

# 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)

# ENVIRONMENTAL TASK FORCE

## Report to the 118th Legislature

May 1997

Task Force Participants:

Brooke Barnes  
Alan Brigham  
Mickey Kuhns  
Linda Lockhart  
Edward K. McSweeney  
Raymond Pepin  
Suzanne Pilgrim  
Gwendolyn L. Porter

TD  
195  
.P37  
M2  
1997  
c.2

"Resolve, to Establish the Task Force to Study  
Environmental Regulation Relating to the Paper Industry."



**ENVIRONMENTAL TASK FORCE REPORT TO THE  
118TH LEGISLATURE  
May 1997**

**TABLE OF CONTENTS**

EXECUTIVE SUMMARY ..... ii

ENVIRONMENTAL TASK FORCE REPORT ..... 1

    ENVIRONMENTAL TASK FORCE FORMATION ..... 1

    ENVIRONMENTAL TASK FORCE MISSION ..... 2

    ENVIRONMENTAL TASK FORCE PROCESS ..... 3

        Summary of Information from State Surveys ..... 5

        Issues Studied by the Task Force ..... 10

        Environmental Regulations ..... 10

        Duplicate Review and Permitting ..... 21

        Public Input ..... 27

CONCLUSIONS ..... 32

APPENDICES ..... 33

    Appendix A, Chapter 22 Resolves, 117th Legislature

    Appendix B, Surveys of Pulp and Paper Producing States

        Georgia

        Michigan

        North Carolina

        Washington

        Wisconsin

        Maine



# ENVIRONMENTAL TASK FORCE REPORT

## EXECUTIVE SUMMARY

The Task Force to Study Environmental Regulation (Environmental Task Force, Task Force, or ETF) was established by the 116th Maine Legislature with the purpose of comparing state and federal environmental standards, identifying and making recommendations for eliminating duplicative review and permitting requirements, and comparing the processes for public participation in environmental permitting in Maine with the processes in other states.

The Task Force, consisting of representatives of the United States Environmental Protection Agency (USEPA), the Maine Department of Environmental Protection (DEP), the Maine Department of Economic and Community Development (DECD), and members of the pulp and paper industry, studied the complex environmental issues over the course of a year, using federal and state regulatory statutes, rules and regulations.

The Task Force solicited information from environmental managers for the Maine paper industry on inconsistencies between state and federal environmental regulations that affect compliance or the ability to attract capital. In order to solicit the required information from other states, the Task Force developed a survey instrument and used it to collect the comparison data through telephone conferences with state regulators in Georgia, Michigan, North Carolina, Washington, Wisconsin, and Maine.

The Task Force only evaluated those inconsistencies related to the paper industry that affect the industry's compliance or ability to attract capital, but did not evaluate inconsistencies that directly affect actual environmental quality.

Among the Task Force's findings were:

### **Environmental Regulations**

Of the twenty four issues identified by the Maine paper industry, the Task Force narrowed the list to the following nine environmental requirements which are different than federal requirements for detailed investigation and presentation to the Legislature.

#### **Solid Waste:**

- Maine DEP requires time of travel calculations and minimum siting requirements for new or expanded pulp and paper landfills.

- Maine DEP requires a hypothetical failure analysis of landfill systems that the industry considers to be costly.

#### **Air:**

- Continuous Emission Monitors, Continuous Opacity Monitor, and Parameter Monitor Requirements.
- Maine does not categorically or automatically exempt excess emissions associated with start-up, shutdown, or unavoidable malfunctions thereby significantly affecting the industry's compliance when compared to other pulp and paper industry states. Maine requires all excess emissions to be reported to the Maine DEP with all excess emissions considered exceedences unless affirmatively granted exemption by the DEP. Exemption criteria are significantly more stringent than required by EPA.
- Maine TRS regulations require collection from sources not covered by EPA, require 100 percent back-up incineration for most sources, and interpret bypasses greater than 15 minutes in duration to be exceedences. These additional burdens on the Maine pulp and paper industry significantly affect compliance and have placed additional capital burdens on the industry.

#### **Hazardous Material:**

- Maine imposes additional requirements on waste water treatment units, which are exempt from Federal hazardous waste regulations.
- Maine DEP regulations require Small Quantity Generators to conform to some Large Quantity Generator and Transportation and Disposal Facility Standards.

