

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1535

H. P. 1345

House of Representatives, April 13, 1981

(Submitted by the Department of Environmental Protection pursuant to Joint Rule 24)

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative J. Mitchell of Freeport.

Cosponsor: Representative Huber of Falmouth.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Reduce the Time Required to Process Routine Environmental Applications by Allowing the Board of Environmental Protection to Delegate to the Staff Approval of Additional Routine Applications.

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

38 MRSA § 344, sub-§ 4, as enacted by PL 1977, c. 300, § 9, is repealed and the following enacted in its place:

4. **Delegation.** The Board of Environmental Protection may delegate to the commissioner and his staff authority to approve, approve with conditions or disapprove any application submitted to the department. Such delegation decisions shall be in accordance with the standards found in the applicable statute, with all procedural steps applicable to applications not delegated, and with rules adopted by the board. The board shall maintain rules pertaining to delegation of authority. These rules shall include, but not be limited to, the following:

A. Procedures by which any person aggrieved by a decision of the commissioner or his staff may appeal the decision to the board;

B. Procedures by which the board is kept timely informed of all delegated decisions; and

C. Procedures by which the board, at its next regular meeting, may reconsider a delegated decision on its own motion.

STATEMENT OF FACT

The existing statute allows the Board of Environmental Protection to delegate to the commissioner authority to act on any license applications, except applications requesting permission to discharge more than 50,000 gallons per day; applications for site location of development approval, except an application for a subdivision of less than 75 acres, having fewer than 25 lots and 25 housing units; and applications for an air emission license, except for certain incinerator boilers at relatively small facilities.

The bill requires rules for appealing staff decisions to the board as well as keeping the board informed of staff activities. These rules presently exist and have existed for a number of years. In addition, this proposal requires the board to have procedures that will enable it to reconsider staff decisions.

In the years in which this authority has existed, the board has adopted and amended rules. The initial rules were very restrictive in what was to be delegated. With experience with the process, the board has permitted the staff to exercise additional responsibility while at the same time carefully scrutinizing the staff decisions. The board has not delegated everything it possibly could to the staff, as evidenced by the restrictions in the Alterations of Coastal Wetlands Permit Program. Applications for the filling of wetlands is not delegated.

This proposal removed the statutory limitations to delegation in the waste water discharge, air emission and site location programs. It does not require the board to delegate its authority.