

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Agency

Department of Consumer Protection

Subject

DESCRIPTION OF ORGANIZATION

Inclusive Sections

§§ 21a-1-1—21a-1-29a

CONTENTS

Part I

Definitions

Sec. 21a-1-1. Definitions

Part II

Structure and Responsibilities

Sec. 21a-1-2. Creation and authority
Sec. 21a-1-3. Commissioner of consumer protection
Sec. 21a-1-4. Official address
Sec. 21a-1-5. General duties and responsibilities
Sec. 21a-1-6. Organizational structure and division of responsibilities

RULES OF PRACTICE

Part III

Dealings with the General Public

Sec. 21a-1-7. Departmental policy on public information

Personal Data Systems

Sec. 21a-1-7a(a). Authority
Sec. 21a-1-7a(b). Definitions
Sec. 21a-1-7a(c). Categories
Sec. 21a-1-7a(d). Nature and purpose of personal data systems
Sec. 21a-1-7a(e). Procedures regarding the maintenance of personal data
Sec. 21a-1-7a(f). Procedures for contesting content

Dealings with the General Public

Sec. 21a-1-8. Departmental proceedings open to the public
Sec. 21a-1-9. Consumer complaints and requests for information
Sec. 21a-1-10. Requests for declaratory rulings

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Part IV

Rule Making Functions

- Sec. 21a-1-11. Authority to promulgate regulations
Sec. 21a-1-12. Petition for the promulgation, amendment or repeal of a regulation
Sec. 21a-1-13. Procedure for the issuance, amendment or repeal of a regulation

Part V

Licensing Function

- Sec. 21a-1-14. Authority to issue and revoke licenses
Sec. 21a-1-15. Form, contents and filing of applications
Sec. 21a-1-16. Revocation or suspension of licenses

Part VI

Investigations and Inspections

- Sec. 21a-1-17. Authority to conduct investigations and inspections
Sec. 21a-1-18. Seizures and condemnations

Part VII

Hearings Procedures

- Sec. 21a-1-19—21a-1-27. Repealed
Sec. 21a-1-19a. Applicability
Sec. 21a-1-20a. Opportunity to show compliance
Sec. 21a-1-21a. Summary suspension procedures
Sec. 21a-1-22a. Contested cases
Sec. 21a-1-23a. Pre-hearing procedure in contested cases
Sec. 21a-1-24a. Conduct of adjudicative hearings in contested cases
Sec. 21a-1-25a. Transcript of the proceedings
Sec. 21a-1-26a. Informal disposition in contested cases
Sec. 21a-1-27a. Proposal for decision
Sec. 21a-1-28a. Final decision in a contested case
Sec. 21a-1-29a. Inconsistent regulations

DESCRIPTION OF ORGANIZATION

Part I

Definitions

Sec. 21a-1-1. Definitions

(a) The term “Commissioner,” as used in these regulations, means the commissioner of consumer protection.

(b) “Department” means the department of consumer protection.

(c) “Division chief” means any departmental employee or employees designated by the commissioner as the head of a particular division of the department.

(d) “License” includes the whole or part of any permit, certification, approval, registration, charter, or similar form of permission required by law to be issued by the department.

(e) “Regulation” means any departmental rule of general applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of the department. The term does not include

(i) rules governing the internal management of the department and not affecting private rights or procedures available to the public, and

(ii) declaratory rulings issued pursuant to section 21a-1-10 of these regulations.

(Effective July 27, 1984)

Part II

Structure and Responsibilities

Sec. 21a-1-2. Creation and authority

The department was established as a separate agency of the state government by public Act 412 of the 1959 General Assembly (Section 21a-1 of the Connecticut General Statutes). The department’s powers are derived from the various statutes which it is charged with administering. These statutes deal generally with food and drugs, pharmacies, weights and measures, and consumer deception.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-3. Commissioner of consumer protection

The commissioner has the overall responsibility for the operation of the department. The deputy commissioner assists the commissioner and is the acting commissioner in his absence. In discharging his responsibilities, the commissioner may delegate certain of his functions to a division of the department, to an individual division chief, to an independent hearing examiner, or to an employee of the department.

