

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1115

S.P. 337

In Senate, February 18, 1997

**An Act to Make Technical Corrections in the Maine Administrative
Procedure Act.**

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator AMERO of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 5 MRSA §8052, sub-§5, ¶C** is enacted to read:

6 C. If the adoption under this subsection is final adoption
8 of a major substantive rule under subchapter II-A, the
10 agency must include in its written statement citation of
12 the legislative act authorizing final adoption of that
14 rule; or, if authorization is the result of failure of the
16 Legislature to act under section 8072, subsection 7, the
18 agency must indicate that fact and identify the date the
20 agency filed the rule for review under section 8072.

22 **Sec. 2. 5 MRSA §8072, sub-§§1 and 7**, as enacted by PL 1995, c.
24 463, §2, are amended to read:

26 **1. Preliminary adoption of major substantive rules.** An
28 agency proposing a major substantive rule other than an emergency
30 rule, after filing the notice of proposed rulemaking required by
32 section 8052, shall proceed with rule-making procedures to the
34 point of, but not including, final adoption. At that point,
36 known in this section as "provisional adoption," the agency shall
38 file the provisionally adopted rule and related materials with
40 the Secretary of State as provided in section 8056, subsection 1,
42 paragraph B and submit the rule to the Legislature for review and
44 authorization for final adoption as provided in this section.
46 The rule has legal effect only after review by the Legislature
48 followed by final adoption by the agency.

50 **7. Consideration by the Legislature.** No later than 30 days
before statutory adjournment of the Legislature as provided in
Title 3, section 2, each joint standing committee of the
Legislature shall submit to the Secretary of the Senate and the
Clerk of the House of Representatives the committee's report on
agency rules the committee has reviewed as provided in this
section. The report must include a copy of the rule or rules
reviewed, the committee's recommendation concerning final
adoption of the rule or rules, a statement of the reasons for a
recommendation to withdraw or modify the rule or rules and draft
legislation for introduction in that session that is necessary to
implement the committee's recommendation. A committee may
decline to include in its report recommendations covering any
rules submitted to it later than 45 days before statutory
adjournment. If an adjournment date earlier than required by
statute is anticipated, the Legislative Council may establish an
earlier deadline for agencies to submit provisionally adopted
rules for review, except that any earlier date established by the
council may not be more than 75 days before statutory
adjournment. If, before adjournment of the session at which a
rule is reviewed, the Legislature fails to act on all or part of

2 any rule submitted to it for review in accordance with this
3 section, an agency may proceed with final adoption and
4 implementation of the rule or part of the rule that was not acted
5 on.

6
7 **SUMMARY**

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9 This bill amends the Maine Administrative Procedure Act
10 regarding legislative review of agency rules to:

11 1. Require agencies, when they file finally adopted rules
12 that have been reviewed by the Legislature with the Secretary of
13 State, to cite the legislative act that authorized final adoption
14 by the agency. Citation of the legislative action will make it
15 easier for interested persons to verify that the adopted rules
16 were, in fact, authorized.

17 2. Require agencies to file copies of provisionally adopted
18 rules with the Secretary of State at the same time they submit
19 those rules to the Legislature for review. The Secretary of
20 State is the official repository for other rule-making filings.

21 3. Authorize the Legislative Council to establish an
22 earlier filing deadline for agency rules being submitted for
23 legislative review when the Legislature anticipates adjourning
24 before statutory adjournment.
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