

720 CMR: DEPARTMENT OF HIGHWAYS

720 CMR 3.00: RULES FOR THE ADOPTION OF ADMINISTRATIVE REGULATIONS UPON PETITION OF AN INTERESTED PERSON

Section

3.01: Definition

3.02: Petition for Adoption of Regulations

3.03: Initial Procedure to Handle Recommended Regulations

3.04: Advisory Ruling

3.01: Definition

720 CMR 3.00 governs the procedures to be followed by the Department of Highways (hereinafter called the "Department") subject to the State Administrative Procedure Act when promulgating regulations (M.G.L. c. 30A, §§ 2 and 3) upon petition by an interested person under M.G.L. c. 30A, § 4. The term "regulation" is defined by the Act as "the whole or any part of every rule, regulation, standard or other requirement of general application and future effect adopted by an agency to implement or interpret the law enforced or administered by it." (M.G.L. c. 30A, § 1(5)). "Regulation" does not, however, include advisory rulings, rules relating to the internal management of an agency and not directly related to the rights or procedures available to the public, or decisions rendered in adjudicatory proceedings.

3.02: Petition for Adoption of Regulations

Any interested person or his attorney may at any time petition the Department to adopt, amend, or repeal any regulation of the Department. The petition shall be addressed to the Commissioner of the Department and sent to the Department Secretary by mail or delivered in person during normal business hours. All petitions shall be signed by the petitioner or an attorney on behalf of the petitioner, and set forth clearly and concisely the text of the proposed regulation. The petition may be accompanied by any supporting data, views or arguments.

3.03: Initial Procedure to Handle Recommended Regulations

Upon receipt of a petition for the adoption, amendment or repeal of a regulation submitted pursuant to 720 CMR 3.02 or upon written recommendation by a member of the Commission that such regulation be adopted, amended or repealed, the Commission shall consider the petition or recommendation at its next scheduled meeting and shall thereupon, determine whether to schedule the petition or recommendation for the further proceedings in accordance with the provisions of M.G.L. c. 30A, applicable Executive Orders, the rules and regulations of the Secretary of the Commonwealth, and all other applicable laws. If the regulation has been presented to the Commission by petition under 720 CMR 3.02, the Commission shall within ten days after the meeting notify the petitioner of the Commission's action.

3.04: Advisory Ruling

Any interested person may at any time request an advisory ruling with respect to the applicability to any person, property or factual situation of any statute or regulation enforced or administered by the Commission. The request shall be addressed to the Commission and sent to the Secretary of the Commission by mail or delivered in person during normal business hours.

All requests shall be signed by the person making it or the petitioner's attorney, contain the petitioner's or the attorney's address, and state clearly and concisely the substance or nature of the request. The request may be accompanied by any supporting data, views or arguments. The Commission shall consider the request at its next scheduled meeting and shall within ten days thereafter notify the petitioner that the request is denied or that the Commission will render an advisory ruling. The Commission may at any time rescind a decision to render an advisory ruling. If an advisory ruling is rendered, a copy of the ruling shall be sent to the person requesting it.

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720 CMR 3.00: M.G.L. c. 30A, § 4.