

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1161

H.P. 804

House of Representatives, March 8, 2005

**An Act To Require Notification from the Department of
Environmental Protection and the Maine Land Use Regulation
Commission upon Permit Application, Issuance and Denial**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HUTTON of Bowdoinham.
Cosponsored by Representatives: EBERLE of South Portland, KOFFMAN of Bar Harbor,
THOMPSON of China, TWOMEY of Biddeford.

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

2 **Sec. 1. 12 MRSA §685-C, sub-§12** is enacted to read:

4 **12. Notification to abutters.** Notification to abutters
6 must be provided in accordance with this subsection.

8 A. At a minimum, the applicant shall provide notice to
10 abutters to a project as determined by local tax records
12 when an application for a permit or license is submitted to
14 the department. Notice must be made in a manner prescribed
16 by the commission by rule, which, at a minimum, must include
18 a requirement that the notice be made by certified mail
20 requiring signature by the recipient. The applicant shall
22 provide to the commission proof of notification under this
paragraph and a list of abutters to whom notice was
provided. The proof of notification must include a copy of
the certified mail signed as received by the recipient. The
commission may not determine an application to be complete
without receiving proof of notification. Rules adopted
pursuant to this paragraph are routine technical rules as
defined in Title 5, chapter 375, subchapter 2-A.

24 B. The commission shall provide notice to abutters
26 identified on the list provided by the applicant under
paragraph A when a permit or license is denied or issued by
the commission.

28 **Sec. 2. 38 MRSA §344, sub-§1,** as amended by PL 1991, c. 804,
30 Pt. B, §2 and affected by §7, is further amended to read:

32 **1. Acceptance and notification.** The commissioner shall
34 notify the applicant in writing of the official date on which the
36 application was accepted as complete for processing or the
38 reasons the application was not accepted. If a written notice of
40 acceptance or nonacceptance is not mailed to the applicant within
42 15 working days of receipt of the application, the application is
44 deemed to be accepted as complete for processing on the 15th
46 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. 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.

48 An application is acceptable as complete for processing if the
50 application is properly filled out and, information is provided
for each of the items included on the form and proof of notice as

2 required by subsection 1-B is included. Acceptance of an
3 application as complete for review does not constitute a
4 determination by the department on the sufficiency of that
5 information and does not preclude the department from requesting
6 additional information during processing.

7
8 The commissioner shall require the applicant to provide notice to
9 the public in accordance with subsection 1-B for each application
10 for a permit or license accepted. The commissioner shall solicit
11 comments from the public for each application in a manner
12 prescribed by the board in the rules.

13
14 All correspondence notifying an applicant of denial of an
15 application by the board or commissioner must be by certified
16 mail, return receipt requested.

17 **Sec. 3. 38 MRSA §344, sub-§1-B** is enacted to read:

18
19 **1-B. Notification to abutters, municipalities and municipal**
20 **boards.** Notification to abutters, municipalities and municipal
21 boards must be provided in accordance with this subsection.

22
23 A. The applicant shall provide notice to abutters to a
24 project as determined by local tax records, the municipality
25 in which the project is proposed and the municipal board
26 with project oversight when an application for a permit or
27 license is submitted to the department. Notice must be made
28 in a manner prescribed by the board by rule, which, at a
29 minimum, must include a requirement that the notice be made
30 by certified mail requiring signature by the recipient. The
31 applicant shall provide to the department proof of
32 notification under this paragraph and a list of abutters to
33 whom notice was provided. The proof of notification must
34 include a copy of the certified mail signed as received by
35 the recipient. The department may not determine an
36 application to be complete without receiving proof of
37 notification. Rules adopted pursuant to this paragraph are
38 routine technical rules as defined in Title 5, chapter 375,
39 subchapter 2-A.

40
41 B. The department shall provide notice to abutters
42 identified on the list provided by the applicant under
43 paragraph A, the municipality in which the project is
44 proposed and the municipal board with project oversight when
45 a permit or license is denied or issued by the department.
46

47 SUMMARY

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49
50 This bill provides for notice to abutters when an
application for a permit or license is accepted and when a permit

2 or license is denied or issued by the Land Use Regulation
Commission and it provides for notice to abutters, municipalities
4 and municipal boards when an application for a permit or license
is accepted and when a permit or license is denied or issued by
the Department of Environmental Protection.