CHAPTER 375

MAINE ADMINISTRATIVE PROCEDURE ACT

SUBCHAPTER 1

GENERAL PROVISIONS

§8001. Short title

This chapter is known and may be cited as the "Maine Administrative Procedure Act." [PL 1999, c. 547, Pt. B, §15 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §29-A (AMD). PL 1999, c. 547, §B15 (AMD). PL 1999, c. 547, §B80 (AFF).

§8002. Definitions

As used in this Act, unless the context otherwise indicates, the following words and phrases shall have the following meanings. [PL 1977, c. 694, §29-B (AMD).]

1. Adjudicatory proceeding. "Adjudicatory proceeding" means any proceeding before an agency in which the legal rights, duties or privileges of specific persons are required by constitutional law or statute to be determined after an opportunity for hearing.
[PL 1977, c. 551, §3 (NEW).]

1-A. Adopt. "Adopt" means action certified by the dated signature of an authorized representative that a rule is accepted as official by an agency.
[PL 1993, c. 362, §1 (NEW).]

2. Agency. "Agency" means any body of State Government authorized by law to adopt rules, to issue licenses or to take final action in adjudicatory proceedings, including, but not limited to, every authority, board, bureau, commission, department or officer of the State Government so authorized; but the term does not include the Legislature, Governor, courts, University of Maine System, Maine Maritime Academy, community colleges, the Commissioner of Education for schools of the unorganized territory, school administrative units, community action agencies as defined in Title 22, section 5321, special purpose districts or municipalities, counties or other political subdivisions of the State.
[PL 1995, c. 246, §1 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

3. Agency member. "Agency member" means an individual appointed or elected to the agency who is charged by statute with that agency's decision-making functions. It does not include counsel to the agency or agency staff.
[PL 1977, c. 551, §3 (NEW).]

3-A. Effective date. "Effective date" means the date a rule goes into effect. If a date is not assigned by the agency, the effective date is assigned by the Secretary of State in accordance with section 8052, subsection 6. Unless otherwise stated in law, emergency rules filed in accordance with section 8054 are effective at the time they are filed with the Secretary of State.
[PL 1993, c. 362, §1 (NEW).]

3-B. Authorized representative. "Authorized representative" means the chair of a board or commission, an individual in a major policy-influencing position as defined by chapter 71, or the chief executive officer of an agency, within the agency adopting a rule.
[PL 1995, c. 373, §2 (NEW).]

3-C. Consensus-based rule development process. "Consensus-based rule development process" means a collaborative process when a draft rule is developed by an agency and a representative group of participants with an interest in the subject of the rulemaking.
[PL 1999, c. 307, §1 (NEW).]

4. Final agency action. "Final agency action" means a decision by an agency which affects the legal rights, duties or privileges of specific persons, which is dispositive of all issues, legal and factual, and for which no further recourse, appeal or review is provided within the agency.
[PL 1977, c. 551, §3 (NEW).]

5. License. "License" includes the whole or any part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law which represents an exercise of the state's regulatory or police powers.
[PL 1977, c. 551, §3 (NEW).]

6. Licensing. "Licensing" means the administrative process resulting in the grant, denial, renewal, revocation, suspension or modification of a license.
[PL 1977, c. 551, §3 (NEW).]

7. Party. "Party" means:

A. The specific person whose legal rights, duties or privileges are being determined in the proceeding; [PL 1977, c. 551, §3 (NEW).]

B. Any person participating in the adjudicatory proceeding pursuant to section 9054, subsection 1 or 2; and [PL 1977, c. 696, §47 (AMD).]

C. Any agency bringing a complaint to District Court under section 10051. [PL 1999, c. 547, Pt. B, §16 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]
[PL 1999, c. 547, Pt. B, §16 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

8. Person. "Person" means any individual, partnership, corporation, governmental entity, association or public or private organization of any character, other than the agency conducting the proceeding.
[PL 1977, c. 551, §3 (NEW).]

8-A. Proposed rule. "Proposed rule" or "proposed agency rule" means a rule that an agency has formally proposed for adoption through submission of the rule to the Secretary of State for publication pursuant to section 8053, subsection 5.
[PL 1997, c. 110, §1 (NEW).]

9. Rule. "Rule" is defined as follows.

A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency guideline or statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency. [PL 2011, c. 304, Pt. G, §1 (AMD).]

B. The term does not include:

(1) Policies or memoranda concerning only the internal management of an agency or the State Government and not judicially enforceable;

(2) Advisory rulings issued under subchapter 3;

(3) Decisions issued in adjudicatory proceedings; or

(4) Any form, instruction or explanatory statement of policy that in itself is not judicially enforceable, and that is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. [PL 2011, c. 304, Pt. G, §1 (AMD).]

A rule is not judicially enforceable unless it is adopted in a manner consistent with this chapter. [PL 2011, c. 304, Pt. G, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 661, §3 (AMD). PL 1977, c. 694, §§29-B-32 (AMD). PL 1977, c. 696, §47 (AMD). PL 1979, c. 425, §3 (AMD). PL 1981, c. 464, §1 (AMD). PL 1985, c. 490, §1 (AMD). PL 1985, c. 779, §22 (AMD). PL 1989, c. 443, §13 (AMD). PL 1989, c. 574, §1 (AMD). PL 1989, c. 700, §A19 (AMD). PL 1993, c. 362, §1 (AMD). PL 1995, c. 246, §1 (AMD). PL 1995, c. 373, §2 (AMD). PL 1997, c. 110, §1 (AMD). PL 1999, c. 307, §1 (AMD). PL 1999, c. 547, §B16 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2011, c. 304, Pt. G, §1 (AMD).

§8003. Inconsistent provisions

Except where expressly authorized by statute, any statutory provision now existing or hereafter adopted which is inconsistent with the express provisions of the Maine Administrative Procedure Act shall yield and the applicable provisions of this Act shall govern in its stead. [PL 1977, c. 694, §33 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §33 (NEW).

§8004. Matters pending not affected

The Maine Administrative Procedure Act shall not apply to: [PL 1977, c. 694, §34 (NEW).]

1. Adjudicatory proceedings. Adjudicatory proceedings commenced by filing of an application, request for a hearing, agency notice of a hearing or otherwise in accordance with preexisting law, prior to July 1, 1978;
[PL 1977, c. 694, §34 (NEW).]

2. Licensing proceedings. Licensing proceedings commenced by filing an application for a license, or renewal or reissuance thereof, or by notice of agency proceedings affecting an existing license, prior to July 1, 1978; or
[PL 1977, c. 694, §34 (NEW).]

3. Judicial review. Judicial review of any of the foregoing.
[PL 1977, c. 694, §34 (NEW).]

4. Collective bargaining. State personnel rules negotiated as part of any collective bargaining agreement.
[PL 1977, c. 694, §34 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §34 (NEW).

§8005. Governor's Office of Health Policy and Finance

Notwithstanding any provision of law to the contrary, the provisions of this subchapter and subchapters 2 and 2-A apply to rulemaking by the Governor's Office of Health Policy and Finance or its successor agency. [PL 2005, c. 394, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 394, §1 (NEW).

SUBCHAPTER 2

RULEMAKING

§8051. Adoption of rules of practice

In addition to other rule-making requirements imposed by law, each agency shall adopt rules of practice governing the conduct of adjudicatory proceedings, licensing proceedings and the rendering of advisory rulings, except to the extent that such rules are provided by law. The first time after October 1, 1995 that an agency proposes to adopt or modify the rules of practice governing the conduct of adjudicatory proceedings or licensing proceedings, the agency shall also propose any rules reasonably necessary to promote, when appropriate, the efficient and cost-effective use of alternative dispute resolution techniques, including the use of neutral facilitators, mediators or arbitrators. If the agency determines that it is unnecessary or inappropriate to propose these rules, it shall so state in the notice of rulemaking required under section 8053. A written explanation of the reasons for the agency's determination must be included in the basis statement of rule. Any agency rule of practice that imposes a time period or deadline for the filing of any submission or for the service of any paper must provide that filing or service is complete: [PL 1995, c. 249, §1 (AMD).]

1. Upon an agency. Upon an agency, when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or
[PL 1989, c. 297, §1 (NEW).]

2. Upon a party. Upon a party, when the paper is mailed to the party or the party's attorney, by in-hand delivery to the recipient or by delivery to the recipient's office.
[PL 1995, c. 249, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1989, c. 297, §1 (AMD). PL 1995, c. 249, §1 (AMD).

§8051-A. Appointment of liaison

The commissioner or director of each state agency shall designate a person to serve as a liaison between the agency and the general public, the Legislature, the Secretary of State and the office of the Attorney General with respect to rulemaking. The liaison shall serve as a representative of the agency with respect to providing information about agency rules. The liaison is responsible for implementing the procedural provisions of this subchapter. The Secretary of State shall maintain a list of all agency liaisons and their contact information on a publicly accessible website. [PL 2007, c. 581, §1 (AMD).]

SECTION HISTORY

PL 1989, c. 574, §2 (NEW). PL 2007, c. 581, §1 (AMD).

§8051-B. Consensus-based rule development process

1. Agency authority. An agency may voluntarily engage in a consensus-based rule development process. An agency that develops a draft rule through a consensus-based rule development process retains the sole discretion over whether to submit the rule as a proposed rule and as to the final language of the proposed rule.
[PL 1999, c. 307, §2 (NEW).]

2. Initial considerations. As part of a consensus-based rule development process, an agency shall:

A. Establish a representative group of participants with an interest in the subject of the rulemaking;
[PL 1999, c. 307, §2 (NEW).]

B. Develop ground rules for the operation of the consensus-based rule development process that are mutually acceptable to the agency and the participants; [PL 1999, c. 307, §2 (NEW).]

C. Disclose the funding and time constraints on the agency; [PL 1999, c. 307, §2 (NEW).]

D. Give prior notice of all meetings to the representative group of participants and establish a mechanism for other interested parties to receive notice and information regarding all meetings; [PL 1999, c. 307, §2 (NEW).]

E. Select an agency employee or another individual contracted by the agency to chair or facilitate the meetings; and [PL 1999, c. 307, §2 (NEW).]

F. Distribute a summary and submitted materials from all meetings to the representative group of participants and other interested parties. [PL 1999, c. 307, §2 (NEW).]

[PL 1999, c. 307, §2 (NEW).]

3. Record. An agency that engages in a consensus-based rule development process that results in a proposed rule shall maintain:

A. A list of all meetings held, the participants at each meeting and the interests or organizations they represented; [PL 1999, c. 307, §2 (NEW).]

B. A summary of each of the meetings; and [PL 1999, c. 307, §2 (NEW).]

C. A description by the agency of the consensus-based rule development process and an analysis of the decisions that came out of that process, including the extent to which consensus was reached on the decisions. [PL 1999, c. 307, §2 (NEW).]

[PL 1999, c. 307, §2 (NEW).]

4. Judicial review. An agency action to engage in or terminate a consensus-based rule development process is not subject to judicial review. This section does not bar judicial review of a rule finally adopted by an agency following a consensus-based rule development process if such a review is otherwise available by law as long as the basis for review is other than procedural error in the consensus-based rule development process.

[PL 1999, c. 307, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 307, §2 (NEW).

§8052. Rulemaking

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, except that a public hearing must be held if otherwise required by statute or requested by any 5 interested persons or if the rule is a major substantive rule as defined in section 8071, subsection 2, paragraph B.

A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings.

[PL 2007, c. 581, §2 (AMD).]

2. Requirements. A public hearing must comply with any requirements imposed by statute, but is not subject to subchapter 4. Any public hearing must be held and conducted as follows.

A. In the case of a rule authorized to be adopted by a board or commission consisting of 3 or more members, at least 1/3 of the board or commission members must be present during any hearing on the rule. [PL 2025, c. 384, §1 (AMD).]

B. In the case of a rule authorized to be adopted by a single agency member, either the agency member, a person in a major policy-influencing position, as listed in chapter 71, or a designee who

has responsibility over the subject matter to be discussed at the hearing shall hold and conduct the hearing. [PL 1993, c. 362, §2 (AMD).]

[PL 2025, c. 384, §1 (AMD).]

3. Statements and arguments filed. When a public hearing is held, written statements and arguments concerning the proposed rule may be filed with the agency within 10 days after the close of the public hearing, or within such longer time as the agency may direct.

[PL 1977, c. 551, §3 (NEW).]

4. Relevant information considered. The agency shall consider all relevant information available to it, including, but not limited to, economic, environmental, fiscal and social impact analyses and statements and arguments filed, before adopting any rule.

[PL 1991, c. 632, §1 (AMD).]

5. Written statement adopted.

[PL 2025, c. 384, §2 (RP).]

