

§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).]

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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).]

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SECTION HISTORY

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

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