(Effective July 27, 1984)

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-4

Department of Consumer Protection

Sec. 21a-1-4. Official address

The principal office of the department is located at Hartford, Connecticut. All communications should be addressed to the Department of Consumer Protection, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06106, unless otherwise specifically directed.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-5. General duties and responsibilities

The department is charged with enforcing legislation intended to protect consumers from injury by product use or merchandising deceit. In connection with this responsibility, the department administers a statewide consumer education program designed to alert the public of potentially hazardous products and deceptive trade practices.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-6. Organizational structure and division of responsibilities

The department is composed of the following divisions, the principal duties of which are as follows:

(a) **Administration division.** This division is responsible for all functions relating to budget and fiscal services, payroll and personnel procedures, the ordering of supplies and related support activities.

(b) **Food division — general section.** This division is responsible for safeguarding consumers from injury, filth, and deception pertaining to the manufacture, storage and sale of foods in intrastate commerce. The laws administered by this division include the Pure Food and Drug statutes, the Unit Pricing Act, and certain provisions of the Uniform Food, Drug, and Cosmetic Act.

(c) **Drug, device and cosmetic division.** This division is responsible for insuring that drug products, medical devices, cosmetic products, and children's toys are accurately labeled and suitable for the purposes intended. The laws administered by this division include the Child Protection Act, the Dependency-Producing Drug statutes, and certain provisions of the Uniform Food, Drug and Cosmetics Act.

(d) **Weights and measures division.** This division is responsible for safeguarding the public in all matters involving commercial determinations of quantity. The provisions contained in Title 43 of the General Statutes are administered by this division.

(e) **Consumer frauds division.** This division processes and investigates consumer complaints regarding deceptive trade practices and untrue or misleading advertisements. It also licenses or otherwise regulates itinerant vendors, going out of business sales, and the sale of cigarettes. The Unfair Sales Practices Act and the Uniform Deceptive Trade Practices Act are administered by this division.

(f) **Consumer education division.** This division is responsible for keeping the public abreast of the activities of the department and informing consumers of potentially hazardous products and deceptive trade practices. All written information is disseminated in both the

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Department of Consumer Protection

§21a-1-7a(b)

English and Spanish languages, whenever practicable.

(Effective July 27, 1984; Amended March 7, 2008)

RULES OF PRACTICE

Part III

Dealings with the General Public

Sec. 21a-1-7. Departmental policy on public information

(a) The policy of the department is to make available for public inspection all files, records, documents and other materials within its possession, unless prohibited by law. A compilation of all regulations, policy statements, final orders, decisions, and official opinions is available for public inspection at the office of the commissioner.

(b) Departmental employees are not permitted to release information about a particular individual or firm unless a complaint has been issued or an order has been secured against such individual or firm. Information may be released concerning

(i) the allegations contained in a complaint issued pursuant to Section 21a-1-21 of these regulations;

(ii) a final decision or order secured by the department in a contested case;

(iii) the contents of a complaint issued by a consumer affairs agency in another state or by the Federal Trade Commission; and

(iv) an order secured against a particular individual or firm by any state or federal court, by a consumer affairs agency in another state, by the Federal Trade Commission, or by any other federal agency.

(Effective July 27, 1984)

Personal Data Systems

Sec. 21a-1-7a(a). Authority

These regulations are promulgated pursuant to the provisions of section 4-196 of the General Statutes.

(Effective May 15, 1984)

Sec. 21a-1-7a(b). Definitions

(a) The terms set forth in section 4-190 of the General Statutes, as amended, shall have the same meanings in this regulation as therein defined.

(b) “Department” means the Department of Consumer Protection, 165 Capitol Avenue, Hartford, Connecticut 06106, and includes all boards and commissions within said department as defined by section 21a-6 of the General Statutes.

(Effective May 15, 1984; Amended March 7, 2008)

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-7a(c)

Department of Consumer Protection

Sec. 21a-1-7a(c). Categories

(a) **Licensee files.** The licensee personal data system consists of financial, employment, criminal history and other personal background data and information secured and maintained by the department for individuals licensed by the department.

(b) **Complaint files.** The complaint file personal data system consists of correspondence files relating to complaints or inquiries received by the department concerning the conduct or method of doing business of individuals, companies or other organizations regulated or licensed by the department. Active complaint files are maintained separately from the file containing the licensee licensure data; closed out or resolved complaint files are subsequently consolidated, as appropriate, into the licensee personal data system.

(c) **Personnel files.** The personnel files personal data system consists of payroll and personnel data. Said data consists of payroll data, personnel status, attendance records, addresses, telephone numbers, educational data, financial data, medical data and employment data.