5-A. Impact on small business. In adopting rules, the agencies shall seek to reduce any economic burdens through flexible or simplified reporting requirements and may seek to reduce burdens through flexible or simplified timetables that take into account the resources available to the affected small businesses. The agency may consider clarification, consolidation or simplification of compliance or reporting requirements. For the purposes of this subsection, "small business" means businesses that have 20 or fewer employees.

Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, the agency shall prepare an economic impact statement that includes the following:

A. An identification of the types and an estimate of the number of the small businesses subject to the proposed rule; [PL 2007, c. 181, §1 (NEW).]

B. The projected reporting, record-keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record; [PL 2007, c. 181, §1 (NEW).]

C. A brief statement of the probable impact on affected small businesses; and [PL 2007, c. 181, §1 (NEW).]

D. A description of any less intrusive or less costly, reasonable alternative methods of achieving the purposes of the proposed rule. [PL 2007, c. 181, §1 (NEW).]

[PL 2007, c. 181, §1 (AMD).]

5-B. Basis statement; summary of comments and testimony. At the time of adoption of any rule, an agency shall:

A. Compose a basis statement that briefly explains the factual and policy foundation for the rule. If the adoption under this subsection is final adoption of a major substantive rule under subchapter 2-A, the agency must include in its written statement citation of the legislative act authorizing final adoption of that rule; or, if authorization is the result of failure of the Legislature to act under section 8072, subsection 7, the agency must indicate that fact and identify the date the agency filed the rule for review under section 8072; and [PL 2025, c. 384, §3 (NEW).]

B. List the names of persons whose comments were received, including through testimony at hearings, the organizations the persons represent and summaries of their comments as follows.

(1) The agency shall address the specific comments and concerns expressed about any proposed rule and state its rationale for adopting any changes from the proposed rule, failing to adopt the suggested changes or drawing findings and recommendations that differ from those expressed about the proposed rule.

(2) If the same or similar comments or concerns about a specific issue were expressed by different persons or organizations, the agency may synthesize these comments and concerns into a single comment that accurately reflects the meaning and intent of these comments and concerns to be addressed by the agency, listing the names of the persons who commented and the organizations they represent. [PL 2025, c. 384, §3 (NEW).]

[PL 2025, c. 384, §3 (NEW).]

5-C. Consistency of adopted rule with proposed rule. A rule may not be adopted unless the adopted rule is consistent with the terms of the proposed rule, except to the extent that the agency determines that it is necessary to address concerns raised in comments about the proposed rule or specific findings are made supporting changes to the proposed rule. If an agency determines that a rule that the agency intends to adopt is substantively different from the proposed rule, the agency shall request comments from the public concerning the changes from the proposed rule. The agency may not adopt the rule for a period of 30 days from the date comments are requested pursuant to this subsection. Notice of the request for comments must be published by the Secretary of State in the same manner as notice for proposed rules.

[PL 2025, c. 384, §4 (NEW).]

5-D. Agency rule files. In addition to other documents required by this Act, an agency shall maintain a file for each rule adopted by the agency that includes the following information:

A. Testimony submitted during any public hearing held on the rule; [PL 2025, c. 384, §5 (NEW).]

B. Written comments submitted on the rule; [PL 2025, c. 384, §5 (NEW).]

C. The names of persons who commented on the rule and the organizations those persons represent; and [PL 2025, c. 384, §5 (NEW).]

D. Any other information relevant to the rule and considered by the agency in connection with the formulation, proposal or adoption of the rule. [PL 2025, c. 384, §5 (NEW).]

[PL 2025, c. 384, §5 (NEW).]

6. Effective date. No rule, except emergency rules adopted under section 8054, becomes effective until at least 5 days after filing with the Secretary of State under section 8056, subsection 1, paragraph B.

When the effective date of a rule is contingent upon the occurrence or nonoccurrence of an event, notification of the occurrence or nonoccurrence must be filed with the Secretary of State when known.

[PL 1993, c. 362, §3 (AMD).]

7. Adoption of rule. A rule may not take effect unless:

A. The agency adopts it within 120 days of the final date by which data, views or arguments may be submitted to the agency for consideration in adopting the rule; and [PL 1985, c. 39, §1 (NEW).]

B. This adopted rule is approved by the Attorney General as to form and legality, as required by section 8056, within 150 days of the final date by which those comments may be submitted. [PL 1985, c. 39, §1 (NEW).]

The final date for comments may be extended if notice of doing so is published within 14 days after the most recently published comment deadline, in the consolidated notice referred to in section 8053.

[PL 1995, c. 373, §3 (AMD).]

8. Appropriate reference to underlying federal and state laws and regulations. At the time of adoption of any rule, the agency shall refer with particularity to any underlying federal or state law or regulation which serves as the basis of the rule.

[PL 1985, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §34-A (AMD). PL 1979, c. 425, §4 (AMD). PL 1981, c. 524, §§1-6 (AMD). PL 1985, c. 39, §1 (AMD). PL 1985, c. 77, §1 (AMD). PL 1985, c. 506, §§A2,3 (AMD). PL 1985, c. 680, §§1,2 (AMD). PL 1985, c. 737, §A18 (AMD). PL 1989, c. 574, §§3,4 (AMD). PL 1991, c. 632, §1 (AMD). PL 1993, c. 362, §§2,3 (AMD). PL 1993, c. 446, §A19 (AMD). RR 1995, c. 2, §8 (COR). PL 1995, c. 373, §3 (AMD). PL 1995, c. 463, §1 (AMD). PL 1997, c. 110, §2 (AMD). PL 1997, c. 196, §1 (AMD). PL 2007, c. 181, §1 (AMD). PL 2007, c. 581, §2 (AMD). PL 2011, c. 380, Pt. NNN, §1 (AMD). PL 2025, c. 384, §§1-5 (AMD).

§8053. Notice

1. Notice of rulemaking without hearing. At least 17 days prior to the comment deadline of any proposed rule for which a public hearing will not be held, the agency shall send an electronic notice or paper notice to:

A. Any person specified by the statute authorizing the rulemaking; [PL 1981, c. 470, Pt. A, §9 (NEW).]

B. Any person who has filed within the past year a written or electronic request with the agency for notice of rulemaking; [PL 2011, c. 479, §1 (AMD).]

C. Any trade, industry, professional, interest group or regional publication that the agency considers effective in reaching the persons affected; and [PL 2011, c. 479, §2 (AMD).]

D. [PL 1985, c. 39, §2 (RP).]

E. The primary sponsor of the legislation that was enacted and authorized the rulemaking, as long as the legislation was enacted within the previous 2 years. [PL 2011, c. 479, §3 (NEW).]

Notification to subscribers under paragraph B must be by mail or, with written or electronically submitted agreement of the subscriber, electronic notice or otherwise in writing to the last address provided to the agency by that person. Subscribers under paragraph B may request to receive a copy of each proposed rule with the written notice. The agency shall provide the copy at the same time the notice is sent.

Written or electronic notice must also be given to the Secretary of State, by the deadline established by the Secretary of State, for publication in accordance with subsection 5. This notice must be in a format approved by the Secretary of State.
[PL 2025, c. 384, §6 (AMD).]

2. Notice of rule-making hearing. When an agency holds a public hearing prior to adoption of a rule, notice of the hearing must be given in the manner described in subsections 1 and 5, using the date of the hearing to calculate the time periods involved.
[PL 2025, c. 384, §7 (AMD).]

3. Contents of notice. A notice under this section must:

A. [PL 2025, c. 384, §8 (RP).]

A-1. Identify the agency proposing the rule; [PL 2025, c. 384, §8 (NEW).]

A-2. Provide the chapter number and title of the proposed rule; [PL 2025, c. 384, §8 (NEW).]

A-3. Cite the statutory authority pursuant to which the rule is being proposed; [PL 2025, c. 384, §8 (NEW).]

B. State the date, time and place of any scheduled public hearing; [PL 2025, c. 384, §8 (AMD).]

C. State the manner and deadline by which comments on the proposed rule must be submitted to the agency for consideration; [PL 2025, c. 384, §8 (AMD).]

C-1. State the name, address, telephone number and e-mail address of a staff person of the agency proposing the rule to whom inquiries about the rule, and requests for copies of the rule, may be sent; [PL 2025, c. 384, §8 (AMD).]

D. [PL 2025, c. 384, §8 (RP).]

D-1. Provide a summary of the proposed rule; [PL 2025, c. 384, §8 (NEW).]

E. Refer to the substantive state or federal law that would be implemented by the proposed rule; [PL 2025, c. 384, §8 (AMD).]

F. Indicate where information may be obtained about any adverse economic impact on small businesses that was documented by the agency proposing the rule pursuant to section 8052, subsection 5-A; and [RR 2025, c. 1, Pt. A, §8 (COR).]

G. Indicate whether the rule is routine technical or major substantive as those terms are described in section 8071. [PL 2025, c. 384, §8 (AMD).]

[RR 2025, c. 1, Pt. A, §8 (COR).]

3-A. Availability of proposed rules. At least 17 days prior to a public hearing on any proposed rule and at least 17 days prior to the comment deadline of any proposed rule for which a public hearing will not be held, the agency shall make available on its publicly accessibly website a copy of the proposed rule, as well as provide a paper copy of the proposed rule to any person upon request.

[PL 2025, c. 384, §9 (AMD).]

4. Fee schedule.

[PL 2025, c. 384, §10 (RP).]

5. Newspaper publication and online posting of agency rule-making proposal notices. Using the information listed in subsection 3, the Secretary of State:

A. Shall arrange for the weekly newspaper publication of and post, or cause to be posted, on the Secretary of State's publicly accessible website consolidated notices of agency rule-making proposals. Notices of each rule-making proposal must be published and posted once 17 to 24 days prior to the public hearing on the proposed rule or, if no public hearing is scheduled, at least 30 days prior to the last date on which comments on the rule may be submitted to the agency for consideration; [PL 2025, c. 384, §11 (AMD).]

B. Shall designate certain newspapers, which together have general circulation throughout the State, as papers of record for the purpose of publishing notice under paragraph A. Notice of proposed rules affecting only a particular locality or region need only be published in the designated newspapers having general circulation in the area affected; [PL 2025, c. 384, §11 (AMD).]

C. Shall designate one day that agency rule-making proposal notices described in this subsection are to be published and posted; and [PL 2025, c. 384, §11 (AMD).]

D. Must be reimbursed for the cost of publication of rule-making notice by the agencies proposing rules. The total costs of each consolidated notice must be prorated by the Secretary of State among all agencies submitting notice for a particular week. [PL 2025, c. 384, §11 (AMD).]

[PL 2025, c. 384, §11 (AMD).]

5-A. Agency posting of proposed and adopted rules. An agency shall post its proposed rules on its publicly accessible website. An agency also shall post on its publicly accessible website the adopted rules or provide a link to the adopted rules posted on a publicly accessible website maintained by the Secretary of State.

[PL 2025, c. 384, §12 (NEW).]

6. Online posting of agency rule-making notices regarding adoption. In addition to the online posting of agency rule-making proposal notices required in subsection 5, the Secretary of State shall

post, or cause to be posted, on the Secretary of State's publicly accessible website the weekly notices of agency rule-making adoptions, provisional adoptions and final adoptions. The notices regarding adoption and final adoption must state the effective date of the adopted or finally adopted rules, as well as provide the information specified in subsection 3, paragraphs A-1, A-2, A-3, C-1, D-1 and G.
[RR 2025, c. 1, Pt. A, §9 (COR).]

6-A. Explanation of rule-making process. The Secretary of State shall post on the Secretary of State's publicly accessible website a brief explanation of rulemaking to assist the public in participating in the rule-making process. The explanation must include information regarding the manner in which a hearing on a proposed rule may be requested by a member of the public if the agency proposing the rule did not schedule a hearing.
[PL 2025, c. 384, §14 (NEW).]

7. Contents of notice for newspaper publication. The notice for publication in the newspaper under subsection 5 is shorter than the notice provided for all other purposes pursuant to subsection 3. The notice for newspaper publication must:

A. State the time and place of any scheduled public hearing or state the manner in which a hearing may be requested; [PL 2009, c. 256, §4 (NEW).]

B. State the manner and time within which data, views or arguments may be submitted to the agency for consideration, whether or not a hearing is held; [PL 2009, c. 256, §4 (NEW).]

C. State the name, address and phone number of the staff person responsible for providing additional information or a printed version of the proposed rule; [PL 2009, c. 256, §4 (NEW).]

D. Include a brief and general summary of the substance of the proposed rule; [PL 2009, c. 256, §4 (NEW).]

E. Provide the website address where the long notice pursuant to subsection 3 is posted; [PL 2009, c. 256, §4 (NEW).]

F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained; [PL 2019, c. 146, §4 (AMD).]

