

702 CMR 1.00: ADJUDICATORY PROCEEDINGS

Section

1.01: Adjudicatory Proceedings

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- (1) Hearings held before the division pursuant to 702 CMR 1.01 shall be adjudicatory proceedings conducted pursuant to 801 CMR 1.01: *Formal Rules*, as modified by 702 CMR 1.01.
- (2) The following types of adjudicatory hearings shall be held by the division:
  - (a) Hearings regarding the suspension, revocation, or withholding of any certificate, license, permit or registration issued pursuant to M.G.L. c. 90 or 702 CMR.
  - (b) Hearings appealing from the division's denial of a permit to erect or modify a structure within an airport approach pursuant to M.G.L. c. 90, §§ 35A through 35C.
  - (c) Investigative hearings pursuant to M.G.L. c. 90, § 41 that the division determines, in its discretion, should be held as formal adjudicatory hearings.
  - (d) Hearings requested pursuant to M.G.L. c. 90, §§ 49B through 49T.
  - (e) Any other hearing required to be held as an adjudicatory hearing or which the division determines, in its discretion, should be held as an adjudicatory hearing.
- (3) The administrator shall preside over, or appoint an officer to preside over, any hearing held pursuant to 702 CMR 1.01. The notice scheduling the time and place for the hearing shall specify whether the administrator or a designated individual shall act as presiding officer in the particular case.
- (4) Burden of Proof. The division has substantial discretion in issuing, suspending, revoking or withholding certificates, licenses, permits and registrations. Any party requesting a hearing before the division seeking review of any division decision shall have the affirmative obligation to establish by clear and convincing evidence its affirmative qualification for the relief sought through the hearing.
- (5) Any division hearings conducted pursuant to M.G.L. c. 90, §§ 39B and 40I shall be legislative and administrative in nature, not adjudicatory.

REGULATORY AUTHORITY

702 CMR 1.00: M.G.L. c. 30A, § 11; c. 90, §§ 35A through 35C, 39, 40, 41 and 49C.