

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2180

6
7 H.P. 1543 House of Representatives, March 13, 1986
8 Referred to the Committee on State Government. Sent up for
9 concurrence and ordered printed.

EDWIN H. PERT, Clerk

10 Presented by Representative Gwadosky of Fairfield.

Cosponsored by Representative Hichborn of Lagrange, Senator Andrews
of Cumberland and Representative Lacroix of Oakland.

11
12 STATE OF MAINE
13

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

17 AN ACT to Amend the Rule-making Procedures of
18 Certain Agencies.
19

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

22 Sec. 1. 5 MRSA §3305, sub-§1, ¶I, as enacted by
23 PL 1981, c. 702, Pt. Y, sub-Pt. 3, is amended to
24 read:

25 I. Act as the public agency of the State for the
26 purpose of accepting and distributing federal
27 funds or other assistance in relation to communi-
28 ty and economic development in those
29 nonentitlement areas and for those projects duly
30 authorized under the United States Housing and
31 Community Development Act of 1974, Title 1, and
32 its subsequent amendments. The director may
33 promulgate such rules as deemed necessary to
34 distribute the funds or assistance. These rules
35 shall be adopted in accordance with the Maine Ad-
36 ministrative Procedure Act, Title 5, chapter 375,

1 and shall be consistent with the annual final
2 statement for the State Community Development
3 Program submitted to the Federal Government. The
4 State Planning Office shall give notice in writ-
5 ing of any such rules to the legislative joint
6 standing committee having jurisdiction over ap-
7 propriations and financial affairs at least 20
8 days before the hearing, as stipulated in the
9 Maine Administrative Procedure Act, or before the
10 deadline for comments if no hearing is scheduled.

11 Sec. 2. 34-B MRSA §3003, sub-§4, as enacted by
12 PL 1983, c. 459, §7, is repealed.

13 Sec. 3. 38 MRSA §570-E, as enacted by PL 1985,
14 c. 496, Pt. A, §14, is repealed.

15 Sec. 4. 38 MRSA §584, 4th ¶, as amended by PL
16 1983, c. 566, §36, is further amended to read:

17 The board shall by order establish or may amend
18 reasonable ambient air quality standards for the re-
19 gion, regulating and limiting the amount and type of
20 air contaminants which may exist in the ambient air
21 of that region, which standards shall be designed to
22 achieve the purposes set forth in this section. The
23 order shall state the date upon which the standards,
24 or any of them, become effective, and such regions
25 and standards shall thereafter be in effect until 90
26 days after the date of adjournment of the next regu-
27 lar or special session of the Legislature unless the
28 next regular or special session shall adopt by legis-
29 lative enactment the air quality regions and
30 standards.

31 Sec. 5. 38 MRSA §585, 4th ¶, as amended by PL
32 1971, c. 462, §2, is repealed.

33 Sec. 6. 38 MRSA §585-A, last ¶, as amended by PL
34 1983, c. 566, §40, is further amended to read:

35 The board shall by order establish or amend rea-
36 sonable standards and rules which shall be designed
37 to achieve the purposes set forth in this section.
38 The order shall state the date upon which the stan-
39 dards and rules or any of them, become effective, and
40 the standards shall thereafter be in effect until 90

1 days after the date of adjournment of the next regu-
2 lar or special session of the Legislature unless the
3 next regular or special session shall adopt by legis-
4 lative enactment the standards.

5 Sec. 7. 38 MRSA §585-B, sub-§4, as enacted by PL
6 1983, c. 535, §2, is repealed.

7 Sec. 8. 38 MRSA §1303-A, sub-§1, ¶B, as repealed
8 and replaced by PL 1985, c. 506, Pt. A, §81, is fur-
9 ther amended to read:

10 B. The board may identify any substance as a
11 hazardous waste if the board, after evaluation
12 based on existing data or data reasonably
13 extrapolated from previously conducted studies
14 using similar classes of substances or compounds
15 under similar circumstances, has determined that
16 the substance is an acute or chronic toxin caus-
17 ing significant potential adverse public health
18 or environmental effects. An acute or chronic
19 toxin may include the characteristics of:

- 20 (1) Carcinogenicity;
- 21 (2) Mutagenicity;
- 22 (3) Teratogenicity; or
- 23 (4) Infectiousness.

24 Rules adopted under this paragraph shall be sub-
25 mitted to the joint standing committee of the
26 Legislature having jurisdiction over natural re-
27 sources for review. These rules shall remain in
28 effect until 90 days after adjournment of the
29 next regular session of the Legislature unless
30 adopted by legislative enactment.

31 Sec. 9. 38 MRSA §1304, sub-§10, as reallocated
32 by PL 1981, c. 698, §191, is repealed.

33 Sec. 10. 38 MRSA §1319, sub-§1, ¶C, as enacted
34 by PL 1979, c. 730, §2, is repealed.

1 STATEMENT OF FACT

2 The purpose of this bill is to repeal those pro-
3 visions which require legislative approval of agency
4 rules. In light of a 1983 United States Supreme Court
5 decision and the Constitution of Maine, Article III,
6 section 2, and Article IV, section 2, there is a se-
7 rious question as to the constitutionality of these
8 provisions. In addition, last session the Legislature
9 enacted the Maine Revised Statutes, Title 5, section
10 8053-A, requiring the legislative review of all agen-
11 cy rules, making legislative approval requirements
12 somewhat redundant.

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