G. Indicate the impact on municipalities or counties only if there is an expected financial impact on municipalities; and [PL 2025, c. 384, §15 (AMD).]

H. Indicate whether the rule is routine technical or major substantive as those terms are defined in section 8071. [PL 2019, c. 146, §5 (NEW).]
[PL 2025, c. 384, §15 (AMD).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 692, §1 (AMD). PL 1977, c. 694, §34-B (AMD). PL 1979, c. 127, §38 (AMD). PL 1979, c. 425, §5 (RPR). PL 1979, c. 596, §2 (AMD). PL 1981, c. 456, §A21 (AMD). PL 1981, c. 470, §A9 (AMD). PL 1981, c. 524, §§7-10 (AMD). PL 1981, c. 698, §§10-12 (AMD). PL 1985, c. 39, §2 (AMD). PL 1985, c. 77, §2 (AMD). PL 1991, c. 837, §A11 (AMD). PL 1995, c. 373, §§4,5 (AMD). PL 2003, c. 207, §§1-3 (AMD). PL 2007, c. 181, §§2-4 (AMD). PL 2007, c. 581, §3 (AMD). PL 2009, c. 256, §§1-4 (AMD). PL 2011, c. 326, §1 (AMD). PL 2011, c. 479, §§1-3 (AMD). PL 2019, c. 146, §§1-5 (AMD). PL 2025, c. 384, §§6-15 (AMD). RR 2025, c. 1, Pt. A, §§8, 9 (COR).

§8053-A. Notice to legislative committees

1. Proposed rules. At the time of giving notice of rulemaking under section 8053 or within 10 days following the adoption of an emergency rule, the agency shall provide to the Legislature, in accordance with subsection 3, a fact sheet providing the information as described in section 8057-A,

subsection 1 and a written notice identifying whether the proposed rule or adopted emergency rule is a routine technical rule or a major substantive rule as defined in subchapter 2-A.

A. If an agency determines that a rule that it intends to adopt will be substantively different from the proposed rule, it shall provide the Legislature with a revised fact sheet with the information defined in section 8057-A, subsection 1, as it relates to the substantively different rule. The revised fact sheet must be provided to the Legislature in accordance with subsection 3. [PL 2025, c. 384, §16 (AMD).]

B. [PL 1989, c. 574, §5 (RP).]

C. [PL 1989, c. 574, §5 (RP).]

D. [PL 1989, c. 574, §5 (RP).]

[PL 2025, c. 384, §16 (AMD).]

2. Regulatory agenda. The agency shall provide copies of its agency regulatory agenda, as provided in section 8060, to the Legislature at the time that the agenda is issued.
[PL 1989, c. 574, §5 (RPR).]

3. Submission of materials to the Legislature. When an agency, pursuant to subsection 1 or 2, provides materials to the Legislature, it shall provide them to the Executive Director of the Legislative Council, who shall refer the materials to the appropriate committee or committees of the Legislature for review. The agency shall provide sufficient copies of the materials for each member of the appropriate committee or committees.
[PL 1989, c. 574, §5 (NEW).]

4. Adopted rules. When an agency adopts rules, it shall provide a copy of the adopted rules, the statement required by section 8052, subsection 5-B and the checklist required by section 8056-A to the Secretary of State who shall compile the adopted rules by agency.
[PL 2025, c. 384, §17 (AMD).]

5. Annual report of rule-making activity. By February 1st of each year, the Secretary of State shall provide the Executive Director of the Legislative Council a copy of the annual report required under section 8056-A, subsection 3.

A. [PL 2025, c. 384, §18 (RP).]

B. [PL 2025, c. 384, §18 (RP).]

C. [PL 2025, c. 384, §18 (RP).]

D. [PL 2025, c. 384, §18 (RP).]

E. [PL 2025, c. 384, §18 (RP).]

F. [PL 2025, c. 384, §18 (RP).]

[PL 2025, c. 384, §18 (AMD).]

6. Authority to report out legislation. After each appropriate joint standing committee of the Legislature has received a list of rule-making activity pursuant to subsection 5, the committee may require an agency to appear before the committee, and the committee may report out legislation in the same legislative session in which the report is received to adjust rule-making authority related to the rules adopted in the previous calendar year.
[PL 2011, c. 479, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 270 (NEW). PL 1985, c. 528 (AMD). PL 1985, c. 680, §§3,4 (AMD). PL 1985, c. 737, §B13 (AMD). PL 1987, c. 402, §§A60,A61 (AMD). PL 1989, c. 574, §5 (RPR). PL 2011, c. 479, §4 (AMD). PL 2019, c. 146, §6 (AMD). PL 2025, c. 384, §§16-18 (AMD).

§8054. Emergency rulemaking

1. Emergency. If the agency finds that immediate adoption of a rule by procedures other than those set forth in sections 8052 and 8053 is necessary to avoid an immediate threat to public health, safety or general welfare, it may modify those procedures to the minimum extent required to enable adoption of rules designed to mitigate or alleviate the threat found. Emergency rules shall be subject to the requirements of section 8056.
[PL 1977, c. 551, §3 (NEW).]

2. Agency findings. Any emergency rule must include, with specificity, the agency's findings with respect to the existence of an emergency, including any modifications of procedures, and such findings are subject to judicial review under section 8058. Such findings must be included in the basis statement for any adopted emergency rule in a section labeled "findings of emergency." No emergency may be found to exist when the primary cause of the emergency is delay caused by the agency involved.
[PL 2011, c. 244, §1 (AMD).]

3. Emergency period. Any emergency rule shall be effective only for 90 days, or any lesser period of time specified in an enabling statute or in the emergency rule. After the expiration of the emergency period, such rule shall not thereafter be adopted except in the manner provided by section 8052.
[PL 1977, c. 551, §3 (NEW).]

4. Fiscal impact; curtailment orders. An emergency rule adopted in whole or in part to satisfy the requirements of a temporary curtailment order by the Governor under section 1668 must include a specification of the dollar amount of curtailed funds attributable to each change adopted in the rule.
[PL 2011, c. 244, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1979, c. 425, §6 (AMD). PL 2007, c. 581, §4 (AMD). PL 2011, c. 244, §§1, 2 (AMD).

§8055. Petition for adoption or modification of rules

1. Petition. Any person may petition an agency for the adoption or modification of any rule.
[PL 1977, c. 551, §3 (NEW).]

2. Form designated. Each agency shall designate the form for such petitions and the procedure for their submission, consideration and disposition.
[PL 1977, c. 551, §3 (NEW).]

3. Receipt of petition. Within 60 days after receipt of a petition, the agency shall either notify the petitioner in writing of its denial, stating the reasons therefor, or initiate appropriate rule-making proceedings. Whenever a petition to adopt or modify a rule is submitted by 150 or more registered voters of the State, the agency shall initiate appropriate rulemaking proceedings within 60 days after receipt of the petition. The petition must be verified and certified in the same manner provided in Title 21-A, section 354, subsection 7, prior to its presentation to the agency.
[PL 1985, c. 506, Pt. A, §4 (AMD).]

4. Petition submitted by persons incarcerated in Department of Corrections facility. Notwithstanding subsections 2 and 3, the Department of Corrections shall initiate appropriate rule-making proceedings within 60 days after receipt of a petition to adopt or modify a rule submitted by 150 or more persons incarcerated in a department correctional facility under Title 34-A or by 25% or more of the total number of males or females incarcerated in a department correctional facility under Title 34-A, whichever is fewer. The department is not required to initiate appropriate rule-making proceedings pursuant to this subsection if a petition to adopt or modify the same rule was received within the previous 12 months. The department may take reasonable steps to ensure that each signature on a petition submitted pursuant to this subsection is the signature of the person it purports to be and

that the person was incarcerated in a department correctional facility under Title 34-A at the time of signing.
[PL 2021, c. 257, §1 (NEW).]

5. Petition submitted by persons incarcerated in county or municipal detention facility. Notwithstanding subsections 2 and 3, the Department of Corrections shall initiate appropriate rule-making proceedings with respect to standards adopted pursuant to Title 34-A, section 1208 or 1208-B within 60 days after receipt of a petition to adopt or modify a rule submitted by 150 or more persons incarcerated in a county or municipal detention facility or by 25% or more of the total number of males or females incarcerated in a county or municipal detention facility, whichever is fewer. The department is not required to initiate appropriate rule-making proceedings pursuant to this subsection if a petition to adopt or modify the same rule was received within the previous 12 months. The department may take reasonable steps to ensure that each signature on a petition submitted pursuant to this subsection is the signature of the person it purports to be and that the person was incarcerated in the facility at the time of signing.
[PL 2021, c. 257, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1979, c. 425, §7 (AMD). PL 1981, c. 280, §§1,2 (AMD). PL 1985, c. 506, §A4 (AMD). PL 2021, c. 257, §§1, 2 (AMD).

§8056. Filing of adopted and provisionally adopted rules; online posting of adopted rules

1. Requirements. With respect to every rule adopted or, in the case of a major substantive rule, finally adopted, an agency shall:

A. Submit the rule to the Attorney General for approval as to form and legality; [PL 1977, c. 551, §3 (NEW).]

B. After the rule is approved by the Attorney General as to form and legality pursuant to paragraph A, file with the Secretary of State, using a form or forms or an electronic filing platform prescribed by the Secretary of State, the adopted rule and any other filing documentation as is required by the Secretary of State. The adopted rule and all other filing documentation must be in a format approved by the Secretary of State; and [PL 2025, c. 384, §19 (AMD).]

C. Provide, without cost or at actual cost, a paper copy of each such rule to any person who requests a paper copy. [PL 2025, c. 384, §19 (AMD).]

D. [PL 2025, c. 384, §19 (RP).]
[PL 2025, c. 384, §19 (AMD).]

2. Form.
[PL 2025, c. 384, §19 (RP).]

2-A. Incorporation by reference. Through rulemaking, an agency may incorporate by reference into a rule all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this State or by a nationally recognized organization or association.

A. The reference in the agency rule must fully identify the incorporated matter by exact title, edition or version and date of publication. [PL 2025, c. 384, §19 (NEW).]

B. The rule must state where copies of the incorporated matter are available at cost from the agency issuing the rule or where copies are available from the agency of the United States or this State or the organization or association that originally produced the incorporated matter. [PL 2025, c. 384, §19 (NEW).]

C. An agency incorporating a matter by reference into a rule shall maintain a copy of the incorporated matter at its principal office. [PL 2025, c. 384, §19 (NEW).]

[PL 2025, c. 384, §19 (NEW).]

3. Secretary of State. The Secretary of State shall maintain, and make available through the Secretary of State's publicly accessible website, electronic copies of the rules of each agency that are in effect.

A. [PL 2025, c. 384, §19 (RP).]

A-1. [PL 2025, c. 384, §19 (RP).]

A-2. [PL 2025, c. 384, §19 (RP).]

B. [PL 2025, c. 384, §19 (RP).]

C. [PL 2025, c. 384, §19 (RP).]

[PL 2025, c. 384, §19 (AMD).]

4. Additional requirements.

[PL 2025, c. 384, §19 (RP).]

5. Record of vote. In addition to the foregoing and as applicable, each agency shall maintain, at its principal office, and make available for inspection to any person, a record of the vote of each member of the agency taken in rule-making proceedings.

[PL 2025, c. 384, §19 (AMD).]

6. Attorney General review and approval. The review required in subsection 1, paragraph A may not be performed by any person involved in the formulation or drafting of the proposed rule. The Attorney General may not approve a rule if it is reasonably expected to result in a taking of private property under the Constitution of Maine unless such a result is directed by law or sufficient procedures exist in law or in the proposed rule to allow for a variance designed to avoid such a taking.

[PL 2025, c. 384, §19 (AMD).]

7. Codification of rules.

[PL 2025, c. 384, §19 (RP).]

8. Electronic text file procedures.

[PL 2025, c. 384, §19 (RP).]

8-A. Electronic filing procedures. In accordance with subsection 1, the Secretary of State may establish, including by routine technical rules, procedures for the electronic filing of rules and rule-making documentation. If the Secretary of State implements an electronic filing platform through which rules and rule-making documentation and information specified in this Act are to be filed, that platform is the exclusive means through which rules and rule-making documentation may be filed, except as otherwise determined by the Secretary of State. An adopted rule that is filed by an agency through an electronic filing platform and accepted for filing by the Secretary of State is an official copy of the rule.

[PL 2025, c. 384, §19 (NEW).]

9. Certification of adopted rules. The Secretary of State may certify that a paper or electronic copy of an adopted rule accepted for filing and maintained by the Secretary of State is an official copy of the rule.

