

MAINE STATE LEGISLATURE

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S T A T E O F M A I N E
Office Of The Governor

Angus S. King, Jr.
Governor

Elizabeth R. Butler
Chief Counsel to the Governor

DATE: July 26, 1995
TO: Cabinet Subcommittee - Rule Effectiveness
FROM: Elizabeth R. Butler
RE: Implementation of EO 6

In implementing EO 6, "Order Regarding The Initiative of Administrative Rulemaking", I recommend that the agencies adhere to the following schedule and criteria:

July 15, 1995 - Name rule review teams and send to Governor's Office

July 15 - 31, 1995 Joint Meeting of rule review teams and committee.

July 31 - November 1, 1995 Departmental Inventory Review

Using a team from all different agency bureaus, perform comprehensive review of all existing Department regulations, using 6 criteria in EO 6.

Nov. 1 - Preliminary report to Governor's Office with plans for recommended changes

Deadline for proposal of electronic codification of agency rules

Dec. 1 - Governor Office response to agencies

Dec. 31 - Final Report submission

Criteria:

1. Whether the rule faithfully executes the current requirements of state law.
 - This requires careful review of rules in light of later-enacted laws, to determine if updating is necessary
 - Build in Attorney General input in planning stages to assure law changes are addressed
2. Whether the factual and policy bases for the rule are still justified in light of current conditions;

- In reviewing rules, agency must determine whether the rules have been outdated by changing facts or circumstances (e.g. If recommended technology had advanced on septic systems, DHS should allow new technology to be used in new or replacement system construction)
 - Rule review teams may need system support from other agency personnel to conduct the factual and policy review
 - Note if evolution of facts and/or policy recommend update of statute as well as rules
3. Would alternative regulatory approach yield a higher benefit to the public at a lower net cost?
- This requires analysis of the data collected under 1 and 2 to determine if a better mousetrap can be built.
 - This is an ideal opportunity to review procedural streamlining in environmental or professional context (permit by rule).
4. Whether any economic burdens or competitive disadvantages imposed upon the regulated citizens could be minimized through a more flexible regulatory approach or a non-regulatory approach (e.g. alternative dispute resolution procedures for contested rulemaking or market incentives)
- Note if members of the public have requested rule upgrades in the past
 - Focus on simplified reporting and compliance
 - Electronic reporting - can we enhance opportunities to increase productivity?
 - Longer license terms?
5. Federal consistency
- Self-explanatory, but be ready with explanation for any inconsistency
6. Whether the rule has fulfilled its original policy objectives and cost projections?
- What is/was the original desired regulatory outcome and has the rule achieved that outcome in whole or part?
 - Performance-based rulemaking
 - Benchmarks for performance - need to agree on appropriate standards