

Welcome to Maine --

**The Way Life (and
Rulemaking) Should Be**



Maine Stats

- 1978 – Maine enacts APA law
- SOS acts as repository for all rulemaking agencies
- As of 2014 – 2,045 rule chapters on file
- In 2014 -- 277 rule proposals & 296 rule adoptions filed

Maine's "Main" Responsibilities

- Publish rulemaking guide and all APA forms
- Provide administrative assistance
- Review and accept required filings
- Provide public notice – proposals and adoptions
- Accept rule adoptions and place on file
- Post all rules on SOS web site

The Planning Stage

- Agency determines if it has authority to adopt rule
- Agency drafts rule
- Provide to Attorney General for pre-review
- Executive Order – agencies must obtain permission from Governor's office

Rule Proposal

- Notice of Proposal filed with SOS
- SOS publishes on website and in 5 daily newspapers
- Published 17-24 days before public hearing or 30 days before comment deadline if no hearing
- Provide notice to Legislature and other interested parties

Rule Adoption

- Agency considers comments received and decides whether to adopt
- Must adopt within 120 days of comment deadline
- Rule must be approved by Attorney General within 150 days of comment deadline
- Signed rule filed with SOS

Rule Adoption

- Rule is effective 5 days after filing with SOS (unless agency selects later date)
- SOS posts rule on web site
 - Site organized by agency (umbrella unit) and chapter
Example: 94-357 Chapter 635
- Rule and supporting documents placed on file

Other peculiarities

- Emergency rules – no proposal or hearing required - effective for only 90 days
- Major substantive rules
 - Legislative approval required – statute must specify if rule is major substantive
 - Agency follows normal adoption procedure but must also submit to Legislature - adopts only if enacted by Legislature
- Incorporation by Reference

Reporting Duties

- Report to Governor and Legislative Committee – Prior to Feb. 1 annually
 - Statistical info on activities
 - Recommendations for improvements
 - Solicit comments from agencies and public
- Annual lists of rulemaking activity – filed with Legislative Council by Feb. 1st
 - Summary of each rule adopted including purpose, policy basis and fiscal impact

More Reporting Duties

- Regulatory Agenda – Agency files list of rules it intends to adopt/amend
 - Due 100 days after close of Legislative session
-

- APA statutory citation: 5 MRS ch. 375, 377, 377-A