

§18440. Rulemaking

1. Promulgation. The commission shall promulgate reasonable rules in order to effectively and efficiently implement and administer this compact and achieve its purpose. A commission is invalid and has no force or effect only if a court of competent jurisdiction holds that the rule is invalid because the commission exercised its rule-making authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, or based upon another applicable standard of review. [PL 2023, c. 664, §1 (NEW).]

2. Rule conflict with law. The rules of the commission have the force of law in each participating state, except that when the rules of the commission conflict with the laws of the participating state that establish the scope of practice as held by a court of competent jurisdiction, the rules of the commission are ineffective in that state to the extent of the conflict. [PL 2023, c. 664, §1 (NEW).]

3. Powers. The commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment. [PL 2023, c. 664, §1 (NEW).]

4. Rule rejection. If a majority of the legislatures of the participating states rejects a rule or a portion of a commission rule, by enactment of a statute or resolution in the same manner used to adopt the compact within 4 years of the date of adoption of the rule, then that rule has no further force and effect in any participating state or to any state applying to participate in the compact. [PL 2023, c. 664, §1 (NEW).]

5. Rule adoption procedure. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission. [PL 2023, c. 664, §1 (NEW).]

6. Public comment. Prior to adoption of a proposed rule, the commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions and arguments. [PL 2023, c. 664, §1 (NEW).]

7. Notice of proposed rule. Prior to adoption of a proposed rule, and at least 30 days in advance of the meeting at which the commission will hold a public hearing on the proposed rule, the commission shall provide a notice of proposed rulemaking:

A. On the publicly accessible website of the commission or other publicly accessible platform; [PL 2023, c. 664, §1 (NEW).]

B. To persons who have requested notice of the commission's notices of proposed rulemaking; and [PL 2023, c. 664, §1 (NEW).]

C. In any other ways the commission may specify by rule. [PL 2023, c. 664, §1 (NEW).]
[PL 2023, c. 664, §1 (NEW).]

8. Notice requirements. The notice of proposed rulemaking must include:

A. The time, date and location of the public hearing in which the commission will hear public comments on the proposed rule and, if different, the time, date and location of the meeting in which the commission will consider and vote upon the proposed rule; [PL 2023, c. 664, §1 (NEW).]

B. If the hearing is held via telecommunication, videoconference or other electronic means, the commission shall include the mechanism for access to the hearing; [PL 2023, c. 664, §1 (NEW).]

C. The text of the proposed rule and the reason for the proposed rule; [PL 2023, c. 664, §1 (NEW).]

D. A request for comments on the proposed rule from any interested person and the date by which written comments must be received; and [PL 2023, c. 664, §1 (NEW).]

E. The manner in which interested persons may submit written comments. [PL 2023, c. 664, §1 (NEW).]

[PL 2023, c. 664, §1 (NEW).]

9. Hearings. All hearings must be recorded. A copy of the recording and all written comments and documents received in response to the proposed rulemaking must be made available to the public. Nothing in this section may be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

[PL 2023, c. 664, §1 (NEW).]

10. Final action. The commission shall, by majority vote of all members, take final action on the proposed rule based on the rule-making record.

A. The commission may adopt changes to the proposed rule as long as the changes do not enlarge the original purpose of the proposed rule. [PL 2023, c. 664, §1 (NEW).]

B. The commission shall provide on its publicly accessible website an explanation of the reasons for substantive changes made to the proposed rule as well as reasons for substantive changes not made that were recommended by commenters. [PL 2023, c. 664, §1 (NEW).]

C. The commission shall determine a reasonable effective date for the rule. Except for an emergency as provided in subsection 13, the effective date of the rule may not be sooner than 30 days after the commission issued the notice that it adopted the rule. [PL 2023, c. 664, §1 (NEW).]

[PL 2023, c. 664, §1 (NEW).]

11. Emergency rulemaking. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 24 hours' notice, without the opportunity for comment or hearing, as long as the usual rule-making procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this subsection, "emergency rule" means a rule that must be adopted immediately in order to:

A. Meet an imminent threat to public health, safety or welfare; [PL 2023, c. 664, §1 (NEW).]

B. Prevent a loss of commission funds or participating state funds; [PL 2023, c. 664, §1 (NEW).]

C. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or [PL 2023, c. 664, §1 (NEW).]

D. Protect public health and safety. [PL 2023, c. 664, §1 (NEW).]

[PL 2023, c. 664, §1 (NEW).]

12. Rule revisions. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions must be posted on the publicly accessible website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

[PL 2023, c. 664, §1 (NEW).]

13. Application of participating state requirements. Notwithstanding any provision of law to the contrary, a participating state's rulemaking requirements do not apply under this compact.

[PL 2023, c. 664, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 664, §1 (NEW).

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