

STATE OF MAINE
DEPARTMENT OF THE SECRETARY OF STATE

Notice of Agency Rulemaking Proposal

AGENCY NAME: Maine Office of Community Affairs

CHAPTER NUMBER AND RULE TITLE: 08-004 CMR ch. 25, *Designation of Responsibilities to Presiding Officers*

TYPE OF RULE: Routine Technical

PROPOSAL FILING NUMBER: *[Leave Blank - Assigned by the Department of the Secretary of State]*

BRIEF SUMMARY: The purpose of this rulemaking is to implement the statutory transition of authority for the State's manufactured housing regulatory program. The responsibilities and program of the Manufactured Housing Board are being transferred from the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, to the Maine Office of Community Affairs. This rulemaking is necessary to reflect the new requirements with the Office's statutory mandate. This rule establishes MOCA's authority to delegate responsibilities to Presiding Officers in order to transfer the function of adjudicatory hearings from the Manufactured Housing Board to MOCA.

PUBLIC HEARING *(include day, date, time, and location):* None

COMMENT DEADLINE *(include day, date, and time):* November 15, 2026, 5:00 pm

CONTACT PERSON FOR THIS FILING *(include name; mailing address; telephone number; fax number; TTY (teletypewriter) number; and email address):*

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CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT *(if different):* Click or tap here to enter text.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any):* Click or tap here to enter text.

STATUTORY AUTHORITY FOR THIS RULE: 10 MR.S. §§ 9001–9021, 9061–9065A; Res. 2026, ch. 171 (directing transfer of manufactured housing regulatory responsibilities to the Maine Office of Community Affairs).

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different):* Click or tap here to enter text.

AGENCY WEBSITE: www.maine.gov/moca

EMAIL ADDRESS FOR OVERALL AGENCY RULEMAKING LIAISON: Samantha.horn@maine.gov

Choose one of the following: *The summary provided above is for publication in both the newspaper and website notices.*

Additional Information for the Web Notice (If Applicable)

DETAILED SUMMARY:

Click or tap here to enter text.

Chapter 25: DELEGATION OF RESPONSIBILITIES TO PRESIDING OFFICERS

Summary: The purpose of this chapter is to establish the Office’s authority to delegate certain responsibilities related to adjudicatory hearings to Presiding Officers appointed by the Office to preside over hearings and prepare recommended decisions for action by the Director.

1. Definitions

- 1. Director.** “Director” means the Director of the Maine Office of Community Affairs.
- 2. Office.** “Office” means the Maine Office of Community Affairs.
- 3. Party.** “Party” means:
 - a. The specific person or persons whose legal rights, duties or privileges are being determined in the proceeding; and
 - b. Any person participating in the adjudicatory proceeding as an intervenor pursuant to applicable statute.
- 4. Person.** “Person” means any individual, partnership, corporation, governmental entity, association or public or private organization of any character, other than the Maine Office of Community Affairs.
- 5. Presiding Officer.** “Presiding Officer” means an individual appointed by the Director of the Maine Office of Community Affairs to conduct hearings, who must not have a direct or indirect personal, professional, or financial conflict of interest in the Office decision or appeal subject to adjudicatory hearing.

2. Powers Delegated to the Presiding Officer

Pursuant to 5 M.R.S. § 9062, the Office delegates to the Presiding Officer the performance of specific functions which may be delegated consistent with 5 M.R.S. Ch. 375 (Maine Administrative Procedure Act), subchapter 4 (Adjudicatory Proceedings), and as set forth below.

As assigned by the Director, the Presiding Officer shall preside over pre-hearing elements of forthcoming adjudicatory hearings pending before the Office. This may include the following powers and responsibilities:

- a. Conducting pre-hearing conferences;
- b. Expressly allowing and hearing, or prohibiting, any pre-hearing motions of the parties;

- c. Rendering rulings on non-dispositive motions; and
- d. Issuing recommended decisions on dispositive motions for action by the Director.

