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## LD 659 lifespan waiver major substantive rules (and possible emergency major substantive rule)

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Dear HHS Members,

I'd like to follow up about major substantive rules on the new lifespan waiver.

I continue to believe that it's essential under the principle of "[Nothing About Us Without Us](#)" for the lifespan waiver rules to be major substantive, not routine technical.

A stakeholder raised a concern with me today that major substantive rules could delay implementation. My understanding is that the lifespan waiver wouldn't start until January 2025, which should give time for the legislature to complete legislative review of major substantive rules in advance of implementation.

In the event, however, that major substantive rules *would* delay implementation, the Legislature and the Department already have a tool in the Maine Administrative Procedure Act to address that: "emergency major substantive rules". This would allow the Department to adopt a rule temporarily without legislative review, and then to submit a regular major substantive rule for legislative review afterwards. LD 659 could be amended to require DHHS to adopt major substantive rules but also authorize DHHS to adopt "emergency major substantive rules" if necessary to avoid delay of initial implementation. See [5 MRS §8073](#).

Special education rules have frequently used these mechanisms. [Maine Unified Special Education Regulation Chapter 101](#), for example, is a major substantive rule, and when it's been necessary to adopt changes faster than legislative review would allow, DOE has adopted "emergency major substantive rules", followed by provisional adoption of a regular major substantive rule, giving the EDU committee the opportunity to hold legislative review of the regular major substantive rule.

This has offered an important opportunity for course corrections that wouldn't have taken place without legislative review.

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