



132nd MAINE LEGISLATURE

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Legislative Document

No. 36

S.P. 58

In Senate, January 8, 2025

An Act to Clarify Processes of the Board of Environmental Protection

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Received by the Secretary of the Senate on January 6, 2025. Referred to the Committee on Environment and Natural Resources pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TEPLER of Sagadahoc.

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

2 **Sec. 1. 38 MRSA §344, sub-§1**, as amended by PL 2023, c. 509, §1, is further
3 amended to read:

4 **1. Acceptance and notification.** The commissioner shall notify the applicant in
5 writing of the official date on which the application was accepted as complete for
6 processing or the reasons the application was not accepted. If a written notice of acceptance
7 or nonacceptance is not mailed to the applicant within 15 working days of receipt of the
8 application, the application is deemed to be accepted as complete for processing on the
9 15th working day after receipt by the department. If the application is not accepted, the
10 commissioner shall return the application to the applicant with the reasons for
11 nonacceptance specified in writing. A reason for nonacceptance of an application may
12 include, but is not limited to, submission of the application after the activity requiring a
13 permit or license pursuant to this Title has begun if the applicant knowingly violated a
14 requirement to obtain the permit or license for the activity or the applicant, within the 5
15 years immediately preceding the submission of the application, violated a requirement to
16 obtain a permit or license pursuant to this Title. Any applicant whose application has not
17 been accepted by the commissioner shall attend a presubmission meeting with the
18 department before resubmitting that application. The commissioner shall notify the board
19 of all applications accepted as complete, except for permit by rule notifications, waste
20 transporter applications and occupational licenses.

21 An application is acceptable as complete for processing if the application is properly filled
22 out and information is provided for each of the items included on the form. Acceptance of
23 an application as complete for review does not constitute a determination by the department
24 on the sufficiency of that information and does not preclude the department from requesting
25 additional information during processing.

26 The commissioner shall require the applicant to provide notice to the public for each
27 application for a permit or license accepted, except for permit by rule notifications, waste
28 transporter applications and occupational licenses. The commissioner shall solicit
29 comments from the public for each application in a manner prescribed by the board in the
30 rules.

31 All correspondence notifying an applicant of denial of an application by the board or
32 commissioner must be by certified mail, return receipt requested.

33 **Sec. 2. 38 MRSA §1365, sub-§4**, as amended by PL 2005, c. 330, §36, is further
34 amended to read:

35 **4. Compliance; appeal.** The person to whom the order is directed shall comply
36 immediately and may apply to the board for a hearing on the order if the application is
37 made within 10 working days after receipt of the order by a responsible party. ~~Within 15~~
38 ~~working days~~ service of the order pursuant to subsection 3. As expeditiously as possible
39 after receipt of the application, the board shall hold a hearing, make findings of fact and
40 vote on a decision that continues, revokes or modifies the order. That decision must be in
41 writing and signed by the board chair using any means for signature authorized in the
42 department's rules and published within 2 working days after the ~~hearing and vote board~~
43 decision. The nature of the hearing before the board is an appeal. At the hearing, all
44 witnesses must be sworn and the commissioner shall first establish the basis for the order

1 and for naming the person to whom the order is directed. The burden of going forward
2 then shifts to the person appealing to demonstrate, based upon a preponderance of the
3 evidence, that the order should be modified or rescinded. The decision of the board may be
4 appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

5 **SUMMARY**

6 This bill provides that the Commissioner of Environmental Protection is not required
7 to notify the Board of Environmental Protection of permit by rule notifications, waste
8 transporter applications and occupational licenses. It also provides that an applicant is not
9 required to provide notice to the public of permit by rule notifications, waste transporter
10 applications and occupational licenses.

11 The bill allows a person to whom an order regarding an uncontrolled hazardous
12 substance site is directed to apply to the board for a hearing on the order if the application
13 is made within 10 working days after service of the order. Current law requires the
14 application to be made within 10 working days after receipt of the order by a responsible
15 party. The bill requires the board to hold a hearing on an order regarding an uncontrolled
16 hazardous substance site as expeditiously as possible after receipt of an application for a
17 hearing. Current law requires the board to hold a hearing within 15 working days after
18 receipt of an application for a hearing. The bill requires the board decision to be published
19 within 2 working days after it is made. Current law requires the decision be published
20 within 2 working days after the hearing and vote.