(d) **Agency financial files.** The agency financial file personal data system consists of payments to vendors, travel records of agency employees, expense statements of agency employees, mileage reports of agency employees and all other routine financial data.

(Effective May 15, 1984)

Sec. 21a-1-7a(d). Nature and purpose of personal data systems

(a) The nature and purpose of the licensee personal data system is to maintain an accurate and current information base upon which to determine and ascertain that all licensees licensed or to be licensed by the department are qualified, fit and suitable to be licensed for the particular activity authorized by the department.

(b) The nature and purpose of the complaint file personal data system is to receive, maintain, investigate and act upon complaints concerning the conduct or method of doing business of all persons regulated by the department.

(c) The nature and purpose of the personnel file personal data system is to maintain an accurate and current information base needed to fulfill the department's responsibility in the proper administration of said department. Said information is used to substantiate payrolls; to substantiate leave balances and/or retirement; to substantiate health/life/disability insurance, social security and retirement benefits; to substantiate affirmative action policies; and other areas as directed by state statutes and regulations.

(d) The nature and purpose of the agency financial file personal data system is to maintain an accurate and current information base needed to fulfill the department's responsibility in the proper fiscal administration of the department.

(Effective May 15, 1984)

Sec. 21a-1-7a(e). Procedures regarding the maintenance of personal data

(a) All employees who function as custodians of the department's personal data systems or who have access thereto shall be given a copy of the provisions of Chapters 3 and 55 of

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Department of Consumer Protection

§21a-1-7a(f)

the General Statutes together with a copy of these regulations.

(b) All such departmental employees shall take reasonable precautions to protect personal data under their supervision from the danger of fire, theft, flood, natural disaster and other physical threats.

(c) Except for departmental employees a record shall be maintained of each person, individual, agency or organization who has obtained access to or to whom disclosure has been made of personal data, pursuant to Chapter fifty-five of the Connecticut General Statutes, together with a reason for each disclosure or access. Upon written request this record shall be made available to the individual who is the subject of the personal data disclosure.

(d) The department shall maintain only such personal data as is relevant and necessary in order to accomplish the statutory authorization to maintain such information.

(e) Upon receipt of a written request, the department shall, within four business days thereafter, mail or deliver to individuals a written response to the question of whether the department maintains personal data concerning such individual.

(f) Except where precluded by law, the department shall disclose to any person upon request, all personal data, concerning him which is maintained by the department. Such disclosure shall be conducted so as not to disclose any personal data concerning persons other than the individual requesting such information.

(g) If the department refuses to disclose personal medical data to a person and the non-disclosure is not mandated by law, the department shall, at the written request of such person, permit a qualified medical doctor to review the personal medical data contained in the person's record to determine if the personal medical data should be disclosed. If disclosure is recommended by the person's medical doctor, the department shall disclose the personal medical data to such person; if non-disclosure is recommended by such person's medical doctor, the department shall not disclose the personal medical data and shall inform such person of the judicial relief provided under section 4-195 of the General Statutes.

(Effective May 15, 1984)

Sec. 21a-1-7a(f). Procedures for contesting content

The following procedure shall be used in order to provide an opportunity to contest the accuracy, completeness or relevancy of personal data:

(a) Any individual may file a request with this department for correction of personal data pertaining to him.

(b) Within thirty days of receipt of such request, the department shall notify such individual that it will make the correction or, if the correction is not to be made as submitted, shall state the reason for its denial of such request.

(c) Following such denial by the department, the individual requesting such correction shall be permitted to add a statement to his personal data record setting forth what he believes to be an accurate or complete version of the personal data in question. Such statements shall become a permanent part of the department's personal data system and

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-8

Department of Consumer Protection

shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Effective May 15, 1984)

Dealings with the General Public

Sec. 21a-1-8. Departmental proceedings open to the public

(a) All rule-making and licensing proceedings shall be open to the public. Prior to any proceedings to adopt or promulgate new rules and regulations, a public hearing will be held and the time and place of such hearing will be duly publicized. A special effort will be made to contact any person or firm whose rights or duties would be most directly affected by the proposed regulations.

(b) All investigational proceedings prior to the issuance of a formal complaint by the department are not open to the public. The contents of investigational files and inspection reports shall remain confidential unless made a part of the record in an adjudicative proceeding or unless provided otherwise by statute.

(c) The issuance of a complaint by the department, as provided in section 21a-1-21 of these regulations, is a matter of public record. All adjudicative proceedings after the issuance of a complaint are open to the public.

