

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



OFFICE OF  
THE GOVERNOR

NO. 17 FY 02/03  
DATE 19 May 2003

**AN ORDER REGARDING EXECUTIVE REVIEW OF  
ADMINISTRATIVE RULEMAKING**

**WHEREAS**, Executive Order 10 FY 02/03 was intended to make the administrative rulemaking process effective and efficient; and

**WHEREAS**, further procedural clarifications and directives are necessary in order to reach that objective; and

**WHEREAS**, the purpose of this Executive Order is to clarify the role and responsibilities of state agencies promulgating rules pursuant to the Maine Administrative Procedure Act; and

**WHEREAS**, State agencies are responsible for the development of rules, which development is one of the most important policy-making functions entrusted to State agencies; and

**WHEREAS**, the Office of Attorney General is required by 5 M.R.S.A. §§ 8052(7)(B) and 8056(1)(A) to conduct a review to determine if a rule shall be approved as to form and legality:

**NOW, THEREFORE**, I, John E. Baldacci, Governor of the State of Maine, do hereby revoke Executive Order 10 FY 02/03 in its entirety and order the following:

*Prior to* issuing notice of rulemaking and submitting a proposed rule to the Secretary of State for publication pursuant to 5 M.R.S.A. § 8053, agencies must present to the respective Commissioners presiding over said agencies a written explanation detailing the following:

1. The legal requirement for adopting the rule;
2. Whether the proposed rule protects against a direct and immediate threat to the public health, safety, or welfare; and
3. An analysis of the costs of the regulatory initiative to the State, as well as the cost to and impact on the regulated community.

*Prior to* issuing notice of rulemaking and submitting a proposed rule to the Secretary of State for publication pursuant to 5 M.R.S.A. § 8053, the respective Commissioner presiding over agencies promulgating rules shall:

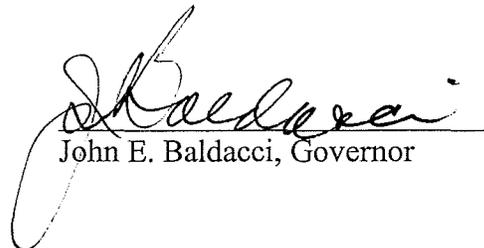
1. Review the above-described written explanation submitted to them and have an understanding of the substance and policy implications of the proposed rules; and
2. Once the Commissioners' review and understanding of the proposed rules are achieved, the Commissioners must indicate the Commissioners' preliminary approval of the proposed rules, if such approval is deemed by the Commissioners to be warranted.

*Further, prior to* issuing notice of rulemaking and submitting a proposed rule to the Secretary of State for publication pursuant to 5 M.R.S.A. § 8053, all agencies shall seek a legal pre-review of proposed rules by the Office of the Attorney General. The legal pre-review is a preliminary informal review as to form and legality. Agencies submitting proposed rules to the Office of the Attorney General for legal pre-review shall ensure that: (1) the proposed rule has been drafted by a person responsible for and skilled in the development of rules; (2) the proposed rule represents the agency's best efforts at issue and policy development, organizational layout, and writing quality; and (3) the agency has provided the Office of the Attorney General with adequate time to perform its legal pre-review of the proposed rules. Moreover, upon request of the Attorney General, an agency shall enter into a Memorandum of Understanding between the Office of the Attorney General and the subject agency outlining the rule review process that will be followed.

The legal pre-review described in this Order is in addition to the review conducted by the Office of the Attorney General pursuant to 5 M.R.S.A. §§ 8052(7)(B) and 8056(1)(A) to determine if a rule shall be approved as to form and legality.

***Effective Date***

The effective date of this Executive Order is 19 May 2003.



John E. Baldacci, Governor