

§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. 568, §1 (NEW). PL 1977, c. 661, §3 (AMD). PL 1977, c. 694, §§29-B TO 32 (AMD). PL 1977, c. 696, §47 (AMD). PL 1977, c. 696, §48 (RAL). 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).

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