

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of  
the Maine Attorney General as transferred to  
the Maine State Law and Legislative Reference  
Library on January 19, 2022**

# STATE OF MAINE

Inter-Departmental Memorandum Date April 19, 1974

To Henry Warren and Jack Bader Dept. Environmental Protection  
From Donald G. Alexander, Assistant Dept. Attorney General  
Subject Processing Time for Site Law Applications

You requested an opinion regarding the thirty-day processing period under the Site Location Law.

QUESTION #1:

Must the 30-day period begin on receipt of the initial application?

QUESTION #2:

Could the commencement of the 30-day consideration period be delayed until the Department has received back all reports from other departments?

ANSWER:

The 30-day period for consideration of Site Law applications does not necessarily run from the time that the Department receives the first filled in application form from a Site Location Law applicant. The time can begin to run from such later time as the Department determines that it has received a "completed" application. However, the Board cannot suspend running of the 30-day period with regard to matters which are within the control of the Department not of the applicant.

But note, a prior informal opinion of the Attorney General has indicated that the 30-day limit in 38 M.R.S.A. § 483 is advisory, not mandatory, as regarding action on a Site Location application.

DISCUSSION:

The simple fact that one files a filled out application form does not require the Department to immediately begin consideration of the application. Administrative agencies have generally been upheld where they have refused to consider an application where the applicant has not provided information which the administrative agency reasonably believes it needs to consider the application. Skyview Development Co. v. Ripplemeyer, Ill., 259 N.E.2d 580 (1970); Cameron v. Knight, R.I., 268 A.2d 431 (1970); Cloverleaf Trailer S. Co. v. Borough of Pleasant Hills, Pa., 76 A.2d 872 (1950).

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 07/10/01 BY 60322 UCBAW

Section 483 itself states that persons applying for a Site Location permit must submit the notice that they are applying for the permit: "together with such information as the Commission may, by regulation, require." Thus, the Board can require that an applicant provide adequate information before it starts to consider an application, and the time limit on consideration of the application need not begin running until the Department determines that such information has been provided.

It is important here to distinguish between an "incomplete" application and an application which is complete, but does not disclose sufficient information to warrant approval. The latter application must be considered. The distinction between the two situations is not exact and must be determined on a case by case basis. As a partial guide one might distinguish the two by determining if no information is provided on a matter required to be addressed, thus rendering the application incomplete, or if information is provided but it is insufficient to justify affirmative action, thus rendering the application complete, but unsatisfactory.

However, where actions suggested to justify delay are a result of the Department's own actions, such as seeking and receiving comments from other departments, the same basis for delaying consideration of an application does not exist. For example, if the applicant were required to provide the comments of the other department with his proposed application, then the 30-day period would not have to begin running until such comments were received, but if the Department itself seeks such comment after it has received the application, this does not effect the running of the 30-day period. As already noted, however, there exists an opinion of the Attorney General relating to the advisory as opposed to mandatory effect of the 30-day requirement.



DONALD G. ALEXANDER  
Assistant Attorney General

DGA/bls