

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 417

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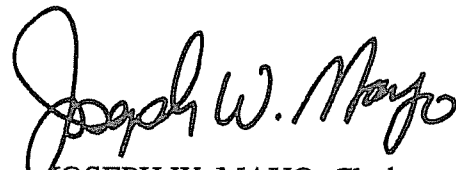
H.P. 329

House of Representatives, February 9, 1993

**An Act to Clarify the Maine Administrative Procedure Act.**

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Submitted by the Department of the Secretary of State pursuant to Joint Rule 24.  
Reference to the Committee on State and Local Government suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative JOSEPH of Waterville.  
Cosponsored by Representative: LOOK of Jonesboro, Senators: BUTLAND of Cumberland,  
ESTY of Cumberland.

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

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4           Sec. 1. 5 MRSA §8002, sub-§§1-A and 3-A are enacted to read:

6           1-A. Adopt. "Adopt" means action certified by the dated  
signature of an authorized representative that a rule is accepted  
as official by an agency.

8           3-A. Effective date. "Effective date" means the date a  
10 rule goes into effect. If a date is not assigned by the agency,  
the effective date is assigned by the Secretary of State in  
12 accordance with section 8052, subsection 6. Unless otherwise  
stated in law, emergency rules filed in accordance with section  
14 8054 are effective at the time they are filed with the Secretary  
of State.

16           Sec. 2. 5 MRSA §8052, sub-§2, ¶B, as amended by PL 1985, c.  
18 737, Pt. A, §18, is further amended to read:

20           B. In the case of a rule authorized to be adopted by a  
single agency member, either the agency member or, a person  
22 in a major policy-influencing position, as listed in chapter  
71, or a designee who has a-policy-making responsibility  
24 over the subject matter to be discussed at the hearing,  
shall hold and conduct the hearing.

26           Sec. 3. 5 MRSA §8052, sub-§6, as amended by PL 1981, c. 524,  
28 §5, is further amended to read:

30           6. Effective date. No rule, except emergency rules adopted  
under section 8054, may-become becomes effective until at least 5  
32 days after filing with the Secretary of State under section 8056,  
subsection 1, paragraph B.

34           When the effective date of a rule is contingent upon the  
36 occurrence or nonoccurrence of an event, notification of the  
occurrence or nonoccurrence must be filed with the Secretary of  
38 State when known.

40           Sec. 4. 5 MRSA §8056, sub-§3, ¶A-1, as amended by PL 1991, c.  
42 541, §1, is repealed.

44           Sec. 5. 5 MRSA §8056, sub-§10 is enacted to read:

46           10. Minor errors. The Secretary of State may correct  
minor, nonsubstantive errors in spelling and format in proposed  
or adopted rules if the agency is notified.

48           Sec. 6. 5 MRSA §8060, sub-§2, as enacted by PL 1989, c. 547,  
50 §8, is amended to read:

2           2. **Due date.** A regulatory agenda must be issued prior-to  
3 between the beginning of a regular legislative session and 100  
4 days after adjournment of each regular session of the Legislature.

6           **Sec. 7. 5 MRSA §8064**, as enacted by PL 1991, c. 540, §2, is  
7 amended to read:

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9           **§8064. Limitation**

10           Except for emergency rules, as provided in section 8060,  
11 subsection 6, an agency may not adopt any rule unless the agency  
12 has complied with the provisions in sections 8053-A and 8060,  
13 which ~~includes~~ include legislative review of the rule. When an  
14 agency proposes a rule not in its current regulatory agenda, the  
15 agency must file an amendment to its agenda with the Legislature  
16 and Secretary of State under section 8053-A at the time of rule  
17 proposal.

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19           **Sec. 8. 25 MRSA §2103-A, sub-§2, ¶D**, as enacted by PL 1989, c.  
20 754, Pt. C, §1, is amended to read:

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22           D. The Secretary of State shall maintain and make available  
23 at the Secretary of State's office, for inspection at no  
24 charge and for copying or purchase at actual cost, current  
25 copies of those state rules as filed in accordance with  
26 paragraph A and include them within the compilations subject  
27 to Title 5, section 8056, subsection 3, ~~paragraphs A-1 and~~  
28 paragraph B. The Secretary of State shall also make  
29 available at the Secretary of State's office, for inspection  
30 at no charge, and for copying at actual cost, a current  
31 published copy of the referenced federal regulations and  
32 amendments, but requests for purchase of copies or certified  
33 copies of the federal regulations or amendments may be  
34 directed to the appropriate federal agency.

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36           **Sec. 9. 29 MRSA §2707, sub-§1, ¶D**, as enacted by PL 1989, c.  
37 754, Pt. C, §6, is amended to read:

38  
39           D. The Secretary of State shall maintain and make available  
40 at the Secretary of State's office, for inspection at no  
41 charge and for copying or purchase at actual cost, current  
42 copies of those state rules as filed in accordance with  
43 paragraph A and include them within the compilations subject  
44 to Title 5, section 8056, subsection 3, ~~paragraphs A-1 and~~  
45 paragraph B. The Secretary of State shall also make  
46 available at the Secretary of State's office, for inspection  
47 at no charge, and for copying at actual cost, a current  
48 published copy of the referenced federal regulations and  
49 amendments, but requests for purchase of copies or certified  
50

2 copies of the federal regulations or amendments may be  
directed to the appropriate federal agency; and

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#### STATEMENT OF FACT

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This bill adjusts language in the Maine Administrative Procedure Act. The bill defines "adopt" and "effective date" and provides that a designee who has responsibility over the subject area of a rule may hold the hearing. The bill also provides that a contingency affecting the adoption of a rule must be reported to the Secretary of State. In addition, the bill repeals a provision that requires the Secretary of State to publish compilations of rules using state resources. The bill enables the Secretary of State to correct minor errors in rules, specifies the filing period for the regulatory agenda and allows agencies to amend the regulatory agenda by notice to the Legislature and Secretary of State prior to rule adoption.