#### **Water:**

- Maine has adopted restrictive water quality criteria relative to heat discharged to all freshwater rivers and streams. These criteria are applied universally throughout the State of Maine to protect cold water species from thermal impacts. The Maine Department of Inland Fisheries and Wildlife (IF&W), which has jurisdiction over freshwater fisheries, has stated that they consider cold water species such as brook trout and salmon to be indigenous to all fresh waters of Maine, based on historical documentation. The application of these criteria places facilities located on moderate and small size rivers in jeopardy. It requires that they install costly cooling systems or seek administrative relief in the form of extended mixing zones, Use Attainability Analysis (UAA) or development of site specific criteria.

- The treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining attainment of water quality standards has been variable.

### **Inconsistencies**

Based upon survey responses from the five other leading pulp and paper states and the State of Maine, Maine has numerous inconsistencies with the states in regard to the regulation of the pulp and paper industry. Among the many inconsistencies found were:

- Maine is the only state that requires licensing of general development (i.e. Site Location of Development) of a new or expanded pulp and paper facility that would not otherwise trigger permitting for air, water, or solid waste.
- Maine is the only state that requires a general facility permit for new construction at an existing pulp and paper facility (i.e. Site Location of Development).
- Maine is the only state that does not have NPDES delegation.
- Maine is inconsistent with the five states surveyed because there is wastewater, air, and solid waste licensing duplication at the local level.
- Four out of the other five states surveyed utilize general permits or permit by rule for some type of water discharges associated with the pulp and paper industry. Maine does not.
- Maine is the only state where municipalities are granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility.
- Maine is the only state where there is duplication of solid waste facility licensing at the local level.
- Maine is inconsistent with three out of four states responding by requiring licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills. Exemptions are provided for wastes that are hauled in generator-owned vehicles to generator-owned disposal sites.
- Maine is the only state surveyed that requires permitting of all beneficial use activities. Three of the five states responding have no permitting requirements, the other two states have permitting requirements only for land application.
- Maine is the only state that requires air quality modeling regardless of Prevention of Significant Deterioration/New Source Review status.



- Maine is the only state that routinely requires on-site meteorological data.
- Four out of the other five states surveyed do not require an air license amendment for changes in fuel burned regardless of impact on emissions. Maine does.
- Maine is the only state that has CEM uptime requirements for non-Prevention of Significant Deterioration sources that are more stringent than Federal Regulations.
- Maine is the only state that requires a control technology review at the time of relicensing for existing sources with air pollution control apparatus greater than 15 years old.
- Maine is the only state that may require new limits or standards as a matter of relicensing (Best Practical Treatment). Other states only impose new limits or standards when a new limit or standard is adopted by rule or when there is a modification made to the source.
- Maine is one of two states that require a license for on-site treatment of waste generated at the facility.

### **Public Participation**

In comparing public input opportunities in Maine to those offered in the comparison states, the Task Force found that all states afforded the public the opportunity to provide written comment during the allotted 30 day comment period, and during any public hearing or meeting, if one was held. All states reported that whether or not to schedule a public hearing or meeting was discretionary to the agency. No state, other than Maine, provides automatic intervenor status for the host municipality during solid waste permitting processes, or requires notice to abutters.

### **Duplicative Permitting and Reporting**

The Task Force was asked to identify and make recommendations for eliminating duplicative review and permitting in all areas relative to the paper industry. The Task Force recognizes that Maine has already reduced duplicative review and reporting in some areas of environmental regulation. However, several areas of duplicative review and reporting were identified and the Task Force makes the following recommendations:

- DEP monitor progress of the new changes to the Site Location of Development regulations and solicit input from the regulated community.
- Delegation of the federal National Pollutant Discharge Elimination program to the State of Maine.

- DEP and the State Planning Office evaluate the effectiveness of the Memorandum of Agreement between the Maine DEP and the United States Army Corps of Engineers and also evaluate the opportunity to expand the Agreement to cover wetland impacts greater than three acres.
- Maintaining the current exemption from Maine's stormwater permitting regulations for pulp and paper facilities already permitted under EPA's stormwater program.
- ETF recommends that Chapter 137 Hazardous Air Pollutant Inventory reporting frequency be reduced to once every two years and that SARA 313 de minimus provisions be incorporated.
- Recommend DEP incorporate, as appropriate, automatic exemptions for excess emissions associated with startups and shutdowns into Title V licenses for each source. Recommend examining the definition of unavoidable malfunction as it relates to malfunctions of equipment maintained to manufacturers' recommendations.
- Recommend DEP develop Memorandum of Understanding with EPA regarding the reporting of exceedences, by-passes, unlicensed discharges (spills) by the licensee to the DEP with notification to EPA done through regular monthly DMR submittal.
- Recommend reducing inspections of hazardous waste accumulation and storage areas to only exclude holidays and weekends when the area is not in use.
- The ETF recommends that the State work towards the elimination of time consuming and costly duplicative review of landfills.