The Office also delegates to the Presiding Officer the responsibility of presiding over adjudicatory hearings conducted in accordance with the Maine Administrative Procedure Act. The Presiding Officer shall control all aspects of the hearing. The delegated powers and responsibilities include:

- a. Administering oaths and affirmations;
- b. Ruling on the admissibility of evidence pursuant to the relevant provisions of the Maine Administrative Procedure Act;
- c. Regulating the course of the hearing;
- d. Ruling on all objections;
- e. Questioning witnesses as appropriate;
- f. Issuing subpoenas on behalf of the Office as appropriate; and
- g. Drafting a report that includes proposed findings and a recommended decision for action by the Director.

4. Report, Proposed Findings, and Recommended Decision

Upon conclusion of the hearing, the Presiding Officer shall prepare a written report which summarizes the evidence, proposes findings of fact, and offers a recommended decision for action by the Director.

The report must contain at least the following:

- a. A clear and precise statement of the issues: the dispute under consideration and the specific points which must be resolved to decide the case;
- b. A listing of the date and place of hearing and participants at the hearing;
- c. A listing of all the material, including records, reports, and other documents placed into evidence at the hearing, upon which the hearing decision is based;
- d. Identification of any proffered exhibits that were not accepted into evidence, along with the legal basis for the decision not to accept the proffered exhibits;
- e. The findings of fact, based upon the entire hearing record, including testimony, exhibits, etc. The findings must be sufficient to apprise the parties and any interested member of the public of the basis for the recommended decision. If evidence is in conflict on an issue necessary to resolution of a case, the Presiding Officer must set forth the reasoning employed in reconciling the conflict;
- f. A clear and precise statement of the recommended decision, resolving the dispute(s) under consideration;

- g. A clear explanation of the reasoning underlying the recommended decision, including references to applicable rules and statutes; and
- h. Written notice of a party's right to review or appeal of a decision within the agency or review of a decision by the courts, as the case may be, and of the action required and the time within which such action must be taken in order to exercise the right of review or appeal.

Pursuant to 5 M.R.S. §9062(4), a copy of the Presiding Officer's report must be provided to each party, and an opportunity must be provided for responses or exceptions to be filed by each party.

5. Exceptions and Responses

The parties may file exceptions and responses to the report issued by the Presiding Officer.

1. Time for Filing

Exceptions and responses must be received by the Office within 20 calendar days after the date the report was sent to the parties. A report is deemed sent the day it is emailed to a party or their counsel or placed in the U.S. Mail for delivery to the party or its counsel.

2. Content

The written exceptions and responses filed with the Office may not exceed 20 pages in length. They must contain:

- a. A clear statement of the party's position and the reason for it;
- b. Identification of specific proposed findings of fact which the party takes issue with, along with a specific reference to the evidence which any party believes to contradict or otherwise undermined the proposed findings of fact; and
- c. Any relevant legal arguments the party wishes to offer with regard to the legal conclusion or other legal aspect of the report.

If additional factual information which could have been presented and considered during the decision-making process, including the administrative hearing, is made part of the exceptions and responses, it need not be considered by the Director in making the final decision.

3. Method of Filing

Exceptions and responses must be sent to the Office by mail or e-mail. Copies of written exceptions and responses must be provided to all parties at the same time and by the same method of delivery used to provide the exceptions and responses to the Office.

4. Extensions

A reasonable extension of time for the filing of exceptions and responses may be granted by the Presiding Officer for good cause shown or if all parties agree.

6. Final Agency Decision

The Director shall issue a final decision to adopt, modify, or reject the Presiding Officer's report within 30 calendar days of the end of the period for exceptions and responses. To the extent that a report is not fully adopted, the Director shall issue a written decision identifying those aspects of the report which have not been fully adopted and providing alternate findings of fact and/or decisions as appropriate such that all issues to be resolved at the hearing are addressed by the report as amended by the Director.

The Director's final decision constitutes final agency action as defined in 5 M.R.S. §8002.