

# MAINE STATE LEGISLATURE

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January 4, 1974

Samuel Silsby, State Archivist

State Archives

Robert J. Stolt, Assistant

Attorney General

Approval of Maine State Archives Regulations for State Agency Records

I find your proposed regulations to be in proper form and acceptable with the following exceptions:

1. Subchapter I Section 2.02 Applicability - your definition of "Executive Agency" should be specifically limited to its use in your regulations, e.g., "Executive Agency" as used in these regulations, is defined....;
2. Subchapter II, Section 1.01 Authority - your statement is incorrect and should include the phrase "in compliance with the standards, procedures and regulations issued by the State Archivist";
3. Subchapter III Section 1.00 Scope of Subchapter - the second sentence is incorrect when it states that the law [6 M. R.S.A. § 95 (7-9)] requires that each agency provide for effective controls over the creation of records. . . . What § 95 (7-9) requires is that the Archives recommend improvements in records management to provide for effective control over the creation of records. There is no requirement in the Act for Agency heads to do anything about records creation unless directed to do so by the State Archives regulations;
4. Subchapter 5; Section 4.02 Menaces to human health or life or to property troubles me. It is vague and overly broad in what it seeks to define, e.g., records such as "the Watergate Tapes" qualify as a menace to human health or life or to property and need emergency disposal. Even though you require the added approval of the State Archivist before an Agency Head may destroy or dispose of menacing records, a more exact definition of the types of records or record storage situations which are menacing is appropriate;
5. Subchapter 5 Section 7.01 Authority - The State Archivist is authorized to maintain and operate records centers, but he has no authority under The Act to establish such centers.

Sincerely yours

ROBERT J. STOLT  
Assistant Attorney General

RJS/bls

NOT A FORMAL OPINION

*from  
final  
opinion*