

TITLE 1: GOVERNMENT
DIVISION 9: MISCELLANEOUS PROVISIONS

§ 9101. Administrative Procedure: Definitions.

As used in this chapter:

(a) “Adjudication” means agency process for the information of an order.

(b) “Agency” means each authority of the Commonwealth government, whether or not it is within or subject to review by another agency, but does not include:

- (1) The Commonwealth Legislature, or
- (2) The courts of the Commonwealth.

(c) “Agency action” includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

(d) “Agency proceeding” means an agency process as defined by subsections (a), (g), and (n) of this section.

(e) “Decision” means the whole or part of a final disposition of an agency in a hearing on a proposed regulation.

(f) “License” includes the whole or part of any agency, permit, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes.

(g) “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license.

(h) “Order” means the whole or part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule-making but including licensing.

(i) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding.

(j) “Person” means an individual, partnership, corporation, association, clan, lineage, governmental subdivision, or public or private organization of any character other than an agency.

(k) “Regulation” means a rule which prescribes or has the force of law.

(l) “Relief” includes the whole or a part of an agency:

- (1) Grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;
- (2) Recognition of a claim, right, immunity, privilege, exemption, or exception; or
- (3) Taking of other action on the application or petition of, and beneficial to, a person.

(m) “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

- (1) Statements concerning only the internal management of an agency, including, but not limited to, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers and property and not affecting private rights to procedures availa-

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ble to the public; provided, that this exclusion does not authorize withholding information from the public or limiting the availability of such manuals or records to the public; or

- (2) Declaratory rulings issued pursuant to 1 CMC § 9107; or
- (3) Intra-agency memoranda; or
- (4) Opinions of the Attorney General.

(n) “Rule-making” means the agency process for formulating, amending or repealing a rule.

(o) “Sanction” includes the whole or part of an agency:

- (1) Prohibition, requirement, limitation, or other condition affecting the freedom of a person;
- (2) Withholding of relief where adjudication is required by law;
- (3) Imposition of penalty or fine;
- (4) Destruction, taking, seizure, or withholding of property;
- (5) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;
- (6) Requirements, revocation, or suspension of a license; or
- (7) Taking other compulsory or restrictive action.

Source: 17 TTC § 1, modified.

Commission Comment: The Commission deleted an obsolete reference to rules issued by the Trust Territory High Commissioner (see 17 TTC § 1(18)(e)). In addition, in subsection (b)(2), the Commission deleted an obsolete reference to the Commonwealth Trial Court (included in the original 1984 Commonwealth Code) and revised the language to include the Commonwealth Supreme Court; see PL 6-25, the Commonwealth Judicial Reorganization Act of 1989, 1 CMC § 3001 et seq.

Many provisions in this chapter are similar to the Revised Model State Administrative Procedure Act approved by the National Conference of Commissioners on Uniform State Laws in 1961. The model act has been adopted (with variations) in several U.S. jurisdictions.

Executive Order 97-03, which was signed on November 13, 1997, transferred the subject duty of the Attorney General set forth in 1 CMC § 2153(b) and related duties and responsibilities of the Registrar of Corporations (set forth in 4 CMC §§ 4201-4204) to the Department of Commerce. As of March 31, 2003, no transfers had taken place. EO 97-03 also called for the substitution of “Registrar of Corporations” or “Registrar” with “Attorney General” in 1 CMC §§ 9101-9115.