A. Certified paper copies of rules must be accompanied by a printed certificate of the Secretary of State stating that the publication is an official copy. A facsimile of the signature of the Secretary of State imprinted by or at the direction of the Secretary of State has the same validity as a written signature of the Secretary of State. [PL 2025, c. 384, §19 (AMD).]

B. A paper copy of an adopted rule that has been certified by the Secretary of State constitutes prima facie evidence of the rule. [PL 2025, c. 384, §19 (AMD).]

C. Any publication or copy of an adopted rule that is not certified by the Secretary of State:

(1) May neither state nor imply that the publication or copy of the rule is an official copy of the rules; and

(2) Must state in a conspicuous location information about where a certified copy of the rule may be obtained. [PL 2025, c. 384, §19 (AMD).]

[PL 2025, c. 384, §19 (AMD).]

10. Minor errors.

[PL 2025, c. 384, §19 (RP).]

10-A. Minor errors; updating words or terms. Without having to initiate rulemaking pursuant to this Act:

A. At the request of or in consultation with an agency, the Secretary of State may correct minor, nonsubstantive errors in spelling and format in a proposed or adopted rule; and [PL 2025, c. 384, §19 (NEW).]

B. At the request of an agency, the Secretary of State may update words or terms used in an existing rule for which new or more contemporary words or terms are used, including, for example, words or terms that are more respectful than those used in an existing rule. [PL 2025, c. 384, §19 (NEW).]

[PL 2025, c. 384, §19 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1979, c. 425, §§8,9 (AMD). PL 1981, c. 524, §§11-13 (AMD). PL 1985, c. 39, §3 (AMD). PL 1991, c. 554, §§1,2 (AMD). PL 1993, c. 362, §§4-6 (AMD). PL 1995, c. 373, §§6,7 (AMD). PL 1995, c. 537, §6 (AMD). PL 1999, c. 261, §1 (AMD). PL 2011, c. 380, Pt. NNN, §2 (AMD). PL 2025, c. 384, §19 (AMD).

§8056-A. Technical assistance; annual report

1. Checklist. The Secretary of State shall establish and implement a checklist that must be completed by agencies and attached to adopted rules filed with the Secretary of State after December 31, 1989. The checklist must include the timing of filing and notices as well as other procedural requirements of this subchapter.

[PL 1991, c. 554, §3 (AMD).]

2. Technical assistance. The Secretary of State shall develop uniform drafting instructions for use by all agencies that propose rules under this subchapter and shall compile those instructions in a drafting manual. In addition, the Secretary of State shall provide assistance to any agency regarding the form for drafting of rules and supporting materials and the other requirements of this subchapter.

[PL 1991, c. 554, §3 (AMD).]

3. Report. The Secretary of State shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over state and local government prior to February 1st of each year with respect to rule-making activities for the prior year. The report must include a list of all the rules that were adopted, provisionally adopted or finally adopted by agencies during that prior year, as well as state whether each rule is a routine technical or major substantive rule, whether a rule was adopted on an emergency basis and what the statutory authority is for the rule. The report must also include statistical information on agency rule-making activities and recommendations for improvements to the rule-making process. In preparing the report, the Secretary of State shall solicit comments on this subchapter from agencies and their legal counsels, the Executive Director of the Legislative Council and the public.

[PL 2025, c. 384, §20 (AMD).]

SECTION HISTORY

PL 1989, c. 574, §6 (NEW). PL 1991, c. 554, §3 (AMD). PL 2025, c. 384, §20 (AMD).

§8057. Compliance

1. Rules; exception. Rules adopted in a manner other than that prescribed by section 8052, subsections 1, 2, 3, 4, 5-A and 7 and by sections 8053 and 8054 are void and of no legal effect, except that insubstantial deviations from the requirements of section 8053 do not invalidate the rule subsequently adopted. Rules in effect prior to July 1, 1978 become void and of no legal effect on July 1, 1979, unless originally adopted after notice published in a newspaper of general circulation in some area of the State and opportunity for hearing or unless adopted in accordance with this subchapter.
[PL 2007, c. 181, §5 (AMD).]

2. Rules not approved. Rules not approved and filed in the manner prescribed by section 8056, subsection 1, paragraphs A and B, shall be void and of no legal effect. Rules in effect prior to July 1, 1978, become void and of no legal effect on December 31, 1979, unless filed with the Secretary of State in accordance with section 8056, subsection 1, paragraph B.
[PL 1979, c. 425, §10 (AMD).]

3. Agency, responsibility. The requirements of this subchapter do not relieve any agency of the responsibility of compliance with any statute requiring that its rules be filed with or approved by any designated person before they become effective.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §35 (AMD). PL 1979, c. 425, §10 (AMD). PL 1985, c. 680, §5 (AMD). PL 2007, c. 181, §5 (AMD).

§8057-A. Preparation and adoption of rules

In preparing and adopting rules, each agency shall strive to the greatest possible extent to follow the procedure defined in this section. [PL 1989, c. 574, §7 (NEW).]

1. Preparation of rules. At the time that an agency is preparing a rule, the agency shall consider the goals and objectives for which the rule is being proposed, possible alternatives to achieve the goals and objectives and the estimated impact of the rule. The agency's estimation of the impact of the rule must be based on the information available to the agency and any analyses conducted by the agency or at the request of the agency. The agency shall establish a fact sheet that provides the citation of the statutory authority of the rule. In addition, the agency, to the best of its ability, shall also include in the fact sheet:

A. The principal reasons for the rule; [PL 1989, c. 574, §7 (NEW).]

B. A comprehensive but concise description of the rule that accurately reflects the purpose and operation of the rule; [PL 1989, c. 574, §7 (NEW).]

C. An estimate of the fiscal impact of the rule; [PL 2007, c. 581, §5 (AMD).]

D. An analysis of the rule; and [PL 2007, c. 581, §5 (AMD).]

E. A brief summary of the relevant information considered during the development of the rule. [PL 2007, c. 581, §5 (NEW).]
[PL 2007, c. 581, §5 (AMD).]

2. Additional information for existing rules. For existing rules having an estimated fiscal impact greater than $1,000,000, the fact sheet shall also include the following:

A. A description of the economic impact of the rule including effects that cannot be quantified in monetary terms; [PL 1989, c. 574, §7 (NEW).]

B. A description and examples of individuals, major interest groups and types of businesses that will be affected by the rule and how they will be affected; and [PL 1989, c. 574, §7 (NEW).]

C. A description of the benefits of the rule including those that cannot be quantified. [PL 1989, c. 574, §7 (NEW).]

[PL 1989, c. 574, §7 (NEW).]

3. Public comment period. During the public comment period and prior to adoption of any rule, the agency shall strive to obtain and evaluate relevant information from the public and other information reasonably available to the agency with respect to relevant provisions in subsection 1.
[PL 1989, c. 574, §7 (NEW).]

4. Adoption of rules. At the time of adoption of any rule, the agency shall file with the Secretary of State the information developed by the agency pursuant to subsections 1 and 2 and, except for emergency rules, citations for up to 3 primary sources of information relied upon by the agency in adopting the rule. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review.
[PL 2011, c. 304, Pt. E, §1 (AMD).]

SECTION HISTORY

PL 1989, c. 574, §7 (NEW). PL 2007, c. 181, §6 (AMD). PL 2007, c. 581, §5 (AMD). PL 2011, c. 304, Pt. E, §1 (AMD).

§8058. Judicial review of rules

1. Judicial review. Judicial review of an agency rule, or of an agency's refusal or failure to adopt a rule where the adoption of a rule is required by law, may be had by any person who is aggrieved in an action for declaratory judgment in the Superior Court conducted pursuant to Title 14, section 5951, et seq., which provisions shall apply to such actions wherever not inconsistent with this section. Insofar as the court finds that a rule exceeds the rule-making authority of the agency, or is void under section 8057, subsection 1 or 2, it shall declare the rule invalid. In reviewing any other procedural error alleged, the court may invalidate the rule only if it finds the error to be substantial and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the error had not occurred. If the court finds that the rule is not procedurally invalid and not in excess of the agency's rule-making authority, its substantive review of that rule shall be to determine whether the rule is arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law. The phrase "otherwise not in accordance with law" shall apply only to the review authorized in the preceding sentence and shall not be construed so as to limit or replace in any way section 8003. In the event that the court finds that an agency has failed to adopt a rule as required by law, the court may issue such orders as are necessary and appropriate to remedy such failure.
[PL 1985, c. 680, §6 (AMD).]

2. Failure to seek judicial review. The failure to seek judicial review of an agency rule in the manner provided by subsection 1 shall not preclude judicial review thereof in any civil or criminal proceeding.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1979, c. 669, §1 (AMD). PL 1985, c. 680, §6 (AMD).

§8059. Inconsistent rules

When 2 rules are inconsistent or in conflict with one another, so that compliance with both is impossible, then compliance with either rule shall be deemed to be compliance with the other. [PL 1985, c. 680, §7 (RPR).]

SECTION HISTORY

PL 1979, c. 669, §2 (NEW). PL 1985, c. 680, §7 (RPR).

§8060. Regulatory agenda

Each agency with the authority to adopt rules shall issue to the appropriate joint standing committee or committees of the Legislature and to the Secretary of State an agency regulatory agenda as provided in this section. [PL 1989, c. 547, §8 (NEW).]

1. Contents of agenda. Each agency regulatory agenda to the maximum possible extent shall contain the following information:

A. A list of rules that the agency expects to propose prior to the next regulatory agenda due date and whether the agency anticipates engaging in any consensus-based rule development process; [PL 1999, c. 307, §3 (AMD).]

B. The statutory or other basis for adoption of the rule; [PL 1989, c. 547, §8 (NEW).]

C. The purpose of the rule; [PL 1989, c. 547, §8 (NEW).]

D. The contemplated schedule for adoption of the rule; [PL 1989, c. 547, §8 (NEW).]

E. An identification and listing of potentially benefited and regulated parties; and [PL 1989, c. 547, §8 (NEW).]

F. A list of all emergency rules adopted since the previous regulatory agenda due date. [PL 1989, c. 547, §8 (NEW).]

[PL 1999, c. 307, §3 (AMD).]

2. Due date. A regulatory agenda must be issued between the beginning of a regular legislative session and 100 days after adjournment.

[PL 1993, c. 362, §7 (AMD).]

3. Legislative copies. The agency shall provide copies of the agency regulatory agenda to the Legislature as provided in section 8053-A.

[PL 1989, c. 547, §8 (NEW).]

4. Availability. An agency which issues an agency regulatory agenda shall provide copies to interested persons.

[PL 1989, c. 547, §8 (NEW).]

5. Legislative review of agency regulatory agendas. Each regulatory agenda shall be reviewed by the appropriate joint standing committee of the Legislature at a meeting called for the purpose. The committee may review more than one agenda at a meeting.

[PL 1989, c. 547, §8 (NEW).]

6. Application. Nothing in this section or section 8053-A may be construed to prohibit agencies from adopting emergency rules that have not been listed or included in the regulatory agenda pursuant to this section.

[PL 1991, c. 540, §1 (AMD).]

7. Agenda listing required. Notwithstanding any provision of law to the contrary, a rule may not be proposed pursuant to Title 38, chapter 16-D unless the chemicals affected by that proposed rule were specifically disclosed to the Legislature prior to the initiation of the rule-making process as part of a regulatory agenda, except that this subsection may not be construed to prohibit an agency from initiating appropriate rule-making proceedings in response to any person who petitions for adoption or modification of rules pursuant to section 8055.

[PL 2011, c. 319, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 574, §8 (NEW). PL 1991, c. 540, §1 (AMD). PL 1993, c. 362, §7 (AMD). PL 1999, c. 307, §3 (AMD). PL 2011, c. 319, §1 (AMD).

§8061. Style

All rules and any other materials required by this subchapter to be provided to the public or to the Legislature shall, to the maximum extent feasible, use plain and clear English, which can readily be understood by the general public. The use of technical language shall be avoided to the greatest possible extent. [PL 1989, c. 574, §8 (NEW).]

SECTION HISTORY

PL 1989, c. 574, §8 (NEW).

§8062. Performance standards

When legislation authorizing any regulated activity requires that certain criteria be met in order that any license, permit, authorization or certification to undertake the regulated activity be granted and when an agency determines that performance standards will assist regulated parties in complying with the criteria, the standards shall be developed during the rule-making process and incorporated into adopted rules when performance standards are equally effective in meeting applicable statutory criteria. [PL 1989, c. 574, §8 (NEW).]

SECTION HISTORY

PL 1989, c. 574, §8 (NEW).