(Effective July 27, 1984)

Sec. 21a-1-9. Consumer complaints and requests for information

(a) Consumer complaints regarding allegedly unfair trade practices or regarding allegedly false or misleading advertisements should be addressed to the Department of Consumer Protection, Consumer Frauds Division, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06106.

(b) Consumer complaints concerning foods, drugs, pharmacies, or weights and measures, should be addressed to the Food Division, the Drug Division, the Pharmacy Division, or the Weights and Measures Division, respectively. All of these divisions are located in the State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06106.

(c) Requests for information should be directed preferably to the appropriate division in possession of the information. Requests for information about the department generally should be addressed to the Department of Consumer Protection, Consumer Education Division, State Office Building, 165 Capitol Avenue, Hartford, Connecticut 06106. A nominal fee may be charged for copies of certain statutes and regulations.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-10. Requests for declaratory rulings

(a) Any interested person may present a request for a declaratory ruling from the department regarding the applicability of any statute or regulation administered by the department to any practice described in such request. The request must be in writing and

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Department of Consumer Protection

§21a-1-13

submitted by mail or hand-delivered to the office of the commissioner. The facts relating to such request should be in complete and detailed form; the department may demand such additional facts as may be relevant to the requested ruling. The ruling will be made by the department within a reasonable time after the submission of the request and a copy of such ruling will be mailed to the petitioner. In its discretion, the department may hold an informal conference for factfinding purposes relating to such request.

(b) Within 30 days following the receipt of a petition, the commissioner shall determine whether to deny or to grant it. If he denies the petition, he shall notify the petitioner of his decision in writing. If the petition is granted, the commissioner shall make a ruling and send it to the petitioner. Any such ruling shall have the same effect as a final decision in a contested case.

(Effective July 27, 1984)

Part IV

Rule Making Functions

Sec. 21a-1-11. Authority to promulgate regulations

Statutory authority to adopt, amend, or repeal regulations is derived from 4 the various laws administered by the department. These laws include, but are not limited to, the following sections of the General Statutes: 21a-43, 21a-156, 21a-336, and 43-3.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-12. Petition for the promulgation, amendment or repeal of a regulation

Petitions by interested persons requesting the promulgation, amendment, or repeal of a regulation of the department must be submitted to the department in writing. Such petition shall contain an explanation of the person's interest in the particular subject matter and the reasons for the proposal. Within thirty days of the receipt of the petition, the department will either deny the petition in writing, stating its reasons for the denial, or initiate proceedings to effect the requested action.

(Effective July 27, 1984)

Sec. 21a-1-13. Procedure for the issuance, amendment or repeal of a regulation

(a) Proceedings for the issuance, amendment, or repeal of a regulation, including proceedings for the exemption of certain products or classes of products from statutory requirements, may be commenced by the department on its own initiative or pursuant to a petition submitted by an interested person.

(b) Notice of the proposed issuance, amendment, or repeal of a regulation will appear in the Connecticut Law Journal at least twenty days prior to the proposed action. The notice will contain:

- (i) a statement of the purpose of the proposed action;
- (ii) a statement of the time, date and place of the public hearing or other opportunity for

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-14

Department of Consumer Protection

the presentation of views;

(iii) reference to the statutory authority under which the department is acting; and

(iv) a statement of the terms or substance of the intended action.

(c) Adequate publicity will be provided by the department to assure that all interested parties have notice of the time, date and place of the public hearing or other opportunity for the presentation of views. The purpose is to afford an opportunity for all interested parties to participate in the proceedings through the submission of written or oral data, views, arguments, or suggestions.

(d) After any necessary revisions have been made, the proposed regulations will be forwarded to the attorney general and to the legislative review committee of the General Assembly for approval, as required under sections 4-169 and 4-170 of the General Statutes.

(e) The new regulation or the amendment or repeal of an existing regulation will become final following approval by the attorney general and the legislative review committee and certification thereof to the secretary of state.

(f) When the department finds that an imminent peril to the public health, safety, or welfare so requires, it may adopt emergency regulations, as provided in section 4-168 (b) of the General Statutes.