# ENVIRONMENTAL TASK FORCE REPORT

## ENVIRONMENTAL TASK FORCE FORMATION

The Commission to Study the Future of Maine's Paper Industry (Commission) was created<sup>1</sup> in the spring of 1994 by the 116th Legislature. Formation of the Commission was a response to declining capital investments in Maine paper companies and the perceived threat to the future of the industry in the State of Maine. The basic mission of the Commission was threefold: 1) to determine changes in state policy that would result in improved capital expenditures in Maine paper companies; 2) to help educate Maine policy makers on the importance of the industry to Maine's economy; and 3) to help advise industry leaders on current, valid information about Maine as a desirable place for investment dollars.

The Commission's report "Diagnostic Review of the Pulp & Paper Industry in Maine," published February 16, 1995, detailed the study of Maine's wood resources, capital investments, key factors of production, major markets, and the regulatory environment in which the industry operates. The report provided evidence that Maine's environmental standards exceed those of the federal government and other states. The evidence also indicated that Maine's environmental regulatory requirements imposed time and money consuming duplicate review and permitting processes on the paper industry. The Commission recommended that the Legislature:

Establish a task force comprised of representatives of company environmental managers, the Department of Economic and Community Development, the Department of Environmental Protection and the federal Environmental Protection Agency to: a) develop a comprehensive comparison of applicable state and federal environmental standards; b) develop recommendations to eliminate duplicative reporting requirements; and c) study the competitive effects of Maine's Site Location of Development law and of public intervenor laws and process as to their effect on permitting time and the ability of business to react decisively to investment opportunities<sup>2</sup>.

Responding to this recommendation, the 117th Legislature created<sup>3</sup> the Task Force to Study Environmental Regulation (Environmental Task Force, ETF, or Task Force) in June of 1995. The Task Force was comprised of five members appointed by the governor: one from the

---

<sup>1</sup>Chapter 75 enacted resolves, *Resolve, to Establish a Commission on the Future of Maine's Paper Industry*.

<sup>2</sup>Report of the Paper Industry Council, February, 1996.

<sup>3</sup>Chapter 22 enacted resolves, *Resolve, to Establish the Task Force to Study Environmental Regulation Relating to the Paper Industry*.

Department of Economic and Community Development (DECD), one from the Department of Environmental Protection (DEP), one from the United States Environmental Protection Agency (USEPA) and two members from the paper industry. Appointees and participants have included:

Brooke Barnes	Director of Policy and Planning, Maine Department of Environmental Protection
Alan Brigham	Director of Policy and Planning, Environmental Task Force Chair, Maine Department of Economic and Community Development
Mickey Kuhns	Paper Industry Team Leader, Maine Department of Environmental Protection
Linda Lockhart	Policy Analyst, Maine Department of Economic and Community Development
Edward K. McSweeney	U.S. Environmental Protection Agency
Raymond G. Pepin	Environmental Manager, S.D. Warren Company, Westbrook
Suzanne Pilgrim	Development Project Officer, former Task Force Chair, Maine Department of Economic and Community Development
Gwendolyn L. Porter	Environmental Supervisor, Champion International, Inc., Bucksport

Due to a late start, coupled with the magnitude of its task, the Task Force sought an extension of time, from the original deadline of December 1995, in order to devote the attention and resources the effort required and deserved.

## **ENVIRONMENTAL TASK FORCE MISSION**

The mission of the Task Force, as described in its authorizing legislation,<sup>4</sup> is:

**1. Environmental regulations.** In terms of environmental regulations, the task force shall:

- A. Determine which state statutory standards and regulatory standards, interpretations or other requirements that relate to the paper industry exceed or are inconsistent with federal requirements; and

---

<sup>4</sup>Copy provided at Appendix A to this report.

B. For those requirements that exceed the federal requirements, obtain data to compare them, as a minimum, to the 5 leading paper industry states.