§8063. Fiscal impact

Every rule proposed by an agency must contain a fiscal impact note as part of the filing. [PL 2025, c. 384, §21 (AMD).]

This section does not apply to emergency rules. [PL 1991, c. 233 (NEW).]

SECTION HISTORY

PL 1991, c. 233 (NEW). PL 2025, c. 384, §21 (AMD).

§8063-A. Analysis of benefits and costs

In addition to the economic impact statement required under section 8052, subsection 5-A and the fiscal impact note required under section 8063, an agency may, within existing budgeted resources and in instances in which the consideration of costs is permitted, conduct an analysis of the benefits and costs of a proposed rule to evaluate the effects of the rule on the distribution of benefits and costs for specific groups and on the overall economic welfare of the State. [PL 2011, c. 304, Pt. B, §1 (NEW).]

1. Contents of a cost-benefit analysis. To the extent permitted within existing resources, a cost-benefit analysis conducted under this section must include, at a minimum, the following information:

A. Specification of the baseline condition for the analysis, including all required parameters for the analysis, all assumptions made in specifying the baseline condition and specification of the analysis period; [PL 2011, c. 304, Pt. B, §1 (NEW).]

B. A description of the methods used to discount future benefits and costs, preferably based on the federal Office of Management and Budget's discount rate for federal projects; [PL 2011, c. 304, Pt. B, §1 (NEW).]

C. An analysis of changes in the level of economic activity in the State as measured by employment, income and outputs; and [PL 2011, c. 304, Pt. B, §1 (NEW).]

D. An estimate of the discounted benefits and costs of the proposed rule over the baseline condition, including benefits and costs to specific groups and changes in the economic welfare of the State as a whole over the baseline condition. [PL 2011, c. 304, Pt. B, §1 (NEW).]

[PL 2011, c. 304, Pt. B, §1 (NEW).]

Prior to conducting a cost-benefit analysis under this section, an agency shall determine that sufficient staff expertise and budgeted resources exist within the agency to complete the analysis. The agency shall include a cost-benefit analysis with a copy of a proposed rule when responding to a request for the proposed rule under section 8053, subsection 3-A. When the analysis is conducted on a provisionally adopted major substantive rule, the analysis must be included with the materials submitted to the Executive Director of the Legislative Council under section 8072, subsection 2. A cost-benefit analysis conducted under this section is not subject to judicial review under section 8058. [PL 2011, c. 304, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 304, Pt. B, §1 (NEW).

§8063-B. Identification of primary source of information

For every rule proposed by an agency, except for emergency rules, the agency shall file with the Secretary of State citations for up to 3 primary sources of information relied upon by the agency in developing the proposed rule. The agency shall include that information with a copy of the proposed rule when responding to a request under section 8053, subsection 3-A. Professional judgment may be cited as one of those primary sources of information. Citations to primary sources of information are not subject to judicial review. [PL 2011, c. 304, Pt. E, §2 (NEW).]

SECTION HISTORY

PL 2011, c. 304, Pt. E, §2 (NEW).

§8064. Limitation

Except for emergency rules as provided in section 8060, subsection 6, an agency may not adopt any rule unless the agency has complied with the provisions in sections 8053-A and 8060, which include legislative review of the rule. When an agency proposes a rule not in its current regulatory agenda, the agency must file an amendment to its agenda with the Legislature and Secretary of State under section 8053-A at the time of rule proposal. [PL 1993, c. 362, §8 (AMD).]

SECTION HISTORY

PL 1991, c. 540, §2 (NEW). PL 1993, c. 362, §8 (AMD).

SUBCHAPTER 2-A

RULEMAKING PROCEDURES GOVERNING RULES AUTHORIZED AND ADOPTED AFTER JANUARY 1, 1996

§8071. Legislative review of certain agency rules

Except as otherwise provided in this subchapter, rules adopted pursuant to rule-making authorization delegated to an agency after January 1, 1996 are subject to the procedures of this subchapter and subchapter II. [PL 1995, c. 463, §2 (NEW).]

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that is enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

[PL 1995, c. 574, §1 (AMD).]

2. Categories of rules. There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute. [PL 1995, c. 463, §2 (NEW).]

B. Major substantive rules are rules that, in the judgment of the Legislature:

(1) Require the exercise of significant agency discretion or interpretation in drafting; or

(2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the Constitution of Maine, Article IX, Section 21, or other serious burdens on the public or units of local government. [PL 1995, c. 463, §2 (NEW).]

[PL 1995, c. 463, §2 (NEW).]

3. Levels of rule-making process. In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements.

A. Routine technical rules are subject to the rule-making requirements of subchapter II only. [PL 1995, c. 463, §2 (NEW).]

B. Major substantive rules are subject to the requirements of section 8072. After January 1, 1996, any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules as provided in section 8072.

The establishment or amendment of an agency fee by rulemaking is a major substantive rule, except for the establishment or amendment of a fee that falls under a cap or within a range set in statute, which is a routine technical rule. [PL 1995, c. 463, §2 (NEW).]

[PL 1995, c. 463, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 463, §2 (NEW). PL 1995, c. 574, §1 (AMD).

§8071-A. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 244, §3 (NEW).]

1. Legislative review session. "Legislative review session" means the regular session of the Legislature convening after the beginning of the legislative rule acceptance period.
[PL 2011, c. 244, §3 (NEW).]

2. Legislative rule acceptance period. "Legislative rule acceptance period" means the period beginning on the July 1st preceding the convening of a regular session of the Legislature and ending at 5:00 p.m. on the 2nd Friday in January after the convening of that regular session of the Legislature.
[PL 2011, c. 244, §3 (NEW).]

SECTION HISTORY

PL 2011, c. 244, §3 (NEW).

§8072. Legislative review of major substantive rules

As provided in section 8071, major substantive rules are subject to an increased level of rule-making requirements. The rule-making requirements of subchapter II for routine technical rules apply to the adoption of major substantive rules, except that the 120-day period for adoption and the 150-day period for approval as to form and legality under section 8052, subsection 7, paragraphs A and B apply to provisional adoption of major substantive rules, not final adoption. In addition to the other rule-making requirements, every major substantive rule is also subject to legislative review as provided in this section. [PL 1995, c. 463, §2 (NEW).]

1. Preliminary adoption of major substantive rules. An agency proposing a major substantive rule other than an emergency rule, after filing the notice of proposed rulemaking required by section 8052, shall proceed with rule-making procedures to the point of, but not including, final adoption. At that point, known in this section as "provisional adoption," the agency shall file the provisionally adopted rule and related materials with the Secretary of State as provided in section 8056, subsection 1, paragraph B and submit the rule to the Legislature for review and authorization for final adoption as provided in this section. The rule has legal effect only after review by the Legislature followed by final adoption by the agency.
[PL 1997, c. 196, §2 (AMD).]

2. Submission of materials. At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible; [PL 1995, c. 463, §2 (NEW).]

B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal; [PL 1995, c. 463, §2 (NEW).]

C. A statement of the circumstances that require the rule; [PL 1995, c. 463, §2 (NEW).]

D. A statement of the economic impact of the rule on the State and its residents; and [PL 1995, c. 463, §2 (NEW).]

E. Any other information required by law. [PL 1995, c. 463, §2 (NEW).]
[PL 1995, c. 463, §2 (NEW).]

3. Legislative review; legislative instrument prepared. If the required copies of the provisionally adopted rule and related information are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House shall place the legislative instrument on the Advance Journal and Calendar. The secretary and clerk shall jointly suggest reference of the legislative instrument to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance

with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.
[PL 2011, c. 244, §4 (AMD).]

4. Committee review. The committee shall review each provisionally adopted rule and, in its discretion, may hold public hearings on that rule. A public hearing under this subsection must be advertised in the same manner as required by legislative rules then in effect for advertisement of public hearings on proposed legislation. The committee's review must include, but is not limited to, a determination of:

A. Whether the agency has exceeded the scope of its statutory authority in approving the provisionally adopted rule; [PL 1995, c. 463, §2 (NEW).]

B. Whether the provisionally adopted rule is in conformity with the legislative intent of the statute the rule is intended to implement, extend, apply, interpret or make specific; [PL 1995, c. 463, §2 (NEW).]

C. Whether the provisionally adopted rule conflicts with any other provision of law or with any other rule adopted by the same or a different agency; [PL 1995, c. 463, §2 (NEW).]

D. Whether the provisionally adopted rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed; [PL 1995, c. 463, §2 (NEW).]

E. Whether the provisionally adopted rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it; [PL 1995, c. 463, §2 (NEW).]

F. Whether the provisionally adopted rule could be made less complex or more readily understandable for the general public; [PL 1995, c. 537, §7 (AMD).]

G. Whether the provisionally adopted rule was proposed in compliance with the requirements of this chapter and with requirements imposed by any other provision of law; and [PL 1995, c. 537, §7 (AMD).]

H. For a rule that is reasonably expected to result in a significant reduction in property values, whether sufficient variance provisions exist in law or in the rule to avoid an unconstitutional taking, and whether, as a matter of policy, the expected reduction is necessary or appropriate for the protection of the public health, safety and welfare advanced by the rule. [PL 1995, c. 537, §8 (NEW).]
[PL 1995, c. 537, §§7, 8 (AMD).]

5. Committee recommendation. After reviewing a rule referred to it by the Legislature, the committee shall recommend:

A. That the Legislature authorize the final adoption of the rule; [PL 1995, c. 463, §2 (NEW).]

B. That the Legislature authorize the final adoption of a specified part of the rule; [PL 1995, c. 463, §2 (NEW).]

C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or [PL 1995, c. 463, §2 (NEW).]

D. That the final adoption of the rule be disapproved by the Legislature. [PL 1995, c. 463, §2 (NEW).]

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.
[PL 2011, c. 244, §5 (AMD).]

6. Draft legislation.
[PL 2011, c. 244, §6 (RP).]

7. Report to the Legislature. Unless otherwise provided by the Legislature, each joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the legislative review session as provided in Title 3, section 2.
[PL 2011, c. 244, §7 (AMD).]

8. Final adoption; effective date. Unless otherwise provided by law, final adoption of a rule or part of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or part of that rule or of the adjournment of the session in which the Legislature failed to act on the rule or part of the rule as specified in subsection 11. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be posted as provided in section 8056, subsection 3. Except as otherwise specified by law, the rules become effective 30 days after filing with the Secretary of State or at a later date specified by the agency.
[PL 2025, c. 384, §22 (AMD).]

9. Consideration at special session. If appropriate, the committee recommendation regarding an agency rule or rules may be submitted to and considered by a special session of the Legislature.
[PL 1995, c. 463, §2 (NEW).]

10. Rules submitted outside legislative rule acceptance period. The Legislature may act or decline to act upon any rules submitted outside the legislative rule acceptance period.
[PL 2011, c. 244, §9 (NEW).]

11. Prohibited final adoption. A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:

A. Legislation authorizing adoption of the rule or part of the rule is enacted into law; or [PL 2011, c. 244, §10 (NEW).]

B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule. [PL 2011, c. 244, §10 (NEW).]

For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.
[PL 2011, c. 244, §10 (NEW).]

SECTION HISTORY

PL 1995, c. 463, §2 (NEW). PL 1995, c. 537, §§7,8 (AMD). PL 1995, c. 574, §2 (AMD). PL 1997, c. 196, §2 (AMD). PL 2005, c. 586, §1 (AMD). PL 2011, c. 244, §§4-10 (AMD). PL 2025, c. 384, §22 (AMD).

§8073. Emergency major substantive rules

Major substantive rules are subject to the emergency rule-making procedures required under subchapter II, except that a major substantive rule adopted on an emergency basis after the deadline for submission to the Legislature for review under section 8072 may be effective for up to 12 months or until the Legislature has completed review as provided in that section. After the expiration of the emergency period, an emergency rule may not be adopted except in the manner provided by section 8072. [PL 1995, c. 463, §2 (NEW).]

SECTION HISTORY

PL 1995, c. 463, §2 (NEW).

§8074. Federally mandated rules

(REPEALED)

SECTION HISTORY

PL 1995, c. 463, §2 (NEW). PL 2019, c. 29, §1 (RP).

SUBCHAPTER 3

ADVISORY RULINGS

§9001. Advisory rulings

1. Written request. Upon written request of any interested person, an agency may make an advisory ruling with respect to the applicability of any statute or rule administered by that agency to the person or the person's property or actual state of facts.
[RR 2023, c. 2, Pt. B, §78 (COR).]

