

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 562

H.P. 417

House of Representatives, February 3, 2005

An Act To Improve Public Understanding in Rulemaking

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SAVIELLO of Wilton.
Cosponsored by Senator NUTTING of Androscoggin and
Representatives: BROWNE of Vassalboro, FINCH of Fairfield, FISCHER of Presque Isle,
FLETCHER of Winslow, HOTHAM of Dixfield, MARLEY of Portland, MILLS of
Farmington, SHERMAN of Hodgdon.

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

2
3 **Sec. 1. 5 MRSA §8052, sub-§5**, as amended by PL 1997, c. 196,
4 §1, is further amended to read:

6 **5. Written statement adopted.** At the time of adoption of
7 any rule, the agency shall adopt a written statement explaining
8 the factual and policy basis for the rule. The agency shall list
9 the names of persons whose comments were received, including
10 through testimony at hearings, the organizations the persons
11 represent and summaries of their comments. The agency shall
12 address the specific comments and concerns expressed about any
13 proposed rule and state its rationale for adopting any changes
14 from the proposed rule, failing to adopt the suggested changes or
15 drawing findings and recommendations that differ from those
16 expressed about the proposed rule. For rules that have received
17 a public hearing, the Department of Agriculture, Food and Rural
18 Resources, the Department of Conservation, the Department of
19 Environmental Protection and the Department of Inland Fisheries
20 and Wildlife shall identify the primary sources of information
21 relied on in establishing the primary provisions of the rule.

22
23 A. If the same or similar comments or concerns about a
24 specific issue were expressed by different persons or
25 organizations, the agency may synthesize these comments and
26 concerns into a single comment that accurately reflects the
27 meaning and intent of these comments and concerns to be
28 addressed by the agency, listing the names of the persons
29 who commented and the organizations they represent.

30
31 B. A rule may not be adopted unless the adopted rule is
32 consistent with the terms of the proposed rule, except to
33 the extent that the agency determines that it is necessary
34 to address concerns raised in comments about the proposed
35 rule, or specific findings are made supporting changes to
36 the proposed rule. The agency shall maintain a file for
37 each rule adopted that must include, in addition to other
38 documents required by this Act, testimony, comments, the
39 names of persons who commented and the organizations they
40 represent and information relevant to the rule and
41 considered by the agency in connection with the formulation,
42 proposal or adoption of a rule. If an agency determines
43 that a rule that the agency intends to adopt is
44 substantially different from the proposed rule, the agency
45 shall request comments from the public concerning the
46 changes from the proposed rule. The agency may not adopt
47 the rule for a period of 30 days from the date comments are
48 requested pursuant to this paragraph. Notice of the request
49 for comments must be published by the Secretary of State in
50 the same manner as notice for proposed or adopted rules.

2 C. If the adoption under this subsection is final adoption
3 of a major substantive rule under subchapter II-A 2-A, the
4 agency must include in its written statement citation of
5 the legislative act authorizing final adoption of that
6 rule; or, if authorization is the result of failure of the
7 Legislature to act under section 8072, subsection 7, the
8 agency must indicate that fact and identify the date the
9 agency filed the rule for review under section 8072.

10 **Sec. 2. 5 MRSA §8053, sub-§3-A**, as amended by PL 2003, c. 207,
11 §2, is further amended to read:

12 **3-A. Copies of proposed rules available upon request.** At
13 least 20 days prior to a hearing on any proposed rule and at
14 least 20 days prior to the comment deadline of any rule without a
15 hearing, the agency shall make copies of the proposed rule
16 available in writing or, with agreement of the requestor,
17 electronically to persons upon request. At least 10 days prior
18 to a hearing on any proposed rule, the Department of Agriculture,
19 Food and Rural Resources, the Department of Conservation, the
20 Department of Environmental Protection and the Department of
21 Inland Fisheries and Wildlife shall provide to persons upon
22 request a list of the primary sources of information relied on in
23 establishing the primary provisions of the proposed rule as
24 required in section 8052, subsection 5.

28 SUMMARY

30 This bill requires the Department of Agriculture, Food and
31 Rural Resources, the Department of Conservation, the Department
32 of Environmental Protection and the Department of Inland
33 Fisheries and Wildlife to make available to the public primary
34 sources of information that support the primary provisions in
35 proposed rules.