

§8053. Notice

1. Notice of rulemaking without hearing. At least 20 days prior to the comment deadline of any rule without hearing, the agency shall deliver or mail written notice or, with written or electronic agreement of the party, provide electronic 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 2011, c. 479, §§1-3 (AMD).]

2. Notice of rulemaking hearing. When an agency holds a public hearing prior to adoption of a rule, notice of the hearing shall be given in the manner described in subsections 1 and 5, using the date of the hearing to calculate the time periods involved;

[PL 1979, c. 425, §5 (RPR).]

3. Contents of notice. Except for notices governed by subsections 5 and 7, a notice under this section must:

- A. Refer to the statutory authority under which the adoption of the rule is proposed; [PL 1979, c. 425, §5 (NEW).]
- B. State the time and place of any scheduled public hearing or state the manner in which a hearing may be requested; [PL 1979, c. 425, §5 (NEW).]
- C. 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 1985, c. 77, §2 (AMD).]
- C-1. 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, §1 (NEW).]
- D. If possible, contain the express terms of the proposed rule or otherwise describe the substance of the proposed rule, stating the subjects and issues involved and indicate where a copy of the proposed rule may be obtained; [PL 2007, c. 181, §2 (AMD).]
- E. Refer to the substantive state or federal law to be implemented by the rules; [PL 2019, c. 146, §1 (AMD).]
- F. Indicate where a copy of the statement of impact on small business pursuant to section 8052, subsection 5-A may be obtained; and [PL 2019, c. 146, §2 (AMD).]

G. Indicate whether the rule is routine technical or major substantive as those terms are defined in section 8071. [PL 2019, c. 146, §3 (NEW).]
[PL 2019, c. 146, §§1-3 (AMD).]

3-A. Copies of proposed rules available upon request. At least 20 days prior to hearing on any proposed rule and at least 20 days prior to the comment deadline of any rule without a hearing, the agency shall make copies of the proposed rule available in writing or, with agreement of the requestor, electronically to persons upon request.
[PL 2003, c. 207, §2 (AMD).]

4. Fee schedule. The agency may establish a fee schedule for notice and for proposed rules under subsection 1, paragraph B, imposing a cost reasonably related to the actual expense entailed. Fees may vary depending upon the method of transmission of notice and the rules being transmitted.
[PL 2003, c. 207, §3 (AMD).]

5. Publication. Using the format of notice pursuant to subsection 7, the Secretary of State shall:

A. Arrange for the weekly publication of a consolidated notice of rule making of all state agencies, which shall also include a brief explanation to assist the public in participating in the rule-making process. Notice of each rule-making proceeding shall be published once 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing is scheduled; [PL 1981, c. 698, §12 (RPR).]

B. 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 2009, c. 256, §2 (AMD).]

C. Designate one day as rules day for publication of notices on rulemaking as set forth in this subsection; and [PL 1991, c. 837, Pt. A, §11 (AMD).]

D. Be reimbursed for the cost of publication of rule-making notice by the agencies proposing the rulemaking. The total costs of each consolidated publication will be prorated by the Secretary of State among all agencies submitting notice for a particular week. [PL 1979, c. 425, §5 (NEW).]
[PL 2009, c. 256, §2 (AMD).]

6. Electronic publication. In addition to the printed publication required in subsection 5, the Secretary of State shall maintain a publicly accessible website for posting the notices of all proposed and adopted rules. The contents of the notice for electronic publication are pursuant to subsection 3. An agency, on its publicly accessible website, shall either post its proposed and adopted rules or provide a link to the proposed or adopted rules posted on the Secretary of State's website. Notice of each rule-making proceeding must be published on the Secretary of State's website 17 to 24 days prior to the public hearing on the proposed rule or at least 30 days prior to the last date on which views and arguments may be submitted to the agency for consideration if no public hearing was scheduled.
[PL 2011, c. 326, §1 (AMD).]

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 identified under section 8063; and [PL 2019, c. 146, §4 (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 2019, c. 146, §§4, 5 (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).

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