



BEP FACT SHEET

Guidance on Public Comment at Time of Rule Adoption

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contact: (207)-287-2811 or 287-2452

I. Statutory Reference

Rulemaking by the Board of Environmental Protection is governed by the Maine Administrative Procedure Act, 5 M.R.S.A. section 8051 et seq.

In addition, 38 M.R.S.A. section 341-H, subsection 3(C) states, “Notwithstanding Title 5, chapter 375, subchapter 2 or 2-A, the department shall accept and consider additional public comment on a proposed rule following the close of the formal rule-making comment period at a meeting that is not a public hearing only if the additional public comment is directly related to comments received during the formal rule-making comment period or is in response to changes to the proposed rule. Public notice of the meeting must comply with Title 1, section 406 and must state that the department will accept additional public comment on the proposed rule at that meeting.”

II. Procedure Before the Board

In accordance with statute, the Board will receive additional public comment on a proposed rule at the meeting at which the rule is scheduled for final action by the Board. The opportunity for comment afforded at this time is not intended to allow persons to raise issues or provide evidence that could have been provided during the formal comment period. Rather, comment is limited to comment on comments received during the formal comment period or comment on changes made to the proposed rule since the close of the formal comment period. In order to ensure that the comment received at the meeting is limited as specified in the statute, to ensure that all persons are aware of the information before the Board for its consideration, and to ensure that the meeting proceeds in an efficient manner, the procedure for receiving public comment on a proposed rule at the time of adoption is as follows:

- Department staff will introduce the rule proposed for adoption.
- Board members may at any time question staff on any aspect of the proposed rule.
- Following staff presentation, the Board will receive reasonable comment from the public prior to the Board’s deliberation and vote. Members of the public addressing the Board will be asked to state their name, residence, and affiliation, if applicable. Comments must be presented orally, except by leave of the Chair. In order to avoid the introduction of comment that is not permissible under the statute, those requesting to comment should be prepared to show that their comments comply with the statutory requirement. The Chair will not allow comment that is irrelevant, unduly repetitious, or not permissible under the statute.

- Depending upon the number of persons requesting to comment, the Chair may limit time for each commenter to ensure that all have an opportunity to speak and to ensure that the Board has sufficient time to deliberate before making a decision on the proposed rule.

If you have questions on this procedure, please call the contact person for the specific rule under consideration or the Board's Executive Analyst. The Executive Analyst may be reached by calling (207) 287-2452.

Note: The Department provides this FACT SHEET for general guidance only; it is not intended to be legally binding or to be used as a legal reference.