2. Rules written. All advisory rulings shall be in writing.
[PL 1977, c. 551, §3 (NEW).]

3. Advisory ruling not binding. An advisory ruling shall not be binding upon an agency, provided that in any subsequent enforcement action initiated by the agency which made the ruling, any person's justifiable reliance upon the ruling shall be considered in mitigation of any penalty sought to be assessed.
[PL 1977, c. 551, §3 (NEW).]

4. Advisory rulings. Each agency shall prescribe by rule, in accordance with section 8051, the procedure for the submission, consideration and disposition of requests for advisory rulings. In issuing an advisory ruling, the agency need not comply with the requirements of subchapters II or IV.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §78 (COR).

SUBCHAPTER 4

ADJUDICATORY PROCEEDINGS

§9051. Scope

1. Adjudicatory proceeding. In any adjudicatory proceedings, except those proceedings involving correctional facilities, the Workers' Compensation Board, the Maine Motor Vehicle Franchise Board or the State Parole Board, the procedures of this subchapter apply.
[PL 2005, c. 61, §1 (AMD).]

2. Hearing. Unless a hearing is required by statute, the requirements of this subchapter, except the notice provisions of section 9052, subsection 1, shall not apply until a request for a hearing is made under section 9052, subsection 1, paragraph A, or a hearing is set by the agency.
[PL 1977, c. 551, §3 (NEW).]

3. Filing and service. The filing of any submission in any adjudicatory proceeding or the service of any paper on a party to an adjudicatory proceeding is complete:

A. Upon an agency when the agency receives the submission or the paper by mail, in-hand delivery or any other means specified by the agency; or [PL 1989, c. 297, §2 (NEW).]

B. Upon a party upon mailing of the paper to the party or the party's attorney, upon in-hand delivery to the recipient or by delivery to the recipient's office. [PL 1989, c. 297, §2 (NEW).]

[PL 1989, c. 297, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 616, §1 (AMD). PL 1977, c. 694, §§35-A (AMD). PL 1979, c. 127, §39 (AMD). PL 1989, c. 297, §2 (AMD). PL 1991, c. 885, §D2 (AMD). PL 2005, c. 61, §1 (AMD).

§9051-A. Notice of environmental agency adjudicatory proceedings

Whenever adjudicatory hearings are held by the Department of Agriculture, Conservation and Forestry, the Department of Environmental Protection and the Board of Pesticides Control, the hearings shall be held in accordance with the provisions of this section. [PL 1987, c. 653, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

1. Notice of opportunity for hearing; license applications with substantial public interest. When the applicable law or the Constitution of Maine requires that an opportunity for a hearing be provided or an agency deems in any proceeding that a substantial public interest is involved, notice shall be given as follows.

A. Notice of the pending license application shall be provided 30 days next prior to the date of the expected date of an agency decision. Notice shall be provided by mail to:

(1) The person or persons whose legal rights, duties or privileges are at issue;

(2) The municipality or municipalities affected by the license application, as determined by the agency or board to the best of its ability;

(3) The county, if the affected locality as determined by the agency or board to the best of its ability is an unorganized territory;

(4) The Legislators of the geographic area or areas affected by the issue; and

(5) Persons who have made timely requests to be notified of an agency deliberation of a specific license application.

Interested persons may prepare and submit evidence and argument to the agency and request a hearing on the issue. [PL 1987, c. 653, §1 (NEW).]

[PL 1987, c. 653, §1 (NEW).]

2. Hearing required. When a hearing is required by the Constitution of Maine, the applicable law or by agency regulation or has been requested pursuant to subsection 1, notice of the hearing shall be provided 30 days next prior to the scheduled initial hearing.

A. The notice shall be provided by mail to:

(1) The person or persons whose legal rights, duties or privileges are at issue;

(2) The municipality or municipalities affected by the license application, as determined by the agency or board to the best of its ability;

(3) The county, if the affected locality as determined by the agency or board to the best of its ability is an unorganized territory;

(4) The Legislators of the geographic area or areas affected by the issue;

(5) Intervenors;

(6) Persons who have made timely requests to be notified of a specific hearing; and

(7) Persons who have filed a written request, within the calendar year, to be notified of hearings.

In the event that new hearings on a pending license application or an existing license are required, notice shall be provided 30 days next prior to the scheduled hearing as herein provided. When hearings are continued with respect to a license application, this 30 days' notice shall not apply. [PL 1987, c. 653, §1 (NEW).]

[PL 1987, c. 653, §1 (NEW).]

3. Notice to the public. Notice to the public must be given by:

A. Publication twice in a newspaper of general circulation in the area of the proposed activity and in areas affected by the license application as determined by the agency or board to the best of its ability.

(1) Notice must be published in plain and clear English that can be readily understood by the general public.

(2) The notice must be published in the legal notices section in a form readily noticeable by the general public.

(3) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the first publication must be 30 days next prior to the date of the expected agency decision on the license application.

(4) With respect to notice of a hearing pursuant to subsection 2, the date of the first publication must be 30 days next prior to the hearing.

(5) With respect to notice of an opportunity for a hearing pursuant to subsection 1, the date of the 2nd publication must be at least 7 days and no more than 13 days before the date of the expected agency decision on the license application.

(6) With respect to notice of an opportunity for a hearing pursuant to subsection 2, the date of the 2nd publication must be at least 7 days and no more than 13 days before the date of the hearing. [PL 2013, c. 300, §2 (AMD).]

B. [PL 2013, c. 300, §2 (RP).]

C. [PL 2013, c. 300, §2 (RP).]

[PL 2013, c. 300, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 653, §1 (NEW). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 300, §2 (AMD).

§9052. Notice

1. Notice of hearing. When the applicable statute or constitutional law requires that an opportunity for hearing shall be provided, notice shall be given as follows:

A. To the person or persons whose legal rights, duties or privileges are at issue, by regular mail, sufficiently in advance of the anticipated time of the decision to afford an adequate opportunity to prepare and submit evidence and argument, and to request a hearing if so desired; and [PL 1977, c. 551, §3 (NEW).]

B. In any proceeding deemed by the agency to involve the determination of issues of substantial public interest, to the public sufficiently in advance of the anticipated time of the decision to afford

interested persons an adequate opportunity to prepare and submit evidence and argument, and to request a hearing if so desired. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

2. Hearing required. When a hearing is required by the applicable statute or by agency regulation, or has been requested pursuant to subsection 1, paragraph A, or has been set in an exercise of the agency's discretion, notice shall be given as follows:

A. To the person or persons whose legal rights, duties or privileges are at issue, by regular mail, sufficiently in advance of the hearing date to afford an adequate opportunity to prepare and submit evidence and argument; and [PL 1977, c. 551, §3 (NEW).]

B. In any proceeding deemed by the agency to involve the determination of issues of substantial public interest, to the public sufficiently in advance of the hearing date to afford interested persons an adequate opportunity to prepare and submit evidence and argument and to petition to intervene pursuant to section 9054. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

3. Notice to the public. Notice to the public shall be given:

A. By publication, at least twice in a newspaper of general circulation in the area of the state affected; [PL 1977, c. 551, §3 (NEW).]

B. By publication in any other trade, industry, professional or interest group publication which the agency deems effective in reaching persons who would be entitled to intervene as of right under section 9054, subsection 1; and [PL 1977, c. 551, §3 (NEW).]

C. In any other manner deemed appropriate by the agency. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

4. Notice. Notice shall consist of:

A. A statement of the legal authority and jurisdiction under which the proceeding is being conducted; [PL 1977, c. 551, §3 (NEW).]

B. A reference to the particular substantive statutory and rule provisions involved; [PL 1977, c. 551, §3 (NEW).]

C. A short and plain statement of the nature and purpose of the proceeding and of the matters asserted; [PL 1977, c. 551, §3 (NEW).]

D. A statement of the time and place of the hearing, or the time within which a hearing may be requested; [PL 1977, c. 551, §3 (NEW).]

E. A statement of the manner and time within which evidence and argument may be submitted to the agency for consideration, whether or not a hearing has been set; and [PL 1977, c. 551, §3 (NEW).]

F. When a hearing has been set, a statement of the manner and time within which applications for intervention under section 9054 may be filed. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

5. Cancellation or change of hearing. If a scheduled hearing is cancelled or postponed to a later date, the agency shall provide timely notice to the persons described in section 9051 and, if applicable, to the persons and localities listed in section 9051-A and other persons the agency is required to notify or customarily notifies of hearings.

[PL 1987, c. 653, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1987, c. 653, §2 (AMD).

§9052-A. Holding of hearings

Whenever an agency, including environmental agencies, holds a hearing pursuant to this subchapter, the agency shall strive to hold a hearing in the area or areas of the State which are significantly affected by the license application or which are concerned about the issue. [PL 1987, c. 653, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 653, §3 (NEW).

§9053. Disposition without full hearing

Unless otherwise provided by law, agencies may: [PL 1977, c. 551, §3 (NEW).]

1. Responsibility. Place on any party the responsibility of requesting a hearing if the agency notifies the party in writing of the party's right to a hearing, and of the party's responsibility to request the hearing;
[RR 2023, c. 2, Pt. B, §79 (COR).]

2. Stipulation, settlement, consent order. Make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement or consent order;
[PL 1977, c. 551, §3 (NEW).]

3. Default. Make informal disposition of any adjudicatory proceeding by default, provided that notice has been given that failure to take required action may result in default, and further provided that any such default may be set aside by the agency for good cause shown; and
[PL 1977, c. 551, §3 (NEW).]

4. Issues limited. Limit the issues to be heard or vary any procedure prescribed by agency rule or this subchapter if the parties and the agency agree to such limitation or variation, or if no prejudice to any party will result.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §79 (COR).

§9054. Public participation

1. Intervention. On timely application made pursuant to agency rules, the agency conducting the proceedings shall allow any person showing that the person is or may be, or is a member of a class that is or may be, substantially and directly affected by the proceeding, or any other agency of federal, state or local government, to intervene as a party to the proceeding.
[PL 2025, c. 390, Pt. A, §10 (AMD).]

2. Intervention; interested person. The agency may, by order, allow any other interested person to intervene and participate as a full or limited party to the proceeding. This subsection shall not be construed to limit public participation in the proceeding in any other capacity.
[PL 1977, c. 551, §3 (NEW).]

3. Participation limited or denied. When participation of any person is limited or denied, the agency shall include in the record an entry to that effect and the reasons therefor.
[PL 1977, c. 551, §3 (NEW).]

4. Consolidation of presentations. Where appropriate, the agency may require consolidation of presentations of evidence and argument by members of a class entitled to intervene under subsection 1, or by persons allowed to intervene under subsection 2.
[PL 1977, c. 551, §3 (NEW).]

5. Participation. The agency shall allow any of its staff to appear and participate in any adjudicatory proceeding.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §80 (COR). PL 2025, c. 390, Pt. A, §10 (AMD).

§9055. Ex parte communications; separation of functions

1. Communication prohibited. In any adjudicatory proceeding, no agency members authorized to take final action or presiding officers designated by the agency to make findings of fact and conclusions of law may communicate directly or indirectly in connection with any issue of fact, law or procedure, with any party or other persons legally interested in the outcome of the proceeding, except upon notice and opportunity for all parties to participate.
[PL 1985, c. 506, Pt. A, §5 (AMD).]

2. Communication permitted. This section shall not prohibit any agency member or other presiding officer described in subsection 1 from:

A. Communicating in any respect with other members of the agency or other presiding officers; or [PL 1977, c. 551, §3 (NEW).]

B. Having the aid or advice of those members of the agency member's or other presiding officer's own agency staff, counsel or consultants retained by the agency who have not participated and will not participate in the adjudicatory proceeding in an advocate capacity. [RR 2023, c. 2, Pt. B, §81 (COR).]

[RR 2023, c. 2, Pt. B, §81 (COR).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1979, c. 425, §11 (AMD). PL 1985, c. 506, §A5 (AMD). RR 2023, c. 2, Pt. B, §81 (COR).

§9056. Opportunity to be heard

1. Opportunity for hearing. The opportunity for hearing in an adjudicatory proceeding shall be afforded without undue delay.
[PL 1977, c. 551, §3 (NEW).]

2. Rights. Unless limited by stipulation under section 9053, subsection 4, or by agency order pursuant to section 9054, subsections 2 or 4, or unless otherwise limited by the agency to prevent repetition or unreasonable delay in proceedings, every party shall have the right to present evidence and arguments on all issues, and at any hearing to call and examine witnesses and to make oral cross-examination of any person present and testifying.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§9057. Evidence

1. Rules of privilege. Unless otherwise provided by statute, agencies need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law.
[PL 1977, c. 551, §3 (NEW).]

2. Evidence. Evidence shall be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Agencies may exclude irrelevant or unduly repetitious evidence.

[PL 1977, c. 551, §3 (NEW).]