(Effective July 27, 1984)

Part V

Licensing Function

Sec. 21a-1-14. Authority to issue and revoke licenses

Statutory authority to issue, renew, suspend, or revoke licenses, permits, or registrations is derived from various laws administered by the department. These laws include, but are not limited to, the following sections of the General Statutes: 21a-18, 21a-35, 21a-53, 21a-152, 21-28, and 43-10.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-15. Form, contents and filing of applications

All applications shall include

(i) the name and address of the applicant;

(ii) the name and address of the applicant's counsel, agent, or other representative, if any;

(iii) the purpose for which the application is made;

(iv) any statutes and rules which support the application;

(v) a complete and concise description of the activities, facilities, projects, or other actions for which the license, permit or registration is sought;

(vi) any other information which the department may require; and

(vii) any additional information which the applicant considers relevant.

Applications shall be addressed to the appropriate division of the department and shall

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Department of Consumer Protection

§21a-1-18

be sent by mail or hand-delivered during normal business hours.

(Effective July 27, 1984)

Sec. 21a-1-16. Revocation or suspension of licenses

(a) No license, permit, or registration may be suspended or revoked without a prior notice to the licensee detailing the reasons for the proposed suspension or revocation. The licensee shall further be afforded an opportunity to appear for a hearing before the commissioner to show cause why the proposed suspension or revocation is not warranted. Any such hearing shall be conducted as a contested case, as defined in section 21a-1-20 of these regulations.

(b) If the commissioner finds that the public health, safety, or welfare imperatively requires emergency action, a license, permit, or registration may be suspended or revoked without the necessity of a prior hearing. The notice to the licensee shall detail the reasons for the emergency action and shall afford the licensee an opportunity for a subsequent hearing to contest the suspension or revocation.

(c) Any person aggrieved by the decision of the commissioner or his representative in connection with any licensing proceedings may seek review of the decision by initiating an appropriate action in the Superior Court for the Judicial District of Hartford.

(Effective July 27, 1984; Amended March 7, 2008)

Part VI

Investigations and Inspections

Sec. 21a-1-17. Authority to conduct investigations and inspections

Statutory authority to conduct investigations and inspections is derived from various laws administered by the department. Section 21a-11 of the General Statutes confers upon the commissioner of consumer protection and his agents the general authority to enter upon private premises during regular business hours for the purposes of conducting necessary investigations and purchasing samples for analysis. Laws conferring specific authority to conduct investigations and inspections include, but are not limited to, the following sections of the General Statutes: 21a-40, 21a-70, 21a-116, 21a-118, 21a-235, 21a-261, 21a-265, 21a-343, 42-112, and 43-3.

(Effective July 27, 1984; Amended March 7, 2008)

Sec. 21a-1-18. Seizures and condemnations

(a) Statutory authority to seize and/or condemn products which are allegedly adulterated or misbranded is derived from sections 21a-39 and 21a-96 of the General Statutes.

(b) Statutory authority to detain or embargo in intrastate commerce household products which are allegedly banned or misbranded hazardous substances is derived from section 21a-340 of the General Statutes.

(c) Statutory authority to seize and destroy any incorrect weight, measure, or weighing and measuring device is derived from section 43-3 of the General Statutes.

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-19—21a-1-27

Department of Consumer Protection

(d) Whenever an inspector or an investigator obtains a sample of any product for further analysis, he shall pay or offer to pay the owner, operator, or agent in charge for such sample and give a receipt describing the sample obtained. Laws conferring the specific authority to obtain samples include, but are not limited to, the following sections of the General Statutes: 21a-39, 21a-116, and 21a-343.

(Effective July 27, 1984; Amended March 7, 2008)

Part VII

Hearings Procedures

Sec. 21a-1-19—21a-1-27. Repealed

Repealed June 27, 1985.

Sec. 21a-1-19a. Applicability

(a) These hearing procedures shall apply to all Compliance Meetings and Contested Cases held by the Department of Consumer Protection.

(b) As used herein, “agency” means the Department of Consumer Protection.

(c) As used herein, “certificate” includes the whole or part of any Department of Consumer Protection permit which the Department issues under authority of the General Statutes and which (1) authorizes practice of the profession by certified persons but does not prohibit the practice of the profession by others, not certified, (2) prohibits a person from falsely representing that he is certified to practice the profession unless the person holds a certificate issued by the Department, and (3) requires as a condition of certification that a person submit specified credentials to the Department which attest to qualifications to practice the profession.

(d) As used herein, “License” includes the whole or part of any Department of Consumer Protection permit, approval, or similar form of permission which the Department issues under authority of the General Statutes and which requires: (1) practice of the profession by licensed persons only, (2) demonstration of competence to practice by examination or other means and meeting of certain minimum standards, and (3) enforcement of standards by the Department.