**2. Duplicate review and permitting.** In terms of duplicate review and permitting, the task force shall identify and make recommendations for eliminating duplicate review and permitting in all areas relative to the paper industry, including the following:

- A. Duplicate review when a municipality has a certified plan;
- B. Duplicate review between state and federal programs, such as National Pollutant Discharge Elimination Systems and wetlands management;
- C. Duplicate review between activities reviewed by the Maine Land Use Regulation Commission and permitting requirements under the natural resource protection laws;
- D. Duplicate reporting under the new emissions inventory reporting rule;
- E. Duplicate reports under the toxics use reduction reporting requirements;
- F. Duplicate notice requirements for malfunctions and instances that exceed governmental standards;
- G. Duplicate hazardous waste storage inspection and reporting requirements;
- H. Duplicate review of landfills; and
- I. Duplicate standards between the natural resources protection laws and the federal Clean Water Act.

**3. Public Input.** The task force shall compare the time taken for public input in this State with that in other states and, if that time is longer, identify if this is caused by opportunities provided by law or rule or whether the public takes more advantage of the opportunity provided. In exploring this issue, the task force shall determine the number of public hearings, the number of witnesses at hearings and the expenditure by environmental and industry lobbying organizations.

## **ENVIRONMENTAL TASK FORCE PROCESS**

The Environmental Task Force held its first meeting on January 30, 1996. Over the ensuing year, the Task Force struggled with extremely complex and broad subject matter, numerous staffing changes, and the usual conflicting work schedules and travel problems. Team members researched state and federal regulations for duplication or inconsistency. The Task Force developed a survey instrument and chose five pulp and paper states that most resemble Maine in terms of pulp and paper industry presence: Georgia, Michigan, North Carolina, Washington, and

Wisconsin. The list of five were distilled by consensus from the ten states used as a comparison in the Commission on the Future of Maine's Paper Industry report, "Diagnostic Review of the Pulp and Paper Industry in Maine." Maine's Commissioner of the Department of Environmental Protection, Edward O. Sullivan, sent an advance letter to contacts in the five states' environmental regulation agencies. The survey was mailed to the five states' regulatory agencies early in October, 1996, under the signatures of Mr. Sullivan and Thomas D. McBrierty, Commissioner of the Department of Economic and Community Development. The responses were compiled through teleconference interviews that included the subject states' respondents, and Environmental Task Force members representing the industry, Maine's DEP, and Task Force staff from the DECD. Additionally, Maine's DEP responded to the same survey questions so that the comparison could be made.

## Summary of Information from State Surveys

### TABLE OF RESPONSES<sup>5</sup>

Question	Georgia	Michigan	North Carolina	Washington	Wisconsin	Maine
<b>G-1</b> How many pulp and paper facilities exist in your state? How many facilities are pulp? paper? integrated pulp and paper?	12	48	14	16	41	12
<b>G-3</b> Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste?	No	No	No	No	No	Yes, site location or NRPA
<b>G-4</b> Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?	No	No	No	No	No	Yes
	— No	— Yes	— Yes	— Yes	— Yes	
<b>W-1</b> Is your state an NPDES delegated state? If no, is a separate state waste water license required?	Yes	Yes	Yes	Yes	Yes	<u>No</u> Yes
<b>W-6</b> Does your state have a separate licensing requirement for storm water discharges (other than NPDES)?	No	No	Yes, sensitive waters	Yes, smaller industry	No	Yes, except NPDES licensees exempt
<b>W-7</b> Is there duplication of waste water discharge licenses at the local (municipal or county) level?	No	No	No	No	No	Yes, town of Jay
<b>W-8</b> Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?	Stormwater	Stormwater	Cooling Water, oil/water separators	No	Cooling Water, stormwater, boiler blowdown	No

<sup>5</sup>Other important information from the surveys can be found at appendix B to this report, in the full text of survey responses.

TABLE OF RESPONSES (Continued)

Question	Georgia	Michigan	North Carolina	Washington	Wisconsin	Maine
S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?	Yes	Yes	--	No, local only	Yes	Yes
S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility.	Own	Own	--	Mixed	Own	Own
S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility?	No	Yes	No	Yes	Yes	Yes
S-7 Are annual fees required for solid waste disposal facility licenses?	No	Yes	No	Yes	Yes	Yes
S-10 Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility?	No	No	--	No	No	Yes
S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)?	No	No	--	No	No	Yes
S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills?	No	No	--	No	Yes	Yes
S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process?.	No	No	--	No	No	Yes
S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting?	No	No, but may require authorization	No, but may require authorization	Yes, land application	Yes, land application	Yes
A-1 How often is air quality modeling required for sources? Is on-site meteorological data required?	PSD only, No onsite	PSD only, No onsite	PSD only, no onsite	PSD, no onsite	NSR, no onsite	All once, Yes onsite



