

# Legislative Oversight of Administrative Rules

2007 LSSS, RACSS & LRL JOINT SEMINAR

Santa Fe, New Mexico

11 September 2007

# Variety in the States

- Names of Rules/Regulations
- Definition of Rules/Regulations
- Types of Rules/Regulations
- Duration of Rules/Regulations
- Rulemaking Process
- Rule Review

# Rule Review

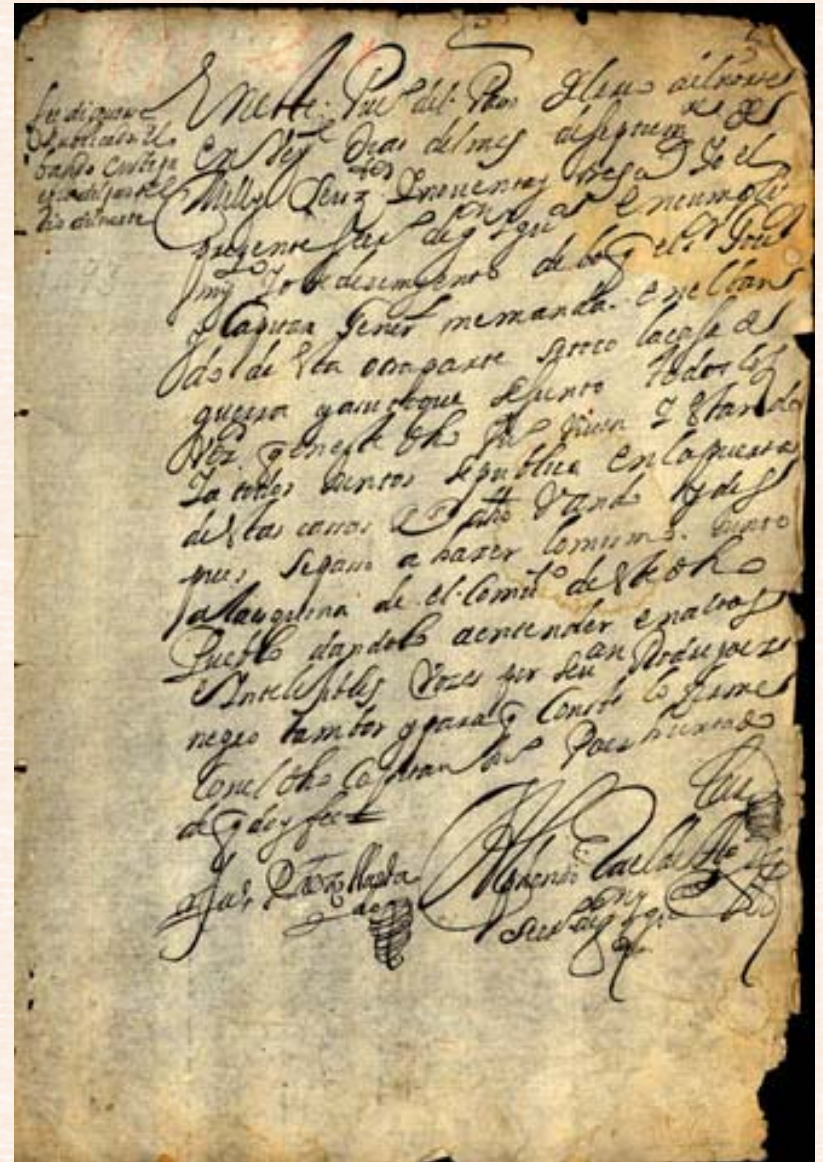
- By Whom
  - How Performed
  - Purpose
  - Power
- 
- Around 40 states have some form of legislative review

# Model State APA

- Current model from 1981
  - Review by Governor (or Administrative Rules Counsel)
  - Review by Administrative Rules Review Committee of the Legislature
- Proposed model for 2008
  - Originally had options for review by Governor, Attorney General and the Legislature
  - Current proposed version now only has review by the Legislature

# New Mexico Rulemaking

- Rules (or something similar) have been around for a while
- Bando of 1693  
(Decree proclaiming departures for New Mexico)



# Filing Requirements

- Adopted in 1931
- All publications (including rules) to be filed with the State Supreme Court Library
- Uniformity in booklet size 6” x 9”
- Law Librarian to remind agencies every July to file publications
- Purpose of law was to ensure preservation of state publications
- No differentiation between rules and other publications

# State Rules Act

- Adopted in 1967
- Defined what is a “rule”
- Exception to the definition of rule in statute
- Rules must be filed with the State Records Administrator before taking effect
- Must be followed by all filing agencies

# Administrative Procedures Act

- Adopted in 1969
- More uniform rulemaking process
- Uniform adjudication process
- Bimonthly bulletin
- Compilation of current rules
  