(e) As used herein, “registration” includes the whole or part of any permit which the Department issues under authority of the General Statutes and which: (1) requires persons to place their names on a list maintained by the Department before they can engage in the practice of a specified profession or occupation, (2) does not require a person to demonstrate competence by examination or other means, and (3) may be revoked or suspended by the Department for cause.

(Effective June 27, 1985)

Sec. 21a-1-20a. Opportunity to show compliance

(a) No revocation, suspension, annulment or withdrawal of any certificate, license or

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

Department of Consumer Protection

§21a-1-22a

registration is lawful unless prior to the institution of agency proceedings, the agency gave notice by mail to the holder thereof of facts or conduct which warrant the intended action, and the holder thereof was given the opportunity to show compliance with all lawful requirements for the retention of the certificate, license or registration.

(b) The notice of the opportunity to show compliance shall contain:

(1) A statement of the time, date and method for responding to the agency;
(2) A reference to the statute(s) or regulation(s) allegedly violated;
(3) A clear and concise factual statement sufficient to inform each respondent of the acts or practices alleged to be in violation of the law. This requirement may be met by including a copy of the investigation report with the notice; and

(4) A statement that each respondent may be represented by counsel.

(c) The agency may request the respondent to attend a compliance conference as the method for responding to the agency. Compliance conferences shall be informal and the rules of evidence shall not apply. Compliance conferences may be recorded but need not be transcribed.

(d) The Commissioner may, in his or her discretion, designate a person to preside at such compliance conference. After said compliance conference, the designated presiding officer shall report in writing his or her recommendations to the Commissioner.

(Effective August 23, 1993)

Sec. 21a-1-21a. Summary suspension procedures

If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a certificate, license, or registration may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(Effective June 27, 1985)

Sec. 21a-1-22a. Contested cases

(a) A “Contested Case” means a proceeding, including but not restricted to rate-making, price fixing, and licensing, in which the legal rights, duties or privileges of a party are required by statute to be determined by an agency after an opportunity for hearing or in which a hearing is in fact held, but does not include hearings referred to in Section 4-168 of the Connecticut General Statutes.

(b) When an agency has reason to believe there has been a violation of the statute(s) or regulation(s) it administers, it shall issue a complaint by certified mail to the respondent.

(c) The notice in contested cases shall contain:

(1) A statement of the statutory authority and jurisdiction for instituting the proceedings;
(2) A reference to the specific statutory section(s) or regulations alleged to be violated;
(3) A short and plain statement of the matters asserted sufficient to inform each respondent of the acts or practices alleged to be in violation of the law;
(4) Notice of the time, date, place and nature of the hearing; and

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-23a

Department of Consumer Protection

(5) A statement that each respondent may, if he desires, be represented by an attorney.

(d) If a respondent can reasonably show a need for additional time to prepare a defense to the alleged statutory violations, an extension of time may be granted by moving the scheduled hearing to a later date. The granting of such a request is within the complete discretion of the commissioner or such presiding officer as has been designated by the commissioner.

(e) If a respondent can reasonably show that the complaint is unclear or ambiguous as to the nature of the acts in violation of the law, he may file with the agency a written motion for a more detailed statement of the nature of the charges against him. The granting or denial of such a motion is within the complete discretion of the commissioner or such presiding officer as has been designated by the commissioner.

(f) Appearances, Admissions and Denials, Answers, Motions and any other pleading which a Respondent wishes considered by the Commissioner prior to the convening of a contested case proceeding may be filed up to seven days prior to the hearing date. Failure to file any pleadings may allow the agency to proceed with the matter. However, if a Respondent can reasonably show a need for additional time to submit documentation, an extension of time may be granted. The granting of such a request is within the complete discretion of the Commissioner or such presiding officer as has been designated by the Commissioner.

(Effective June 27, 1985)

Sec. 21a-1-23a. Pre-hearing procedure in contested cases

(a) Any time after the issuance of a complaint and before the scheduled hearing date, the commissioner may order or a respondent may request an informal pre-hearing conference. The granting or denial of a request for a pre-hearing conference is within the complete discretion of the commissioner or such presiding officer as has been designated by the commissioner.