TABLE OF RESPONSES (Continued)

Question	Georgia	Michigan	North Carolina	Washington	Wisconsin	Maine
<b>A-2a</b> Are minor license amendments required for changes in fuels burned regardless of impact on emissions?	Only if Modified	Toxics Only	If outside permit	Yes	No	Yes
<b>A-2b</b> Addition of insignificant emission sources like an on-site diesel generator.	No	Not if exempt	No	Not if de minimis	Not if insignificant	Not if insignificant
<b>A-2c</b> Increases in capacity that do not trigger PSD review.	Yes	Toxics Only	No	Yes	Yes	Yes
<b>A-3</b> Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations?	No	No	No	No	No	Yes, some
<b>A-4</b> Are existing sources, undergoing license review, required to undergo a control technology review? [The intent of this question was not to include physical modifications and emissions increases.]	No	No	No	No	No	Yes, if greater than 15 years old
<b>A-5</b> When, if ever, are existing sources subject to new limits or standards?	Rule or Modification	Rule or Modification	Rule or Modification	Rule or Modification	Rule or Modification	Rule, Modification, renewal (BPT)
<b>A-8</b> Is a fee required for an application for a new, renewed, or modified air operating permit?	No	No	Yes	yes	Yes	No
<b>A-9</b> Are annual fees required for air operating permits?	Yes	Yes	Yes	Yes	Yes	Yes
<b>H-1</b> Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities?	No	No	--	No	No	No
<b>H-2</b> Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities?	No	No	--	No	Yes	No
<b>H-3</b> Does your state require a license for on-site treatment of waste generated at the facility?	--	No	--	No	No	Yes

TABLE OF RESPONSES (Continued)

Question	Georgia	Michigan	North Carolina	Washington	Wisconsin	Maine
H-4 Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law?	No	No	--	No	Some	Some

## Application Fees and Annual Fee Requirements

### Solid Waste:

Application Fees: Maine Requires  
(S-6) 3 Other States Surveyed Require  
2 Other States Surveyed Do Not Require

Annual Fees: Maine Requires  
(S-7) 3 Other States Surveyed Require  
2 Other States Surveyed Do Not Require

### Air:

Application Fees: Maine Does Not Require  
(A-8) 3 Other States Surveyed Require  
2 Other States Surveyed Do Not Require

Annual Fees: Maine Requires  
(A-9) All 5 Other States Surveyed Required

## Issues Studied by the Task Force

### Environmental Regulations

**TASK 1A.** *Determine which state statutory standards and regulatory standards, interpretations or other requirements that relate to the paper industry exceed or are inconsistent with federal requirements;*

In evaluating this task, the ETF determined that an exhaustive search of all state statutory standards and regulatory standards, interpretations or other requirements that relate to the paper industry that exceed or are inconsistent with federal requirements would be extremely burdensome given the resources and time allotted. Likewise, inconsistencies that do not negatively impact the industry were not evaluated. The ETF believes that there are inconsistencies<sup>6</sup> between State requirements and Federal requirements. The Task Force decided to take a slightly different approach to support the intent of the task; identify the inconsistencies that place a burden on the Maine Paper Industry and do not result in significant environmental protection or improvement. To accomplish this, a survey of the Maine pulp and paper companies was conducted to identify those permitting, monitoring, record keeping and reporting standards, interpretations, or requirements that relate to the paper industry that exceed or are inconsistent with federal requirements and affect the industry's compliance or ability to attract capital. Requests for information were sent to Boise Cascade, Bowater, Fraser, Georgia Pacific, International Paper, James River, Madison Paper, Otis Specialty Papers, S. D. Warren, Lincoln Pulp and Paper, and Champion International Corporation. Twenty four items were identified by the industry and are detailed in Table 2.

The ETF discussed each of the listed items and narrowed the list to nine issues that the ETF agreed to investigate in detail for presentation to the Legislature. Each of the nine issues is discussed below.

#### Solid Waste Issues

**Issue 1:** Maine DEP requires time of travel calculations and minimum siting requirements for new or expanded pulp and paper landfills.

**Issue 2:** Maine DEP requires a hypothetical failure analysis of landfill systems that the industry considers to be costly.

---

<sup>6</sup> "Inconsistencies" may mean that the requirements are different, or may mean that there is no applicable federal regulation.

