

# MAINE STATE LEGISLATURE

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OFFICE OF  
THE GOVERNOR

NO. 4-A FY 19/20  
DATE March 29, 2023

**AN ORDER  
REGARDING ADMINISTRATIVE RULEMAKING**

**WHEREAS**, the promulgation of rules and regulations is an essential policy-making function of State government; and

**WHEREAS**, State agencies and boards are delegated statutory authority to apply their expertise and experience to propose and develop such rules and regulations; and

**WHEREAS**, agencies and boards are required to exercise their delegated rulemaking authority consistent with the comprehensive standards of the Maine Administrative Procedure Act, 5 *M.R.S.* § 8001 *et seq.*; and

**WHEREAS**, *Executive Order 20 FY 11/12* reserved to the Office of Governor the authority to pre-approve all rules proposed by state agencies;

**NOW THEREFORE**, I, Janet T. Mills, Governor of the State of Maine, pursuant to authority conferred by *Me. Const. Art. V, Pt. I, § I and § 12*, do hereby Order the following:

**I. PROCESS**

Agencies and boards:

- A. Are entrusted to apply their expertise and experience in proposing rules. Agencies and boards may confer with Office of Governor as need be in developing their proposals, and need not seek pre-approval from the Office of Governor before subjecting their proposed rule to public and expert comment as required by 5 *M.R.S.* § 8052 and § 8053;
- B. Shall use best efforts to provide the Office of the Attorney General (OAG) with the opportunity to perform a legal pre-review of the draft rule prior to issuing notice of rulemaking and submitting a proposed rule to the Secretary of State for publication pursuant to 5 *M.R.S.* § 8052 and § 8053. Draft rules so presented shall be prepared by a person skilled in developing, organizing, and writing rules, and shall, to the extent practicable, be provided to the OAG with adequate time to perform such a pre-review. The pre-review called for in this paragraph shall be in

addition to the final review conducted by the OAG pursuant to 5 M.R.S. § 8052(7)&(8) and §§ 8056(1)(A) to determine approval as to form and legality.

The purpose of pre-review is to identify issues early in the process that, if left unresolved, could later delay or preclude final adoption. As such, it is in the agency's interest to facilitate pre-review. If an agency believes a draft rule does not warrant formal pre-review, or determines that circumstances do not allow for formal pre-review, it should discuss this with the OAG and seek an understanding before proceeding with rulemaking. This discussion should cover known or anticipated issues with the draft rule, legal deadlines or practical exigencies associated with the rulemaking, and how available resources within the agency and the OAG can be used most effectively under the circumstances.

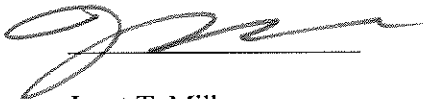
- C. Shall, prior to adopting a final rule, "consider all relevant information available to it, including, but not limited to, economic, environmental, fiscal and social impact analyses" as required by 5 M.R.S. § 8052(4). In conducting these environmental and social impact analyses, each agency and board shall prioritize the health safety and welfare of Maine people. In conducting these economic and fiscal impact analyses, each agency and board shall consider the extent to which existing state or federal laws or regulations already address the subject matter of the rule, and the rule's impact on the ability of Maine employers to retain and attract a skilled workforce, including by reducing compliance burdens on small businesses as required by 5 M.R.S. § 8052(5)(A).

## II. OTHER

This Order supersedes *Executive Orders 20 FY 11/12, 02 FY 13/14 and 4 FY 19/20*.

## III. EFFECTIVE DATE

The effective date of this Order is March 29, 2023.



Janet T. Mills  
Governor