

MAINE STATE LEGISLATURE

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Department of
the Secretary of State

Janet E. Waldron
Assistant Secretary of State

Gary Cooper
Deputy Secretary of State

G. William Diamond
Secretary of State

January 31, 1991

Governor John McKernan
State House Station 1

Dear Governor McKernan:

Pursuant to 5 M.R.S.A. Section 8056-A, as Secretary of State, I hereby submit an annual report on the progress of the Maine Administrative Procedure Act.

During 1990, there were 406 proposed rule notices and 577 adopted rules. Of the 577 adopted rules, 198 were adopted as emergencies. Marine Resources filed 155 of those emergency rules for the closing and opening of shores, flats and waters as a result of red tide, bacteria contamination and other potential threats to the public health. The other 43 emergency rules were filed by various agencies.

At the end of 1990, there were a total of 1,747 rules on file with the Secretary of State. This is 165 over what was on file at the end of 1989, a 10% increase.

During the calendar year of 1990, the cost of publishing the rulemaking notices was \$248,567.44. This is \$31,063.12 over the cost for 1989, a 14% increase. We received a few comments from agencies regarding the cost for the publication of the rulemaking notices. We are analyzing alternatives for rulemaking publishing to lower costs, if at all possible.

Current law requires that an agency submit a checklist, which notes which steps in the rulemaking process have been accomplished, during both the proposal stage and the adoption stage. The filing of the checklist at the proposal stage is premature in that the process is just beginning. It, therefore, does not serve the purpose for which it was intended. This requirement could be repealed from the statutes with no effect on operations. The checklist at the adoption stage, however, should continue to be required.

Most state agencies consistently meet all the requirements of the Maine Administrative Procedures Act. Those agencies which do not submit the required forms, etc. with the proposed or adopted rules quickly comply once they are reminded of those requirements.

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Of the 1,747 rules which the Secretary of State has on file, only 201 have been entered on the computer in a word processing system. We will be actively requesting from all state agencies electronic copies of all their rules. Once we have a complete set of rules entered into our system, we can reformat all the rules into one established format, and then we can look at the process of reproducing these rules to make them more accessible to the public. The recently concluded Commission on the Codification of Rules has in fact recommended codification and conversion to machine readable format. There is some possibility that a private publisher might take on the conversion task in exchange for limited term publication rights.

RECOMMENDATIONS:

1. If analysis of the alternatives to Wednesday publication of rulemaking notices in five daily newspapers should reveal a less expensive approach with equal statewide coverage, then that approach should be implemented.
2. The Maine Administrative Procedures Act should be amended to eliminate the requirement that the checklist be filed when the rule is proposed; however it should still be required when the rule is adopted and filed with the Secretary of State.
3. Recodification and compilation into electronic format should be aggressively pursued.

Sincerely,



Bill Diamond
Secretary of State