- All agencies exempt from the statute
- Act does not function as intended because it currently does not apply to any agency



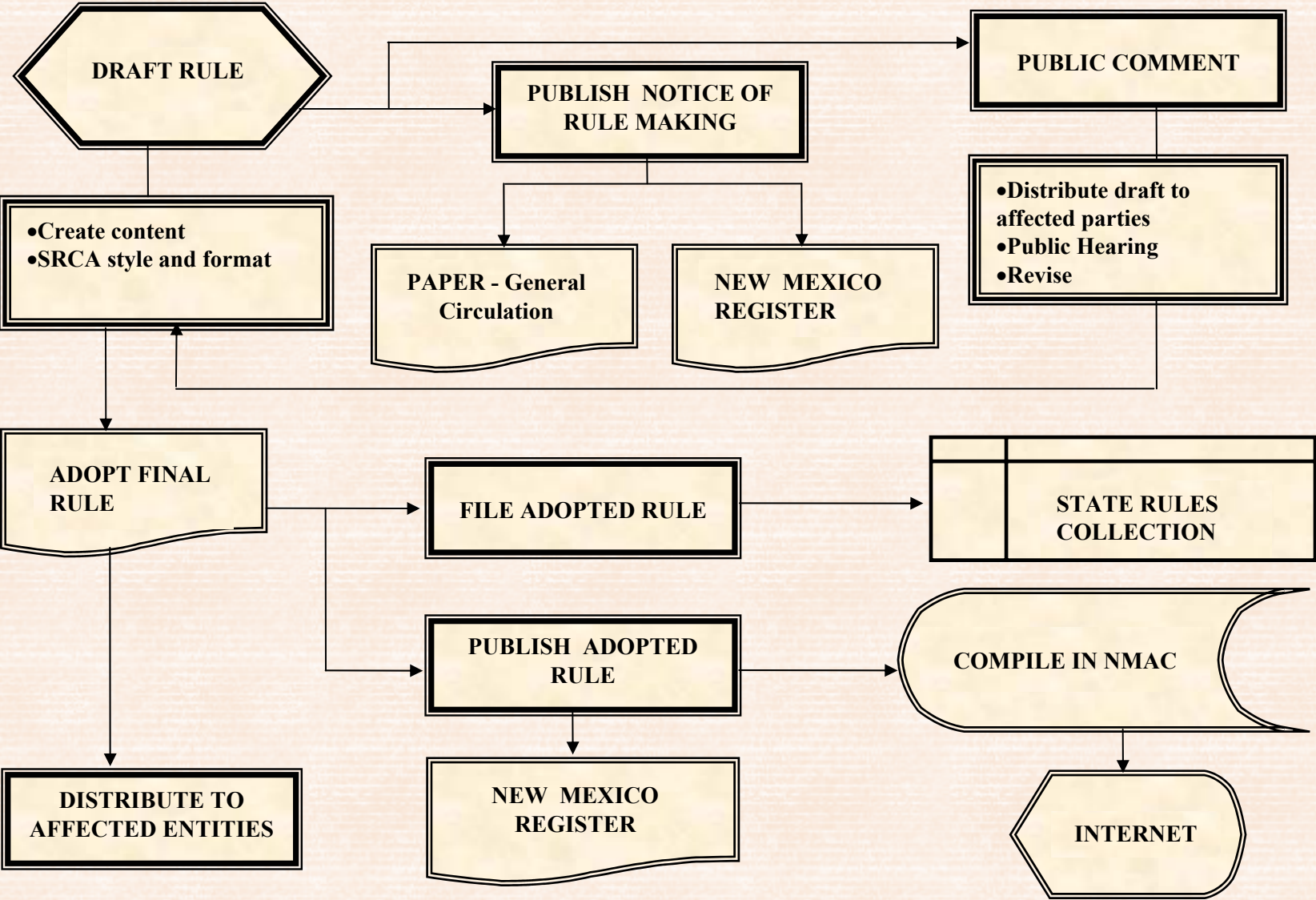
# NM Register & NMAC

- New Mexico Register – added to State Rules Act 1990
  - Official rulemaking publication
  - Effectiveness of rules tied to publication
- New Mexico Administrative Code – added to State Rules Act 1995
  - Official compilation of current rules
  - Uniform style, format and numbering

# SBRAC

- Small Business Regulatory Relief Act - 2005
- Small Business Regulatory Advisory Commission
- Reviews all rules that could have a detrimental effect on small business
- Has no authority to stop or deter rulemaking
- Does not have rulemaking authority
- Makes suggestions on improvement
- Reports once a year to the Governor

# New Rule Process



# Rulemaking Specifics

- No centralized substantive review of all rule material or impact statements
- Rules can often take effect on day of publication
- Duration date of rules – most are permanent
- Emergency Rules