

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
S.P. 58 - L.D. 36

An Act to Clarify Processes of the Board of Environmental Protection

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

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

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

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

The commissioner shall require the applicant to provide notice to the public for each application for a permit or license accepted, except for permit by rule notifications, waste transporter applications and occupational licenses. The commissioner shall solicit

comments from the public for each application in a manner prescribed by the board in the rules.

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

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

4. Compliance; appeal. The person to whom the order is directed shall comply immediately and may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by a responsible party. ~~Within 15 working days~~ service of the order pursuant to subsection 3. As expeditiously as possible, but in no case later than 90 days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the ~~hearing and vote~~ board decision. The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom the order is directed. The burden of going forward then shifts to the person appealing to demonstrate, based upon a preponderance of the evidence, that the order should be modified or rescinded. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7.