

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

**NOTICE OF PROPOSED AMENDMENT TO REGULATION
AND NOTICE OF PUBLIC HEARING**

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Department of Business Regulation (“Department”) proposes to amend the following Regulation:

Central Management Regulation 3 – Declaratory Rulings

The proposed amendments are designed to allow for an expedited process of submissions without a formal hearing and to allow for electronic submissions of petitions. The remainder of the changes are to grammar and form.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-3, that the Department of Business Regulation will hold a public hearing beginning at 10:00 a.m. on October 9, 2007 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, regarding the Proposed Amended Regulation.

Copies of the Proposed Amended Regulation are on file at the Department and copies may be obtained from the Legal Division, Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Amended Regulation may also be obtained from the Department’s website www.dbr.state.ri.us.

In the development of the Proposed Amended Regulation, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Amended Regulation, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Proposed Amended Regulation on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 attention Elizabeth Kelleher Dwyer, Hearing Officer or by e-mail to elizabeth_dwyer@dbr.state.ri.us

ALL WRITTEN SUBMISSION MUST BE RECEIVED NOT LATER THAN
OCTOBER 9, 2007 AT 10:00 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222 5400 or TDD 711 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques
Director, Department of Business Regulation

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DEPARTMENT OF BUSINESS REGULATION
233 Richmond Street
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CENTRAL MANAGEMENT REGULATION 3

DECLARATORY RULINGS AND PETITIONS

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Section 1 *Authority*

This regulation (“Regulation”) is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-14-1 *et seq.*, R.I. Gen. Laws § 42-35-6, and R.I. Gen. Laws § 42-35-8.

Section 2 *Definitions*

When used in this Regulation, the following words shall have the following meaning:

- (A) “Department” shall mean the Department of Business Regulation.
- (B) “Director” shall mean the Director of the Department.
- (C) “Filer” shall mean the person(s) or entity which files a request for Declaratory Ruling or a Petition for Promulgation, Amendment or Repeal of any rule or regulation with the Department.

Section 3 *Declaratory Rulings*

(A) General. Pursuant to R.I. Gen. Laws § 42-35-8, any interested person may petition the Department for a declaratory ruling. The Department shall consider the petition. ~~and w~~Within a reasonable time the Department shall, in its sole discretion, take one of the following actions:

- (1) Issue a declaratory ruling; or

(2) Solicit written argument from the filer and any other person(s) that the Department reasonably believes would be interested in the issues; or

~~(23)~~ Set a reasonable time and place for hearing argument upon the matter and give reasonable notification to the filer and any other person(s) that the Department reasonably believes would be interested in the issue(s) ~~person~~ of the time and place for such hearing and of the issues involved.

If ~~a hearing as provided in either~~ subsection (2) or (3) above is conducted/ utilized, the Department shall within a reasonable time ~~thereafter after receipt of written submission or after the hearing is held~~ issue a binding declaratory ruling.

(B) Form of Petition. Any ~~the~~ interested person petitioning the Department for a declaratory ruling shall generally adhere to the following requirements for such purpose:

(1) Petitions may be submitted electronically or in hard copy.

~~(12)~~ At the top of the page shall appear the wording “Before the Department of Business Regulation.” On the left side of the page below the foregoing, the following caption shall be set out: “In the Matter of the Petition of (name of the petitioning party) for a Declaratory Ruling.” Opposite the foregoing caption shall appear the word “Petition.”

~~(23)~~ The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and the address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

(4) Petitions shall clearly identify the filer and/or his or her authorized representative and the date of submission of the petition.

~~(35)~~ If submitted in hard copy ~~The~~ original and two (2) copies shall be filed with the Department

~~(4)~~ and ~~P~~petitions shall be on 8 and ½ x 11” white paper.

Section 4 **Petitions for Promulgation, Amendment or Repeal of any Rule or Regulation**

(A) General. Pursuant to R.I. Gen. Laws § 42-35-6, any interested person may petition the Department requesting the promulgation, amendment or repeal of any rule or regulation. Where the petition requests the promulgation of a rule or regulation, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule or regulation together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule or regulation presently in effect, the rule or regulation or the applicable portion thereof in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule or regulation. All petitions shall be considered by the Department. ~~and the Director, in his/her discretion, may order a hearing be held for further consideration and discussion of the requested promulgation, amendment or repeal of any rule or regulation.~~ Within a reasonable time the Department shall, in its sole discretion, take one the following actions:

- (1) Issue a declaratory ruling; or
- (2) Solicit written argument from the filer and any other person(s) that the Department reasonably believes would be interested in the issue(s). The Department will, thereafter, issue a declaratory based upon the written submissions; or
- (3) Set a reasonable time and place for hearing argument upon the matter and give reasonable notification to the filer and any other person(s) that the Department reasonably believes would be interested in the issues of the time and place for such hearing and of the issues involved.

If either subsection (2) or (3) above is utilized, the Department shall within a reasonable time after receipt of written submission or after the hearing is held issue a binding declaratory ruling.

(B) Form of Petition. Any interested person petitioning the Department requesting the promulgation, amendment or repeal of any rule or regulation shall generally adhere to the following form for such purpose:

- (1) Petitions may be submitted electronically or in hard copy.
- ~~(1)~~ At the top of the page shall appear the wording “Before the Department of Business Regulation.” On the left side of the page below the foregoing, the following caption shall be set out: “In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of (identity rule or regulation).” Opposite the forgoing caption shall appear the word “Petition.”

- (23) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of a new rule(s) or regulation(s). The second paragraph, in case of a proposed new rule or regulation or amendment of an existing rule or regulation shall set forth the desired rule or regulation in its entirety. Where the petition is for amendment, ~~the new matter shall be underscored and the matter proposed to be deleted shall appear in double parentheses~~ the proposed amendments shall be set forth in a manner which clearly indicates the additions and deletions proposed. Where the petition is for repeal of an existing rule or regulation, such shall be stated and the rule or regulation proposed to be repealed shall ~~either be set forth in full or shall~~ be referred to by Department number. The third paragraph shall set forth concisely the reasons for the proposal of petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule or regulation. Additional numbered paragraphs may be used to give full explanation or petitioner's reasons for the action sought.
- (34) Petitions ~~shall be signed and dated by the person named in the first paragraph or~~ shall clearly identify the filer and/or his or her authorized representative and the date of submission of the petition.
- (54) If submitted in hard copy ~~T~~the original and two (2) copies shall be filed with the Department and ;
- (5) ~~P~~petitions shall be submitted on 8 and 1/2 x 11" inch white paper.

Section 5 *Effective Date*

This Regulation shall become effective twenty (20) days from the date of filing with the Secretary of State's Office as indicated below.

EFFECTIVE DATE: August 14, 2002
AMENDED: October , 2007