

**§339. Review process; public hearing**

**1. Review process.** The review process consists of an evaluation of the project application for a certificate of need by the department in light of:

A. The application itself; [PL 2001, c. 664, §2 (NEW).]

B. Material collected or developed by or for the department staff to test the assertions in the application; [PL 2001, c. 664, §2 (NEW).]

C. All comments received by any person regarding the project; and [PL 2001, c. 664, §2 (NEW).]

D. Any other material made part of the record. [PL 2001, c. 664, §2 (NEW).]

[PL 2001, c. 664, §2 (NEW).]

**2. Public hearing.** The following provisions apply to a public hearing under this chapter.

A. The commissioner or the commissioner's designee may hold a public hearing regarding the application. [PL 2001, c. 664, §2 (NEW).]

B. The commissioner, or the commissioner's designee, shall hold a public hearing if any person directly affected by a review requests, in writing, that such a public hearing be held and the request is timely received by the commissioner. If a public informational meeting on the application is conducted pursuant to section 337, subsection 5, the request for a public hearing must be received by the commissioner no later than 15 days following the informational hearing. If no public informational meeting is conducted, the request for a public hearing must be received within 15 days following the publication of the public notice required by section 337, subsection 5. [PL 2011, c. 648, §19 (AMD).]

C. An electronic or stenographic record of the public hearing must be made part of the record. [PL 2001, c. 664, §2 (NEW).]

D. A public hearing is not required for the simplified review and approval process set forth in section 336 unless requested by the applicant, the department or a person directly affected by a review. [PL 2011, c. 648, §20 (AMD).]

[PL 2011, c. 648, §§19, 20 (AMD).]

**3. Preliminary staff analyses.** As soon as practicable, the department staff shall provide the preliminary analyses of the application and the record to the applicant, the commissioner and any person who requests the analyses and record. Notice of the availability of the analyses must be published in a newspaper in general circulation in Kennebec County and a newspaper of general circulation serving the area in which the project is to be located and on the department's publicly accessible site on the Internet.

[PL 2001, c. 664, §2 (NEW).]

**4. Final department staff analysis.** A final department staff analysis must be submitted to the commissioner, together with the documentary record described in section 335, subsection 2, as soon as practicable after the closing of the record.

[PL 2001, c. 664, §2 (NEW).]

**5. Reviews.** To the extent practicable, a review must be completed and the commissioner shall make a decision within 60 days after the application has been certified as complete by the applicant for a simplified review, or within 90 days for an expanded review. The department shall establish criteria for determining when it is not practicable to complete a review within these time frames. Whenever it is not practicable to complete a review within these time frames, the department may extend the review period for up to an additional 30 days.

[PL 2011, c. 648, §21 (AMD).]

**6. Public necessity.** The department may delay action on an otherwise complete application for up to 120 days from the time the application has been certified as complete by the applicant if the department finds that a public necessity exists. The department shall provide written notice of the delay to the applicant and any other person who has requested in writing information regarding the application. For purposes of this subsection, the department shall find that a public necessity exists if:

A. The application represents a new service or technology not previously provided within the State; [PL 2001, c. 664, §2 (NEW).]

B. The application represents a potential significant impact on health care system costs; [PL 2001, c. 664, §2 (NEW).]

C. The application represents a new service or technology for which a health care system need has not been previously established; or [PL 2001, c. 664, §2 (NEW).]

D. There are several applications for the same or similar projects before the department. [PL 2001, c. 664, §2 (NEW).]

[PL 2011, c. 648, §22 (AMD).]

#### SECTION HISTORY

PL 2001, c. 664, §2 (NEW). PL 2009, c. 383, §12 (AMD). PL 2011, c. 424, Pt. D, §§3-5 (AMD). PL 2011, c. 424, Pt. E, §1 (AFF). PL 2011, c. 648, §§19-22 (AMD).

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