2018) (instructions issued to county election officials from Tennessee’s Coordinator of Elections were not “rules” subject to APA because they were instructions “concerning the internal management” of election procedures and did not affect a private right or procedure available to the public).

Tennessee has some limited statutory exceptions for some actions by the State Elections Commission, but none apply to rules promulgated by that entity. *See*

Tenn. Code. Ann. § 4-5-106(c) (exemptions for informal settlements, internal model rules of procedure promulgated by the Secretary of State for use by state agencies and contested cases).

See also Tenn. Code Ann. § 4-5-102(12) (defining “rule”); *id.* at § 4-5-202(a) (requiring public hearing for all rulemaking except for emergency rules and proposed rules that, *inter alia*, involve “minor, nonsubstantive modification”); *id.* at § 4-5-203(b) (requiring “at least forty-five (45) days” hearing prior to public hearing on rule).

□ Texas

Agency statements of general applicability that implement, interpret, or prescribe law or policy or describe an agency’s procedure or practice requirements are subject to APA notice and comment rulemaking procedures. *El Paso Hosp. Dist. v. Texas Health and Human Servs. Comm’n*, 247 S.W.3d 709, 714 (Texas 2008).

See also Tex. Gov’t Code § 2001.003(6)(A)-(C) (defining “rule”); *id.* at § 2001.023(a) (agency shall give “at least 30 days’ notice” in state register before it adopts rule); *id.* at § 2001.024(a)(7) (notice must include request for comments from any interested person).

□ Utah

Utah law expressly requires the director of elections to make its rules relating to in accordance with the Utah Administrative Rulemaking Act.

Utah Code Ann. § 20A-1-107 (training of election officials); *id.* at 20A-1-108 (election audits); *id.* at § 20A-2-104 (voter registration verification); *id.* at § 20A-2-507 (voter registration); *id.* at § 20A-3a-106 (conduct of election generally); *id.* at § 20A-3a-401 (signature verification criteria, processes, and training); *id.* at § 20A-3a-401.1(9) (chain of custody, signature verification audits and reconciliation requirements); *id.* at § 20A-3a-404 (ballot security); *id.* at § 20A-5-905(1) (software validation and database security); *id.* at § 20A-6-108 (printing and mailing ballots); *id.* at § 20A-7-106 (petition signature or removal for person with disability); *id.* at § 20A-9-403(3)(f) (statistical sampling procedures); *id.* at § 20A-9-410 (candidate nominating process); *id.* at § 20A-11-101.3(3) (detailed listing or financial disclosure forms);

See also Utah Code Ann. § 63G-3-102(19) (defining “rule”); *id.* at § 63G-3-301 (11)(a) (agency must provide “at least 30 days” for public comment on rule after notice is published).

□ Vermont

Any agency statement of general applicability that implement, interprets, or prescribes law or policy” must follow APA notice and comment rulemaking procedures. *Parker v. Gorczyk*, 787 A.2d 494, 495, 497-98 (Vt. 2001).

See also Vt. Stat. Ann. tit. 3, § 836(a)(3)-(4) (all rules except emergency rules must be published and a public hearing must be held); *id.* at § 840(a) (first public hearing shall not be held “sooner than 30 days following” the published notice); *id.* at § 840(c) (agency shall afford “all persons reasonable opportunity” to submit views orally or in writing “at least through the seventh day following the last public hearing.”).

□ Virginia

Virginia’s APA expressly exempts “Agency action relating to . . . [t]he conduct of elections or eligibility to vote.” Va. Code Ann. § 2.2-4002(B)(8).

See also Va. Code Ann. § 24.2-103(A) (State Board of Elections has power, “through the Department of Elections” to “make rules and regulations . . . consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws.”).

□ Washington

Any agency order, directive, or regulation of general applicability that subjects a person to a penalty or administrative sanction must comport with APA notice and comment rulemaking procedures. *Nw. Pulp and Paper Ass’n v. Dep’t of Ecology*, 520 P.3d 985, 988, 990 (Wash. 2022) (en banc).

See also Wash. Rev. Code § 34.05.010(16) (defining “rule”); *id.* at Rev. Code Wash. § 34.05.320 (agency must publish notice of rule “at least 20 days” before public hearing thereon); *id.* at § 34.05.325(1)-(2) (agency shall provide

opportunity for oral comments at hearing and written comments at time specified in published notice).

□ West Virginia

Rules that have “the force and effect of law” or are determinative of any issue affecting private rights, privileges or interests” are “legislative rules” under the APA and must be promulgated via APA notice and comment rulemaking procedures. *State ex rel. Kincaid v. Parsons*, 447 S.E.2d 543, 545-46 (W. Va. 1994).

See also W. Va. Code § 29A-1-2(e) (defining “legislative rule”); *id.* at §§ 29A-3-5 (agency must publish notice of rulemaking in state register that shall fix a date for receipt of public comment); *id.* at 29A-3-7 (notice of public hearings must be published “not less than thirty nor more than sixty days” before such hearing or last day specified therein for receiving written material); *id.* at 29A-3-9 (all “legislative rules must be submitted to the state legislature).

□ Wisconsin

A “rule” under the APA is a regulation, standard, or statement of policy or general order, of general application, that has the effect of law and must be promulgated via APA notice and comment rulemaking procedures. *Wisconsin Mfrs. and Com., Inc. v. Wisconsin Nat. Res. Bd.*, 21 N.W.3d 718, 728-29, 730-31 (Wis. 2025).

See Wis. Stat. § 227.01(13) (defining “rule” under APA); *id.* at § 227.16(1)-2(e) (all rulemaking by agencies “shall be preceded by notice and public hearing”; proposed rules sent to legislative reference bureau must provide public hearing if a petition is received within 30 days of publication of notice that is signed by 25 people affected by the rule, a municipality, or an association affected by the proposed rule); *id.* at § 227.17(2) (notice of public hearing shall be published “at least 10 days” prior to hearing); *id.* at § 227.18(1)(c) (public hearing must afford all interested persons opportunity to be heard in writing or orally).

□ Wyoming

A “substantive rule” has general applicability and binding affect by implementing, interpreting, and prescribing law, policy, or ordinances, and it must be promulgated using APA notice and comment rulemaking procedures. *Mountain Reg’l Servs., Inc. v. State ex rel. Dep’t of Health*, 326 P.3d 182, 184-85 (Wyo. 2014).

Wyo. Stat. § 16-3-101 (defining “rule”); *id.* at § 16-3-103(a)(i) (agency must give “at least forty-five (45) days notice” of adoption of substantive rules); *id.* at § 16-3-103(a)(ii) (all interested persons must be given “at least forty-five (45) days” for submission of comments and, for substantive rules, an “oral hearing shall be granted” if 25 people, an association having not less than 25 members, or a governmental subdivision so requests).