# Estimated Rulemaking Costs

The rough estimates provided serve as a framework for beginning your agency’s cost analysis. The estimates **don’t** reflect actual costs, but the material in this appendix is designed to give you some basic rules to help you predict the costs unique to your agency and project.

The rulemaking landscape includes many facets that defy straightforward categories, but for simplicity, the following terms are used: “major rule,” “medium rule,” “small rule,” and “minor rule.”

|  | MajorRule | MediumRule | SmallRule | MinorRule |
| --- | --- | --- | --- | --- |
| **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[[1]](#footnote-2)** |  |  |  |  |
| Legal fees ($133/hour) | 11,438 | 7,182 | 1,330 | 798 |
| **Office of Administrative Hearings[[2]](#footnote-3)** |  |  |  |  |
| Admin. Law Judge ($245/hour) | 29,025 | 10,750 | 2,150 | 860 |
| **State Register ($135/page)[[3]](#footnote-4)** |  |  |  |  |
| 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** | **$310,248** | **$133,376** | **$46,305** | **$10,816** |

This nonexhaustive list suggests other factors to consider:

* the type of rule: normal, expedited, exempt, etc.
* 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

**Major rule**

A major rule is an extensive revision or start-from-scratch development of a *long* (more than 50 pages of rule text) and *controversial* (will almost certainly go to public hearing) rule. A major rule typically requires many meetings with a public advisory committee.

The estimated costs relating to OAH presume that there will be at least one hearing, ALJ preparation time, ALJ videoconferences for discussion on the hearing and other 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**

A medium rule is an extensive revision or start-from-scratch development of a rule under 50 pages of rule text that could go to hearing. A medium rule could involve an advisory committee.

The estimated costs relating to OAH presume that there will be a hearing, ALJ preparation time, and ALJ videoconference discussions. 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.

**Small rule**

A small rule amends a noncontroversial rule under 50 pages of rule text that doesn’t require an advisory committee. There will not be a hearing, and a small rule includes an expedited, obsolete, or exempt rule.

The estimated costs relating to OAH presume that there will not be a hearing. 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.

**Minor rule**

A minor rule includes technical and noncontroversial changes to a rule and is generally only 1-2 pages of text. It includes a good-cause-exempt rule or an exempt rule.

The estimated costs relating to OAH presume that there will not be a hearing. 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.

**Estimate of hours spent on rule**

|  | Major rule (controversial or with hearing) | Medium rule (possible hearing or longer rule) | Small (no hearing) | Minor rule (short, noncontroversial) |
| --- | --- | --- | --- | --- |
| Program Staff | 3,120 | 1,560 | 600 | 90 |
| Rule-maker | 3,120 | 1,040 | 300 | 60 |
| Clerical | 320 | 200 | 150 | 60 |
| Legal Review | 86 | 54 | 10 | 6 |
| OAH Services  | 135 | 50 | 10 | 4 |

1. The Office of the Attorney General’s billing rates are **$133 per hour** for attorney time. [↑](#footnote-ref-2)
2. OAH’s billing rates are **$245 per hour** for ALJ time and **$145 per hour** for attorney time. ALJ hours are estimated as follows: 135 for a major rule, 50 for a medium rule, 10 for a small rule, and 4 for a minor rule. [↑](#footnote-ref-3)
3. The *State Register*’s estimated rate is **$135 per page.** [↑](#footnote-ref-4)