3. Witnesses. All witnesses shall be sworn.
[PL 1977, c. 551, §3 (NEW).]

4. Prefiling testimony. Subject to these requirements, an agency may, for the purposes of expediting adjudicatory proceedings, require procedures for the prefiling of all or part of the testimony of any witness in written form. Every such witness shall be subject to oral cross-examination.
[PL 1977, c. 551, §3 (NEW).]

5. Written evidence; exception. No sworn written evidence shall be admitted unless the author is available for cross-examination or subject to subpoena, except for good cause shown.
[PL 1977, c. 551, §23 (NEW).]

6. Confidential information. Information may be disclosed that is confidential pursuant to Title 22, chapters 958-A and 1071 and sections 7703 and 1828; Title 24, section 2506; and Title 34-A, except for information, the disclosure of which is absolutely prohibited under Title 34-A, section 1216. Disclosure may be only for the determination of issues involving unemployment compensation proceedings relating to a state employee, state agency personnel actions and professional or occupational board licensure, certification or registration.

A. For the purpose of this subsection, "hearing officer" means presiding officer, judge, board chair, arbitrator or any other person considered responsible for conducting a proceeding or hearing subject to this subsection. In the case of the Civil Service Appeals Board, the presiding officer is the entire board. "Employees of the agency" means employees of a state agency or department or members, agents or employees of a board who are directly related to and whose official duties involve the matter at issue. [PL 2003, c. 205, §1 (AMD).]

B. The confidential information disclosed pursuant to this subsection is subject to the following limitations:

(1) The hearing officer determines that introduction of the confidential information is necessary for the determination of an issue before the hearing officer;

(2) During the introduction of confidential information, the proceeding is open only to the hearing officer, employees of the agency, parties, parties' representatives, counsel of record and the witness testifying regarding the information, and access to the information is limited to these people. Disclosure is limited to information directly related to the matter at issue;

(3) Witnesses are sequestered during the introduction of confidential information, except when offering testimony at the proceeding;

(4) The names or identities of reporters of confidential information or of other persons may not be disclosed, except when disclosure is determined necessary and relevant by the hearing officer; and

(5) After hearing, the confidential information is sealed within the record and may not be further disclosed, except upon order of court. [PL 1997, c. 271, §1 (AMD).]
[PL 2003, c. 205, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1987, c. 714, §1 (AMD). PL 1989, c. 175, §1 (AMD). PL 1997, c. 271, §1 (AMD). PL 2003, c. 205, §1 (AMD).

§9058. Official notice

1. Official notice. Agencies may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical or scientific matters within their specialized knowledge and of statutes, regulations and nonconfidential agency records. Parties shall be

notified of the material so noticed, and they shall be afforded an opportunity to contest the substance or materiality of the facts noticed.
[PL 1977, c. 551, §3 (NEW).]

2. Facts. Facts officially noticed shall be included and indicated as such in the record.
[PL 1977, c. 551, §3 (NEW).]

3. Evaluation of evidence. Notwithstanding the foregoing, agencies may utilize their experience, technical competence and specialized knowledge in the evaluation of the evidence presented to them.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§9059. Record

1. Record. In an adjudicatory proceeding, the agency shall make a record consisting of:

A. All applications, pleadings, motions, preliminary and interlocutory rulings and orders; [PL 1977, c. 551, §3 (NEW).]

B. Evidence received or considered; [PL 1977, c. 551, §3 (NEW).]

C. A statement of facts officially noticed; [PL 1977, c. 551, §3 (NEW).]

D. Offers of proof, objections and rulings thereon; [PL 1977, c. 551, §3 (NEW).]

E. Proposed findings and exceptions, if any; [PL 1977, c. 551, §3 (NEW).]

F. The recommended decision, opinion or report, if any, by the presiding officer; [PL 1977, c. 551, §3 (NEW).]

G. The decision of the agency; and [PL 1977, c. 551, §3 (NEW).]

H. All staff memoranda submitted to the members of the agency or other presiding officers by agency staff in connection with their consideration of the case, except memoranda of counsel to the agency. [PL 1977, c. 551, §3 (NEW).]
[PL 1977, c. 551, §3 (NEW).]

2. Hearings recorded. The agency shall record all hearings in a form susceptible to transcription. Portions of the record as required and specified in subsection 1 may be included in the recording. The agency shall transcribe the recording when necessary for the prosecution of an appeal.
[PL 1977, c. 551, §3 (NEW).]

3. Record; copies. The agency shall make a copy of the record, including recordings made pursuant to subsection 2, available at its principal place of operation, for inspection by any person during normal business hours; and shall make copies of the record, copies of recordings or transcriptions of recordings available to any person at actual cost. Notwithstanding the provisions of this subsection, the agency shall withhold, obliterate or otherwise prevent the dissemination of any portions of the record which are made confidential by state or federal statute, but shall do so in the least restrictive manner feasible.
[PL 1977, c. 551, §3 (NEW).]

4. Decision on the record. All material, including records, reports and documents in the possession of the agency, of which it desires to avail itself as evidence in making a decision, shall be offered and made a part of the record and no other factual information or evidence shall be considered in rendering a decision.
[PL 1977, c. 551, §3 (NEW).]

5. Documentary evidence. Documentary evidence may be incorporated in the record by reference when the materials so incorporated are made available for examination by the parties before being received in evidence.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§9060. Subpoenas and discovery

1. Proceedings. In any adjudicatory proceeding for which the agency, by independent statute, has authority to issue subpoenas, any party shall be entitled as of right to their issuance in the name of the agency to require the attendance and testimony of witnesses and the production of any evidence relating to any issue of fact in the proceeding.

In any proceeding in which the conducting agency lacks independent authority to issue subpoenas, any party may request the issuance of a subpoena by the agency, and the agency is hereby authorized to issue the same if it first obtains the approval of the Attorney General or of any deputy attorney general. Such approval shall be given when the testimony or evidence sought is relevant to any issue of fact in the proceeding.

When properly authorized, subpoenas may be issued by the agency or by any person designated by the agency for that purpose, in accordance with the following provisions:

A. The agency may prescribe the form of subpoena, but it shall adhere, insofar as practicable, to the form used in civil cases before the courts. Witnesses shall be subpoenaed only within the territorial limits and in the same manner as witnesses in civil cases before the courts, unless another territory or manner is provided by law. Witnesses subpoenaed shall be paid the same fees for attendance and travel as in civil cases before the courts. Such fees shall be paid by the party requesting the subpoena. [PL 1977, c. 551, §3 (NEW).]

B. Any subpoena issued shall show on its face the name and address of the party at whose request it was issued. [PL 1977, c. 551, §3 (NEW).]

C. Any witness subpoenaed may petition the agency to vacate or modify a subpoena issued in its name. The agency shall give prompt notice to the party who requested issuance of the subpoena. After such investigation as the agency considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or the evidence whose production is required does not relate with reasonable directness to any matter in question, or that a subpoena for the attendance of a witness or the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested. [PL 1977, c. 551, §3 (NEW).]

D. Failure to comply with a subpoena lawfully issued in the name of the agency and not revoked or modified by the agency as provided in this section shall be punishable as for contempt of court. [PL 1977, c. 694, §36 (AMD).]
[PL 1977, c. 694, §36 (AMD).]

2. Adoption of rules. Each agency having power to conduct adjudicatory proceedings may adopt rules providing for discovery to the extent and in the manner appropriate to its proceeding.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §36 (AMD).

§9061. Decisions

Every agency decision made at the conclusion of an adjudicatory proceeding must be in writing or stated in the record and must include findings of fact sufficient to apprise the parties and any interested member of the public of the basis for the decision. A copy of the decision must be delivered or promptly mailed to each party to the proceeding or the party's representative of record. Written notice of the party's rights to review or appeal of the decision within the agency or review of the decision by the courts, as the case may be, and of the action required and the time within which the action must be taken in order to exercise the right of review or appeal, must be given to each party with the decision. [RR 2023, c. 2, Pt. B, §82 (COR).]

The agency shall maintain a record of the vote of each member of the agency with respect to the agency decision. [PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §82 (COR).

§9062. Presiding officers

1. Presiding officer. An agency may authorize any agency member, employee or agent to act as presiding officer in any hearing.
[PL 1977, c. 551, §3 (NEW).]

2. Substitute officer. Whenever a presiding officer is disqualified or it becomes impracticable for the presiding officer to continue the hearing, another presiding officer may be assigned to continue with the hearing, except that, if it is shown substantial prejudice to any party will thereby result, the substitute officer shall commence the hearing anew.
[RR 2023, c. 2, Pt. B, §83 (COR).]

3. Presiding officer; duties. Subject to rules or limitations imposed by the agency, presiding officers may:

A. Administer oaths and affirmations; [PL 1977, c. 551, §3 (NEW).]

B. Rule on the admissibility of evidence; [PL 1977, c. 551, §3 (NEW).]

C. Regulate the course of the hearing, set the time and place for continued hearings, and fix the time for filing of evidence, briefs and other written submissions; and [PL 1977, c. 551, §3 (NEW).]

D. Take other action authorized by statute or agency rule consistent with this subchapter. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

4. Report. In the event that the presiding officer prepares any report or proposed findings for the agency, the report or findings shall be in writing. A copy of the report or findings shall be provided to each party and an opportunity shall be provided for response or exceptions to be filed by each party.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §83 (COR).

§9063. Bias of presiding officer or agency member

1. Hearings; impartial. Hearings must be conducted in an impartial manner. Upon the filing in good faith by a party of a timely charge of bias or of personal or financial interest, direct or indirect, of a presiding officer or agency member in the proceeding requesting that the presiding officer or agency member be disqualified, that presiding officer or agency member shall determine the matter as a part of the record.
[RR 2023, c. 2, Pt. B, §84 (COR).]

2. Counsel. Notwithstanding section 9055, the person involved may consult with private counsel concerning the charge.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). RR 2023, c. 2, Pt. B, §84 (COR).

§9064. Enforcement

The agency shall be entitled to enforce its order in the courts by way of injunction or other appropriate legal remedy. [PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

SUBCHAPTER 5

LICENSING

§10001. Adjudicatory proceedings

When licensing is required as a matter of constitutional right or by statute to be preceded by notice and opportunity for hearing, the provisions of subchapter IV concerning adjudicatory proceedings shall apply. [PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§10002. Expiration

Except as otherwise provided in this subchapter, when a licensee has made timely and sufficient application for renewal of a license, the existing license shall not expire until the application has been finally determined by the agency. [PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§10003. Right to Hearing

1. Opportunity for hearing. Subject to the provisions of section 10004, an agency may not amend or modify any license unless it has afforded the licensee an opportunity for hearing in conformity with subchapter IV, nor may it refuse to renew any license unless it has afforded the licensee either an opportunity for an agency hearing in conformity with subchapter IV or an opportunity for a hearing in the District Court. In any such proceeding determined by the agency to involve a substantial public interest, an opportunity for public comment and participation must also be given by public notice in conformity with subchapter IV.
[PL 1999, c. 547, Pt. B, §17 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

2. Proceeding. In any proceeding involving a proposed modification or amendment of a license which was the subject of an earlier hearing, the agency shall give notice thereof to all parties to the earlier proceeding and in any other manner required by section 9052, and may reopen the earlier proceeding for consideration of the proposed amendment or modification.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §37 (AMD). PL 1999, c. 547, §B17 (AMD). PL 1999, c. 547, §B80 (AFF).

§10004. Action without hearing

Notwithstanding the provisions of sections 10003 and 10051, an agency may revoke, suspend or refuse to renew any license without proceedings in conformity with subchapters IV or VI, when: [PL 1977, c. 694, §38 (RPR).]

1. Judicial action. The decision to take that action rests solely upon a finding or conviction in court of any violation which by statute is expressly made grounds for revocation;
[PL 1977, c. 694, §38 (NEW).]

2. Reciprocal license. The Maine license has been issued upon the basis of a reciprocal agreement with another government, and the Maine action is based upon evidence, in the form of a certified copy, that the authority issuing the license which provided the basis for reciprocal licensing in Maine has revoked or suspended their license;
[PL 1977, c. 694, §38 (NEW).]

3. Health or safety hazard. The health or physical safety of a person or the continued well-being of a significant natural resource is in immediate jeopardy at the time of the agency's action, and acting in accordance with subchapter 4 or 6 would fail to adequately respond to a known risk, as long as the revocation, suspension or refusal to renew does not continue for more than 30 days, except as provided in Title 22, section 804 and subject to review under Title 22, section 804, subsection 3;
[PL 2021, c. 349, §1 (AMD).]

