

Summary of Maine Administrative Procedure, 5 M.R.S.A. Part 18

For ease of reference, below is a non-exhaustive map of the APA provisions relevant to rulemaking.

Notice-and-Comment Rule-making

1. Notice and opportunity for (optional) public hearing with at least one-third of the commission members present, followed by the opportunity to file written statements. [5 M.R.S.A. §§ 8052(1)–(3), 8053].
2. Notice and fact sheet to the Executive Director of the Legislative Council [5 M.R.S.A. § 8053-A].
3. Consideration of relevant information “including, but not limited to, economic, environmental, fiscal and social impact analyses and statements and arguments filed, before adopting any rule.” [5 M.R.S.A. § 8052(4)].
4. Reduction of impacts on small business, including consideration of methods for reducing economic burdens, simplifying reporting, and providing flexibility and simplified timetables that reflect the resources available to affected small businesses [5 M.R.S.A. § 8052(5-A)].
5. Adoption of written statement. [5 M.R.S.A. § 8052(5-A)].
6. Assessment of economic impacts on small business where a rule may have an adverse effect, including identification of affected businesses; projected reporting, record-keeping, and other administrative compliance costs; professional skills required; a brief statement of probable impacts; and description of less intrusive or less costly reasonable alternatives. [5 M.R.S.A. § 8052(5-A)].

At adoption

7. Preparation of a basis statement briefly explaining the factual and policy foundation for the rule. [5 M.R.S.A. § 8052(5-B)(A)]
8. Listing and response to comments, including statement of the rationale for adopting or rejecting suggested changes or for making differing findings or recommendations. [5 M.R.S.A. § 8052(5-B)(1), (2)]
9. Demonstration of consistency between the adopted rule and the proposed rule, except where changes are made to address concerns raised in comments or where specific findings support such changes or provision of an additional comment period. [5 M.R.S.A. § 8052(5-C)]
10. Maintenance of an agency rule file, including testimony, written comments, commenters, and other information that may be relevant. [5 M.R.S.A. § 8052(5-D)].

11. Approval by the Attorney General as to form and legality. [5 M.R.S.A. § 8052(7)(B)].
12. Establishment of an appropriate effective date. [5 M.R.S.A. § 8052(6)].
13. Appropriate reference to underlying federal and state laws and regulations. [5 M.R.S.A. § 8052(8)].
14. Filing of the rule, including specifications of materials incorporated by reference and fiscal note and identification of primary sources of relied-upon information. [5 M.R.S.A. §§ 8056, 8056(2-A), 8063, 8063-B]

Generally (in part)

- Voluntary consideration of a “consensus-based rule development process.” [5 M.R.S.A. §§ 8002(3-C), 8051-B].
- Appointment of a rule-making liaison. [5 M.R.S.A. § 8051-A; State of Maine, Directory of Agency Rule-making Liaisons (Oct. 9, 2025).]
- Provision of a method for requesting and providing notice of rule-making and advisory rulings. [See 5 M.R.S.A. §§ 8053(1), 9001].
- Designation of a form for petition for adoption or modification of rules. [5 M.R.S.A. § 8055(2)].
- Compliance with APA required. [5 M.R.S.A. § 8057; New England Whitewater Center, Inc. v. Department of Inland Fisheries & Wildlife, 550 A.2d 56, 62, 64 (1988)].
- Development of fact sheet and requisite statements of goals, purpose, reasons, fiscal impact. [5 M.R.S.A. § 8057-A].
- Regulatory agenda required. [5 M.R.S.A. §§ 8060, 8064.]