

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1987

6
7 H.P. 1407 House of Representatives, February 7, 1986
8 Submitted by the Department of Environmental Protection pursuant to
Joint Rule 24.

9 Reference to the Committee on Energy and Natural Resources suggested
and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Hogleund of Portland.

Cosponsored by Representative Jacques of Waterville, Senator Usher of
Cumberland and Representative Coles of Harpswell.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Improve the Processing of Matters
18 Delegated by the Board of
19 Environmental Protection to the
20 Department of Environmental
21 Protection.
22

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

25 Sec. 1. 38 MRSA §344, sub-§3, as repealed and
26 replaced by PL 1983, c. 453, §2, is amended to read:

27 3. Time limits for processing applications.
28 Whenever the commissioner receives a properly com-
29 pleted application for any permit or license in a
30 category delegated under subsection 2, he shall make
31 a decision as expeditiously as possible. For those
32 delegated applications which fall under the permit by
33 rule provisions of subsection 7, the decision shall
34 be made within 20 working days after receipt of the
35 notification. For those delegated applications which
36 do not fall under the permit by rule provisions, the

1 commissioner shall make a decision within 60 working
2 days after acceptance of the application. If the
3 commissioner determines that an application for a
4 permit or license in a category delegated to him un-
5 der subsection 2 is policy setting or precedent set-
6 ting or has generated substantial public interest, he
7 shall request that the board act on the application.
8 In delegating applications by regulation or individu-
9 al applications by majority vote, the board may ex-
10 extend the time for the commissioner to make a decision
11 to a time not later than 105 working days after ac-
12 ceptance of the application.

13 Whenever the commissioner accepts a properly com-
14 pleted application for any permit, license, approval
15 or certificate not delegated to him under subsection
16 2, the board shall make a decision as expeditiously
17 as possible, but in no case may this decision be la-
18 ter than 105 working days after acceptance of the ap-
19 plication.

20 **Sec. 2. 38 MRSA §345-A, sub-§1, as amended by PL**
21 **1983, c. 743, §3, is further amended to read:**

22 1. Hearings. Except as provided in the Maine
23 Administrative Procedure Act, Title 5, section 8052,
24 subsection 2, whenever the board or the Department of
25 Environmental Protection is required or empowered to
26 conduct a hearing pursuant to any provision of law,
27 the hearing may be conducted by any member of the
28 board or any employee or representative of the De-
29 partment of Environmental Protection so authorized by
30 the board and may be held if at least 2 members of
31 the board are present. Hearings conducted by the De-
32 partment of Environmental Protection on applica-
33 tions delegated under section 344, subsection 2 for deci-
34 sion may be held without members of the board being
35 present.

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STATEMENT OF FACT

2 The Maine Revised Statutes, Title 38, section
3 344, provides for delegation of various applications
4 by the Board of Environmental Protection to the De-
5 partment of Environmental Protection. Any matter
6 delegated under this section presently requires that
7 a decision be rendered by the department within 60
8 working days of accepting an application for process-
9 ing. Many routine items that might otherwise be del-
10 egated are not because processing cannot be completed
11 in that time. This change allows the board to dele-
12 gate applications that may be decided no later than
13 105 working days after acceptance of the application
14 for processing. The Maine Revised Statutes, Title
15 38, section 345-A, subsection 1, requires that 2 mem-
16 bers of the Board of Environmental Protection attend
17 all board or department hearings without exception
18 and including any hearings conducted by the depart-
19 ment on applications that had been delegated to it.
20 This provision impedes delegation by requiring an in-
21 efficient use of the limited time available to board
22 members. This change makes attendance by board mem-
23 bers at department hearings held on delegated appli-
24 cations optional.

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