(b) A pre-hearing conference may be held for any of the following purposes:

(1) to narrow the scope of the issues in dispute;

(2) to obtain stipulations as to matters of fact;

(3) to stipulate as to the authenticity of documents which are to be offered in evidence;

(4) to stipulate as to the qualifications of any expert witnesses who are to testify at the hearing; and

(5) to discuss the possibility of an informal disposition of the complaint.

(c) A pre-hearing conference need not be recorded, but a written record will be made of any stipulations as to matters of fact, as to the authenticity of documents, or as to the qualifications of expert witnesses. Any such written record will be signed by each of the individual respondents or his counsel and by the commissioner or his authorized representative.

(Effective June 27, 1985)

Sec. 21a-1-24a. Conduct of adjudicative hearings in contested cases

(a) Hearings in contested cases shall be presided over by the commissioner or his designated hearing officer.

(b) Said commissioner or hearing officer shall have the power to:

(1) Regulate the course of the hearing and the conduct of the parties and their counsel therein;

(2) Insure that all testimony is given under oath;

(3) Rule upon offers of proof and to receive evidence;

(4) Consider and rule upon all motions; and

(5) Require any additional written and/or oral argument.

(c) Each party in an adjudicative hearing shall have the right to present evidence, cross examine witnesses, enter motions and objections, and assert all other rights essential to a fair hear.

(d) Intervention by interested parties shall be permitted in any contested case, as provided by applicable statute or otherwise within the discretion of the commissioner or hearing officer.

(e) All adjudicative hearings in contested cases shall be recorded and shall be conducted in accordance with the provisions of chapter 54 of the General Statutes.

(Effective June 27, 1985)

Sec. 21a-1-25a. Transcript of the proceedings

(a) At the close of the reception of evidence, the respondent or any other party of record may file a written request addressed to the agency for a written transcript of the proceedings. If no such written request is filed, the agency may order that a written transcript be prepared.

(b) If any party of record desires a copy of the transcript, it will be made available to him upon written request and the tendering of the appropriate cost.

(Effective June 27, 1985)

Sec. 21a-1-26a. Informal disposition in contested cases

(a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. A respondent may agree to enter an agreement containing a consent order in lieu of a hearing on the issue(s). Such agreement may be negotiated by the respondent and the complaint counsel or authorized representative of said agency. The acceptance of a consent agreement is within the complete discretion of the commissioner.

(b) A consent agreement shall contain:

(1) An admission of all jurisdictional facts;

(2) An express waiver of the right to seek judicial review or otherwise challenge or contest the validity of the order;

(3) An express waiver of the requirement that the decision of said commissioner contain findings of fact and conclusion of law;

Regulations of Connecticut State Agencies

TITLE 21a. Consumer Protection

§21a-1-27a

Department of Consumer Protection

- (4) A provision that the complaint may be used in construing the terms of the order;
- (5) A statement that the order contained therein shall have the same force and effect as an order entered after a full hearing and shall become final when issued;
- (6) A statement that said order shall not be effective unless and until accepted and approved by the commissioner;
- (7) The signature of each respondent or his attorney and the complaint counsel; and
- (8) The signature of the commissioner accepting and approving the consent agreement.

(Effective June 27, 1985)

Sec. 21a-1-27a. Proposal for decision

When in a contested case the Commissioner has not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the commissioner. The proposal for decision shall contain a statement of the reasons therefore, and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

(Effective June 27, 1985)

Sec. 21a-1-28a. Final decision in a contested case

(a) The final decision or order in a contested case shall be rendered by the commissioner after due consideration of the entire record. If no written request was filed for the preparation of a transcript, a final decision may be rendered at any time following the close of the hearing. If a transcript was requested in writing, the final decision may be rendered within a reasonable time following preparation of the transcript.

(b) A final decision or order adverse to a party in a contested case shall be in writing or stated in the record.

(c) Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the text of the final decision or order shall be sent by mail to each of the respondents and respondent's counsel, and to any other party of record.

(d) The agency shall proceed with reasonable dispatch to conclude any matter pending before it and shall render a final decision in all contested cases within ninety days following the close of evidence and filing of briefs in such proceedings.

(Effective June 27, 1985)

Sec. 21a-1-29a. Inconsistent regulations

Unless precluded by law, the regulations appearing as Sections 21a-1-19a through 21a-1-28a inclusive, shall take precedence over any other conflicting or inconsistent regulation pertaining to hearing procedures within the Department of Consumer Protection.

(Effective June 27, 1985)