

950 CMR 20.00: PREPARING AND FILING REGULATIONS

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20.01: Scope and Purpose

950 CMR 20.00 establishes standards for preparing, filing and publishing state agency regulations and is applicable to all regulations filed pursuant to M.G.L. c. 30A, §§ 1 through 6A. 950 CMR 20.00 establishes the organization and numbering system used in the Code of Massachusetts Regulations and the requirements that must be met by every agency filing regulations with the Secretary. Any change in text would be considered a change in regulations so as to require compliance with M.G.L. c. 30A. The purpose of 950 CMR 20.00 is the promotion of uniformity, clarity and coherence in form; timeliness and economy in printing and distribution, and public accessibility.

20.02: Definitions

As used in 950 CMR 20.00:

Agency means every executive office, department, board, commission division or authority of the state government or sub-division of any of the foregoing, or state official authorized by law to make regulations or to conduct adjudicatory proceedings.

Code or CMR means the Code of Massachusetts Regulations which contains the regulations of state agencies as published by the Secretary.

Draft Regulation means the proposed regulation pages prepared by the Regulations Division as CMR "draft".

Notice of Compliance means the notice filed when an agency makes an emergency regulation permanent by completion of public review requirements. A Notice of Compliance can only be used when there are no changes to the emergency regulation.

Notice of Expiration means the notice published by the Secretary when no agency action has been taken on an emergency regulation after three months.

Register means the *Massachusetts Register* which contains the regulations of state agencies as filed with the Secretary in accordance with M.G.L. c. 30A, §§ 1 through 6A and 950 CMR 20.00. The *Register* is published bi-weekly on Fridays.

Regulation means the whole or any part of every rule, regulation, standard or other requirement of general application and future effect, including the amendment or repeal thereof, adopted by an agency to implement or interpret the law enforced or administered by it and filed with the Secretary in accordance with M.G.L. c. 30A, §§ 5 and 6 and 950 CMR 20.00 for publication in the *Register* and Code.

Regulations Manual means the guide containing procedures, policy and instructions for promulgating regulations. The *Manual* is available from the State Publications and Regulations Division, State House, Room 117, Boston, MA 02133 and at the following website: www.sec.state.ma.us/spr/sprpdf/manual.pdf.

Secretary means the Office of the Secretary of the Commonwealth.

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Small Business Impact Statement means a statement filed with the Secretary in accordance with M.G.L. c. 30A, §§ 2 and 3 which considers the impact of a proposed regulation on small business.

20.03: Preparing Regulations

Except as otherwise allowed by specific exception granted by the Secretary under 950 CMR 20.06, agencies shall prepare regulations in a form that permits prompt insertion into the Code and meets the following additional requirements as to form:

- (1) Readable Language. To the extent practical, regulations shall be written in short sentences using language that is readily understandable to the public.
- (2) Organization and Numbering of Code Provisions. Provisions that will appear in the Code shall be identified by using the agency title numbers assigned by the Secretary and shall be organized and numbered sequentially by chapter, section, subsection, division and subdivision, in the manner of existing agency provisions appearing in the Code.
- (3) Chapter and Section Headings. Regulations shall include a short subject heading for every chapter and section of the Code and shall include a list of section headings at the beginning of every chapter.
- (4) Regulatory Authority. Regulations shall include a list of the regulatory authority for every chapter. This list should be unnumbered and appear at the end of each chapter.
- (5) Regulations shall be in conformance with the Secretary's policies as stated in the *Regulations Manual*.

20.04: Filing Regulations

- (1) Prior to Adoption. At least 21 days before a public hearing or the close of a public comment period and prior to the adoption of a regulation, an agency shall submit to the Secretary a notice of public hearing or comment period on agency letterhead which shall be accompanied on the same day by a small business impact statement along with the draft of the proposed regulation in both a printed and electronic format. The small business impact statement shall meet the five requirements as set forth in M.G.L. c. 30A, §§ 2 and 3. The Secretary shall prepare the draft regulation as it will appear in the *Register* and Code and return the proposed draft regulation to the agency for verification. It is the agency's responsibility to ensure the accuracy of the returned draft.
- (2) After Public Hearing/Comment. An agency shall file the following with the Secretary:
 - (a) Prior to the adoption of a regulation, an agency shall file an amended small business impact statement as required by M.G.L. c. 30A, § 5.
 - (b) After the amended small business impact statement has been filed, an agency shall file a completed Filing and Publication Form in both a printed and electronic format. The electronic form is to be submitted on the State Publications and Regulations Division website at www.sec.state.ma.us/spr/sprmareg/inforegi.htm. The printed form must include an original signature in black or blue ballpoint pen of an authorized person. The filing form shall include the following information:
 1. The chapter number and title;
 2. The name of the agency;
 3. A concise summary of the regulation written in simple language easily understandable to the public;
 4. The name and phone number of the agency person to be contacted for further information;
 5. A statement of the fiscal effect of the regulation on both the public and private sector over the first and second years, and the first five years;
 6. The date the amended small business impact statement was filed;

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7. An attestation; and
 8. Any other information required by the Secretary.
- (c) A copy of the draft regulation prepared by the State Publications and Regulations Division clearly marked to show any changes.
- (3) Where and When to File. Regulations may be filed with the Secretary at the State Publications and Regulations Division at Room 117, State House, Boston, MA 02133 from Monday through Friday excluding legal holidays. The hours of operation are 8:45 A.M. and 5:00 P.M. weekdays; however, the deadline for filing regulations for publication in the *Register* is 4:00 P.M. on the Friday two weeks prior to the publication date.
- (4) Correction of Errors. Errors that are clearly typographical, mechanical or clerical in nature shall be corrected by the agency by filing a Notice of Correction.

20.05: Emergency Regulations

- (1) Emergency regulations are exempt from the provisions of 950 CMR 20.04(1) at the time of filing.
- (2) If the emergency regulation is intended to become permanent it is the responsibility of the agency to ensure that the requirements of M.G.L. c. 30A, § 2 or 3 and 950 CMR 20.04(1) are met within the three months the emergency regulation is in effect.
 - (a) If the emergency is unchanged after public hearing/comment, the agency files a Notice of Compliance and the regulation continues in effect from the original emergency effective date.
 - (b) If the emergency regulation is changed after public hearing/comment, a standard filing form is filed. The regulation supersedes the emergency and becomes effective when published in the *Massachusetts Register*.
 - (c) If the emergency regulation is not complied with or replaced within the three months it is in effect, the Secretary will publish a Notice of Expiration to remove the emergency regulation from the Code.

20.06: Exceptions

The Secretary may grant agency requests for exception from one or more of the format requirements of 950 CMR 20.03(2) or (3) where the Secretary finds that an exception would be in the public interest. Requests for an exception must be submitted in writing at least one week prior to an agency filing the notice of public hearing/comment in compliance with M.G.L. c. 30A, § 2 or 3 and 950 CMR 20.04(1). In considering whether any exception would be in the public interest the Secretary will consider the extent to which:

- (1) the exception would impair the uniformity and readability of the Code;
- (2) the exception would foster uniformity of regulations nationally;
- (3) an exception would contribute to public understanding of the regulation; and
- (4) an exception would otherwise contribute to the public interest.

REGULATORY AUTHORITY

950 CMR 20.00: M.G.L. c. 30A, §§ 5, 6 and 6A.