4. Certified inspector. The action is based solely upon the physical test, examination or inspection by a state-certified inspector of any product, animal, material or equipment, from which the agency concludes that action in accordance with subchapter IV or VI would not adequately protect public health or safety, provided that action under this subsection shall not be effective for a period of more than 30 days.
[PL 1977, c. 694, §38 (NEW).]

4-A. Gambling. The action is based on a violation of laws or rules at gambling facilities that are cited by the Department of Public Safety, Gambling Control Board, established pursuant to Title 8, chapter 31, or the Gambling Control Board or its designees determine that acting in accordance with subchapters 4 and 6 would fail to serve the public interest; however, the suspension, revocation or refusal to renew may not continue for more than 30 days.
[PL 2003, c. 687, Pt. A, §1 (NEW); PL 2003, c. 687, Pt. B, §11 (AFF).]

5. Rules of sportsmanship. In the course of any professional sporting event directly regulated by an agency, the agency determines that a licensee has:

A. Engaged in physical contact that is prohibited by the rules of the sport with another contestant or official immediately before, during or immediately after the regulated sporting event; [PL 2017, c. 475, Pt. C, §2 (AMD).]

B. Engaged in a use or administration of drugs that is prohibited by the rules of the sport; [PL 2017, c. 475, Pt. C, §2 (AMD).]

C. Failed to disclose to proper authorities or officials a known medical or mental condition of a contestant that was required to be disclosed or that could affect the public health and safety; or [PL 2017, c. 475, Pt. C, §2 (AMD).]

D. Failed to fulfill contracts or obligations to make payments to contestants and officials for their participation in professional athletic events. [PL 2017, c. 475, Pt. C, §2 (AMD).]

The revocation, suspension or refusal to renew a license for a violation described in this subsection may not continue for more than 30 days; or

[PL 2017, c. 475, Pt. C, §2 (AMD).]

6. Horse racing. Violations of rules which occur at race tracks and cited by a commission, or its licensed designee, if acting in accordance with subchapters IV and VI would fail to immediately remedy the needs of the sport; provided that the revocation, suspension or refusal to renew shall not continue for more than 30 days.
[PL 1977, c. 694, §38 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §38 (RPR). PL 2003, c. 687, §A1 (AMD). PL 2003, c. 687, §B11 (AFF). PL 2017, c. 475, Pt. C, §2 (AMD). PL 2021, c. 349, §1 (AMD).

§10005. Decision and record

Any licensing decision not involving an adjudicatory proceeding, as defined in section 8002, subsection 1, shall be made in writing and shall be made only on the basis of evidence relevant to the case. When the requested license is denied, or only conditionally approved, the decision shall contain or reflect the agency's reasoning, in a manner sufficient to inform the applicant and the public of the basis for the agency's action. [PL 1985, c. 680, §8 (NEW).]

SECTION HISTORY

PL 1985, c. 680, §8 (NEW).

SUBCHAPTER 6

ADMINISTRATIVE COURT

§10051. Jurisdiction of District Court; retained powers of agency

1. Jurisdiction. Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 2-B, 62, 114 and 135; and Title 38, section 342, the District Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.
[PL 2021, c. 173, §1 (AMD).]

2. Complaining agency. The complaining agency retains every other power granted to it by statute or necessarily implied therein, except the power of revoking or suspending licenses issued by it. Such retained powers include, but are not limited to, the granting or renewing of licenses, the investigating and determining of grounds for the filing of a complaint under this section and the prosecution of such complaints.
[PL 1999, c. 547, Pt. B, §19 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

3. Appellate jurisdiction. The District Court has exclusive jurisdiction to review licensing decisions of the Department of Administrative and Financial Services taken pursuant to Title 28-A, sections 453-A, 458 and 653. Chapter 375, subchapter 7 governs these proceedings as far as applicable, substituting "District Court" for "Superior Court."
[PL 2013, c. 368, Pt. V, §3 (AMD).]

4. Violations.
[PL 2003, c. 505, §2 (RP).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 694, §39 (AMD). PL 1979, c. 265, §2 (AMD). PL 1981, c. 698, §13 (AMD). PL 1983, c. 171, §§3,4 (AMD). PL 1983, c. 683, §1 (AMD). PL 1983, c. 818, §1 (AMD). PL 1985, c. 748, §§3,4 (AMD). PL 1987, c. 141, §§B3,B4 (AMD). PL 1989, c. 203, §1 (AMD). PL 1991, c. 377, §4 (AMD). PL 1991, c. 563, §2 (AMD). PL 1991, c. 824, §A5 (AMD). PL 1995, c. 65, §A9 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 140, §1 (AMD). PL 1999, c. 547, §B19 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 229, §2 (AMD). PL 2003, c. 451, §T3 (AMD). PL 2003, c. 505, §§1,2 (AMD). PL 2005, c. 65, §C3 (AMD). PL 2009, c. 112, Pt. B, §3 (AMD). PL 2013, c. 368, Pt. V, §3 (AMD). PL 2021, c. 173, §1 (AMD).

SUBCHAPTER 7

JUDICIAL REVIEW - FINAL AGENCY ACTION

§11001. Right to review

1. Agency action. Except where a statute provides for direct review or review of a pro forma judicial decree by the Supreme Judicial Court or where judicial review is specifically precluded or the issues therein limited by statute, any person who is aggrieved by final agency action shall be entitled to judicial review thereof in the Superior Court in the manner provided by this subchapter. Preliminary, procedural, intermediate or other nonfinal agency action shall be independently reviewable only if review of the final agency action would not provide an adequate remedy.
[PL 1979, c. 127, §40 (AMD).]

2. Failure or refusal of agency to act. Any person aggrieved by the failure or refusal of an agency to act shall be entitled to judicial review thereof in the Superior Court. The relief available in the Superior Court shall include an order requiring the agency to make a decision within a time certain.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1977, c. 616, §2 (AMD). PL 1977, c. 694, §40 (AMD). PL 1979, c. 127, §40 (AMD).

§11002. Commencement of action

1. Proceedings instituted. Proceedings for judicial review of final agency action or the failure or refusal of an agency to act shall be instituted by filing a petition for review in the Superior Court for the county where:

A. One or more of the petitioners reside or have their principal place of business; [PL 1977, c. 551, §3 (NEW).]

B. The agency has its principal office; or [PL 1977, c. 551, §3 (NEW).]

C. The activity or property which is the subject of the proceeding is located. [PL 1977, c. 551, §3 (NEW).]

The court may grant a change of venue for good cause shown.
[PL 1977, c. 551, §3 (NEW).]

2. Petition; contents. The petition for review shall specify the persons seeking review, the manner in which they are aggrieved and the final agency action or agency inaction which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief, which may be in the alternative.
[PL 1977, c. 551, §3 (NEW).]

3. Petition filed. The petition for review shall be filed within 30 days after receipt of notice if taken by a party to the proceeding of which review is sought. Any other person aggrieved shall have 40 days from the date the decision was rendered to petition for review. If the review sought is from an agency's failure or refusal to act, the petition for review shall be filed within 6 months of the expiration of the time within which the action should reasonably have occurred.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§11003. Service

1. Petition served. The petition for review shall be served by certified mail, return receipt requested, upon:

A. The agency; [PL 1977, c. 551, §3 (NEW).]

B. All parties to the agency proceeding; and [PL 1977, c. 551, §3 (NEW).]

C. The Attorney General. [PL 1977, c. 551, §3 (NEW).]
[PL 1977, c. 551, §3 (NEW).]

2. Certification. Upon request, the agency shall certify to the petitioner the names and addresses, as disclosed by its records, of all parties to the proceeding in which the decision sought to be reviewed was made, and service upon parties so certified shall be sufficient.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§11004. Stay

The filing of a petition for review shall not operate as a stay of the final agency action pending judicial review. Application for a stay of an agency decision shall ordinarily be made first to the agency, which may issue a stay upon a showing of irreparable injury to the petitioner, a strong likelihood of success on the merits, and no substantial harm to adverse parties or the general public. A motion for such relief may be made to the Superior Court, but the motion shall show that application to the agency for the relief sought is not practicable, or that application has been made to the agency and denied, with the reasons given by it for denial, or that the action of the agency did not afford the relief which the petitioner had requested. In addition, the motion shall show the reasons for the relief requested and the facts relied upon, which facts, if subject to dispute, shall be supported by affidavits. Reasonable notice of the motion shall be given to all parties to the agency proceeding. The court may condition relief under this rule upon the posting of a bond or other appropriate security, except that no bond or security shall be required of the State or any state agency or any official thereof. [PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

§11005. Responsive pleading; filing of the record

No responsive pleading need be filed unless required by order of the reviewing court. The agency shall file in the reviewing court within 30 days after the petition for review is filed, or within such shorter or longer time as the court may allow on motion, the original or a certified copy of the complete record of the proceedings under review. In the case of the alleged failure or refusal of an agency to act, the record must include written, electronic or otherwise memorialized communications, directives, orders and other documentation of all decisions by the agency to act, to refuse to act or to delay action. Within 20 days after the petition for review is filed, all parties to the agency proceeding who wish to

participate in the review shall file a written appearance that states a position with respect to affirmance, vacation, reversal or modification of the decision under review. [PL 2019, c. 111, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 2019, c. 111, §1 (AMD).

§11006. Power of court to correct or modify record

1. Review. Judicial review shall be confined to the record upon which the agency decision was based, except as otherwise provided by this section.

A. In the case of the failure or refusal of an agency to act or of alleged irregularities in procedure before the agency which are not adequately revealed in the record, evidence thereon may be taken and determination made by the reviewing court. [PL 1977, c. 551, §3 (NEW).]

B. The reviewing court may order the taking of additional evidence before the agency if it finds that additional evidence, including evidence concerning alleged unconstitutional takings of property, is necessary to deciding the petition for review; or if application is made to the reviewing court for leave to present additional evidence, and it is shown that the additional evidence is material to the issues presented in the review, and could not have been presented or was erroneously disallowed in proceedings before the agency. After taking the additional evidence, the agency may modify its findings and decisions, and shall file with the court, to become part of the record for review, the additional evidence and any new findings or decision. [PL 1977, c. 551, §3 (NEW).]

C. If a required hearing was not held before the review proceedings were initiated, the reviewing court shall remand to the agency for a hearing in accordance with subchapter IV. [PL 1977, c. 551, §3 (NEW).]

D. In cases where an adjudicatory proceeding prior to final agency action was not required, and where effective judicial review is precluded by the absence of a reviewable administrative record, the court may either remand for such proceedings as are needed to prepare such a record or conduct a hearing de novo. [PL 1985, c. 680, §9 (RPR).]

[PL 1985, c. 680, §9 (AMD).]

2. Corrections to record. The reviewing court may require or permit subsequent corrections to the record.

[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 1985, c. 680, §9 (AMD).

§11007. Manner and scope of review

1. Schedule. The court, upon request or its own motion, shall set a schedule for the filing of briefs by the parties and for oral argument.

[PL 1977, c. 551, §3 (NEW).]

2. Review by court. Except where otherwise provided by statute or constitutional right, review shall be conducted by the court without a jury.

[PL 1977, c. 551, §3 (NEW).]

3. Judgment. The court may not substitute its judgment for that of the agency on questions of fact, except that, with respect to a timely appeal by an individual of a denial of a disability determination by a hearing officer pursuant to sections 17106-A and 17106-B, the court shall review the matter de novo.

[PL 2021, c. 277, §10 (AMD); PL 2021, c. 277, §45 (AFF).]

4. Decision. The court may:

A. Affirm the decision of the agency; [PL 1977, c. 551, §3 (NEW).]

B. Remand the case for further proceedings, findings of fact or conclusions of law or direct the agency to hold such proceedings or take such action as the court deems necessary; or [PL 1977, c. 551, §3 (NEW).]

C. Reverse or modify the decision if the administrative findings, inferences, conclusions or decisions are:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the agency;

(3) Made upon unlawful procedure;

(4) Affected by bias or error of law;

(5) Unsupported by substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion. [PL 1977, c. 551, §3 (NEW).]

[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW). PL 2021, c. 277, §10 (AMD). PL 2021, c. 277, §45 (AFF).

§11008. Appeal to law court

1. Appeal. Any party to the review proceeding in the Superior Court under this subchapter may obtain review by appeal to the Supreme Judicial Court sitting as the law court. The appeal shall be taken as in other civil cases.
[PL 1977, c. 551, §3 (NEW).]

2. Supreme Judicial Court. The Supreme Judicial Court shall have the power to make and amend rules of pleading, practice and procedure, for the purposes of securing a simple, speedy and effective judicial review under this subchapter.
[PL 1977, c. 551, §3 (NEW).]

SECTION HISTORY

PL 1977, c. 551, §3 (NEW).

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