

MAINE STATE LEGISLATURE

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January 30, 2010

Honorable John E. Baldacci
Governor of Maine
1 State House Station
Augusta, Maine 04333

Dear Governor Baldacci:

Pursuant to 5 M.R.S.A. §8056-A, the Secretary of State is hereby submitting its report on the progress of the Maine Administrative Procedure Act.

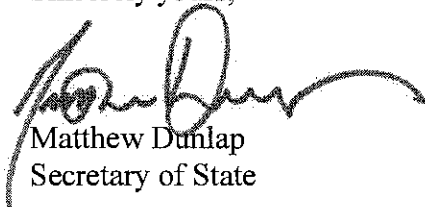
During the year 2009, there were 379 proposed rule filings and 717 adopted rule filings. This represents a decrease of 3 proposed rule filings and an increase of 99 adopted rule filings from 2008. There are fewer proposals than adoptions because of emergency adoption filings, most of which are Marine Resources closed areas. There were 27 major substantive filings submitted to the Legislature during 2009. This is an increase of 9 such filings from 2008. Additionally, during 2009, the cost of publishing the rule-making notices was \$500,906. This was an increase of \$2,141 from 2008. This cost was spread among the rule-making agencies *pro rata*. At the end of 2009 there were 2,028 current rule chapters on file with the Secretary of State. This is an increase of 59 from the rule chapters in effect at the end of 2008.

The Secretary of State solicited comments on the progress of the Maine Administrative Procedure Act by publishing a notice in five daily Maine newspapers and on the Internet. We received an e-mail comment from Thomas Grinley of NFI North, Contoocook, NH. A copy is attached.

Direct access to the full text of Maine's rule chapters and regulatory agendas may be found on the Department's website at: www.maine.gov/sos/cec/rules.

If you have any questions regarding the Administrative Procedure Act, please contact this office or Julie Flynn, Deputy Secretary of State at 624-7650.

Sincerely yours,



Matthew Dunlap
Secretary of State

Comment on the APA

re: 2009

Dear Mr. Grinley: I have received and appreciate your comments on the APA. They will be a part of our January 30 annual report. Thanks!

Best,

Don

Don Wismer, Ph.D.
APA Coordinator/Webmaster
Bureau of Corporations, Elections and Commissions
Department of Secretary of State
101 State House Station
Cross Office Building, 111 Sewall Street, 4th Floor
Augusta, Maine 04333
e-mail: don.wismer@maine.gov
phone: (207) 624-7647

-----Original Message-----

From: Thomas Grinley (NFI North) [mailto:TomGrinley@nafn.com]
Sent: Tuesday, January 05, 2010 2:18 PM
To: Wismer, Don
Cc: Thomas Grinley (NFI North)

Subject: RE: Request for Comments on the Maine Administrative Procedure Act

Thank you for the opportunity to submit comments on the rule making process. From my own experience, devoting a significant amount of my time just trying to stay up to date on rule changes, I see several remaining issues to be addressed:

- o Retroactive rule changes should be extremely rare and for very good reasons.
- o Emergency rule changes should be extremely rare and for very good reasons.
- o There should be some sort of expected life span for rules. Obviously, there would be a process to bypass the expected life span but, again, this should be extremely rare and for very good reasons. To have rule sets in a constant state of modification is inefficient and places huge administrative burdens on the regulated community, which, of course, do not appear in impact statements.
- o There must be more effort to include reasonable impact statements. Many notices have no impact statements at all, others state no impact to municipalities but include no mention of the impact on the bodies targeted with the rule change, and others claim no impact on small business (20 or more employees) and leave it at that.
- o The application process for proposed changes should include a history of that particular rule. Having to compile a history of the numerous changes over relatively short periods of time may help highlight the inefficiencies of constant rule changes.

Tom Grinley

Director of Contracts
NFI North
40 Park Lane
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Comment on the APA

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