

MAINE STATE LEGISLATURE

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STATE OF MAINE
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 17 STATE HOUSE STATION
 AUGUSTA, MAINE
 04333

ANGUS S. KING, JR.
 GOVERNOR

February 5, 1999

The Honorable Senate Chair Sharon Treat and House Chair John Martin
 Joint Standing Committee on Natural Resources and the Environment
 State of Maine Legislature
 13 State House Station
 Augusta, Maine 04333

Subject: Report of DEP License Issuance Timeliness During Calendar Year 1998

Dear Chairman Treat and Chairman Martin:

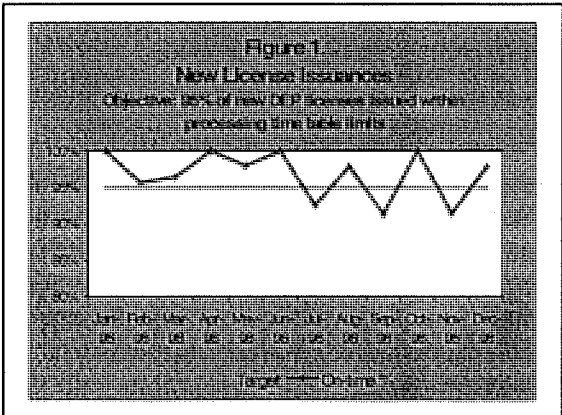
Maine law requires the Department of Environmental Protection ("DEP") to annually publish a list that establishes the maximum number of days that should be used in processing and issuing its decision on new license or permit applications. see 38 M.R.S.A. § 344-B(1). This so-called "timetable" assigns specific maximum processing times to each of the 200+ types of licenses and permits that may be issued by the DEP. Exceeding the maximum processing time results in a payment equal to 50% of the processing fee being returned to the applicant.

Maximum processing time periods may be extended or put on hold in two ways -- unilaterally by DEP or by agreement with an applicant. The expiration of a maximum processing time period may be held in abeyance without consent by an applicant where: (1) a public hearing on the application is required; (2) the Board of Environmental Protection assumes jurisdiction over the application; or (3) the application has been significantly modified during processing. The DEP and an applicant may agree to hold a processing deadline in abeyance where: (1) additional information is required from the applicant in order for a decision to be made; (2) government agencies other than DEP have failed to respond with required comments within agreed upon time deadlines; or (3) the applicant wishes to stop the processing period.

The following details the DEP's issuance goals and performance under this annual timetable for the period between January 1, 1998, and December 31, 1998 (CY98). DEP is required to annually report our performance in meeting these deadlines to your committee. see 38 M.R.S.A. § 344-B(6).

The DEP has established 95% as its goal for the minimum proportion of its licensing decisions on new applications which will be issued within the deadlines published in our annual timetable. During CY98, the DEP issued 458 new licensing decisions; of these decisions, 16 exceeded established maximum processing times without having the deadline extended or put on hold. Figure 1 illustrates DEP-wide performance in meeting this goal on a month-by-month basis.

For CY98, the DEP's performance average for issuing decisions on-time was 96.5%. The decisions failing to meet deadlines resulted in our



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returning \$1,035.00 in processing fees to applicants. The average duration by which issuances exceeded deadlines was 126 days, with the median length being 70 days.

Of the 458 new decisions, 76 were placed on hold or granted an extension. The average duration of holds and extensions was 192 days, with the median length being 99 days.

The reasons for deadline holds and extensions primarily result from licensing decision deadlines being established on a presumption that applications will be received with all information necessary for a decision included in the initial filing. When DEP receives an incomplete application or information in an application that raises specific questions regarding a project, additional information must be submitted. When a licensing decision requires detailed engineering data to demonstrate that a project will comply with State laws, supplementing an application with such data is often time consuming. As a result, extending the deadline for issuing a permit or license is routine, primarily because of the technical requirements inherent in our decision making.

In the process of publishing the annual timetable, DEP also analyzes trends in the timing of our issuing certain licenses. If any license type demonstrates a pattern of extensions or late issuance, programs typically look to reallocate staff resources, adjust application requirements, or change the guaranteed processing time. No licenses have been granted extensions or put on hold as a result of the failure of an outside agency to provide the DEP with comments in a timely manner.

Please feel free to contact me with any questions regarding the DEP's performance or the data upon which this report is based.

Sincerely,

A handwritten signature in black ink, appearing to read "ed Sullivan", written in a cursive style.

Edward O. Sullivan
Commissioner