

AD HOC RULEMAKING

AT TEXAS AND FEDERAL AGENCIES – A PRACTITIONER'S PERSPECTIVE

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FOLEY

FOLEY & LARDNER LLP

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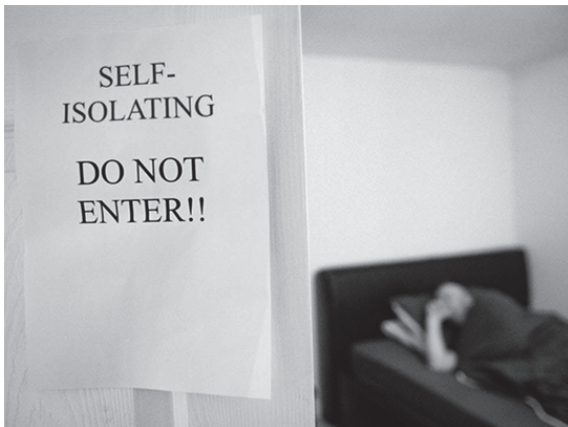


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Andres S. Medrano



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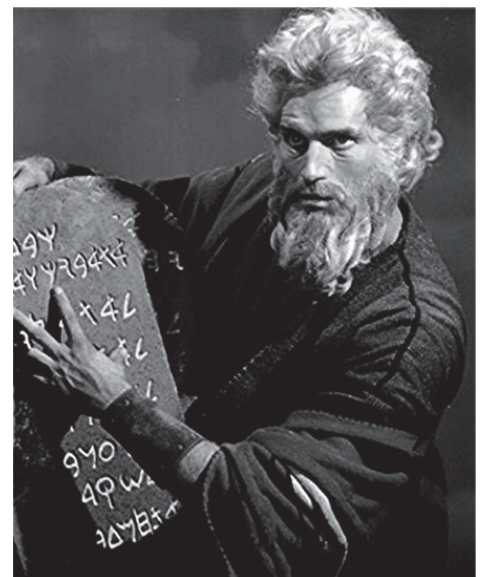


Because nothing will take away the doldrums of pandemic isolation like bureaucratic law...

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What is a Rule?

- The Term Rule is defined for Texas Agencies by the Texas Government Code Section 2001 – usually called the Administrative Procedures Act or the APA



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Tex. Gov. Code (APA) § 2001.003(6)(12)

- **“Rule”:**
- (A) means a state agency statement of general applicability that:
 - (i) implements, interprets, or prescribes law or policy; or
 - (ii) describes the procedure or practice requirements of a state agency;
- (B) includes the amendment or repeal of a prior rule; and
- (C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

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What is a “Statement of General Applicability”?

- Statements that affect the interest of the public at large such that they cannot be given the effect of law without public input.
- *El Paso Hosp. Dist. v. Tex. Health & Human Servs. Comm'n*, 247 S.W.3d 709, 714 (Tex. 2008)
- *R.R. Comm'n of Tex. v. WBD Oil & Gas Co.*, 104 S.W.3d 69, 79 (Tex. 2003)



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