Maine Statute, 38 MRSA §1310-N(2-A)(C), requires that a thorough hydrogeological assessment be performed for the proposed site and contiguous area, including evaluation of normal operation and failure of engineered barriers. Statute also requires that the facility not create an unreasonable threat to a fractured bedrock aquifer.

Maine's current regulations interpret these requirements to include a modeled travel time calculation with minimum acceptable travel times (DEP Regulations Chapter 401.1(G)(1)(g)), and to include a detailed hypothetical failure analysis (Chapter 401.4(E)(6) for all aspects of the engineered system. Maine's current rules are undergoing revision.

EPA regulations (Subtitle D Part 258 Subpart D Design Criteria) require minimum liner design protective of all locations. EPA does not require travel time calculations to be made or establish any minimum travel time criteria. EPA establishes minimum liner design standards (less stringent than DEP) that EPA considers protective of all locations. A detailed hypothetical failure analysis of engineered systems is not required. There are no comparable federal provisions for evaluation of geologic criteria for landfills.

#### **Air Issues:**

##### **Issue 1: Continuous Emission Monitors, Continuous Opacity Monitor, and Parameter Monitor Requirements.**

Maine has numerous more stringent requirements for continuous emissions monitors (CEM's), continuous opacity monitors (COMs), and parameter monitors that significantly affect the industries perceived compliance, capital requirements, and operational costs when compared to the paper industry in other states. Maine requires CEMs and COMs on more sources, has more QA/QC requirements, has uptime requirements for COMs and parameter monitors, greater uptime requirements for CEMs, and requires audits (CGA's and RATAs) for all monitors, not just those sources required by EPA. DEP considers excess monitoring downtime a violation because absence of monitoring prevents assurance of compliance. It is DEP's position that compliance cannot be assured without monitoring. The additional requirements result in significant capital and operational costs and numerous instances of non-compliance for emissions monitoring downtime, none of which change actual emissions.

Maine Statute, at 38 MRSA § 589(3), specifies uptime requirements for CEMs and COMs. It does not specify sources requiring monitors or QA/QC requirements.

The statute provides that DEP may take enforcement only if the monitoring falls below 90% uptime for CEMs and 95% uptime for COMs. The statute is silent on parameter monitor uptime.

Maine Regulation (Chapter 117) specifies various requirements for the installation, calibration, operation, and auditing of emissions monitors. This regulation, in addition to the provisions contained in the statute, requires 100% uptime for parameter monitors and more detailed QA/QC requirements than EPA. These uptime requirements are being met by most of the mills in Maine but the concern rests with the treatment of violations.

EPA regulations require monitors to operate continuously except for periods of breakdown and calibration for sources subject to New Source Performance Standards. The federal regulations allow 25% downtime before requiring a source to provide other means of monitoring a pollutant. EPA does not have uptime requirements for opacity or parameter monitors and rarely takes enforcement actions when sources do not meet uptime requirements. (Reference 40 CFR Part 60 Appendix B & F, 40 CFR Part 51 Appendix P, 40 CFR Part 60.13, 40 CFR Part 60.45 Subpart D, 40 CFR Part 60.46a & 60.42a subpart Da, 40 CFR Part 60.45b through 60.48b subpart Db, and 40 CFR Part 60.284 subpart BB.)

**Issue 2:** Maine does not categorically or automatically exempt excess emissions associated with start-up, shutdown, or unavoidable malfunctions thereby significantly affecting the industry's compliance when compared to other pulp and paper industry states. Maine requires all excess emissions to be reported to the Maine DEP with all excess emissions considered exceedences unless affirmatively granted exemption by the DEP. Exemption criteria are significantly more stringent than required by EPA.

Maine Statute, 38 MRS §590(5), allows the DEP to establish appropriate license allowances and conditions for excess emissions during cold start-ups and shutdowns as long as the facility is operated to minimize emissions and is otherwise subject to applicable standards. One mill has requested and received special license conditions regarding start up and shut down.

Maine DEP regulations (Chapter 117) do not provide for automatic exemptions from emission standards during periods of start-up, shutdown, or unavoidable malfunctions. The DEP is developing a guidance document to assure consistency when exemptions are granted.

EPA regulations (40 CFR Part 60.46a(c)(subpart Da), 40 CFR Part 60.46d(a)(subpart Db)) provide automatic exemption for opacity standards during periods of startup,

shutdown, and unavoidable malfunction. Blanket exemptions for all emission standards are not allowed for sources subject to Federal New Source Performance Standards.

**Issue 3:** Maine TRS regulations require collection from sources not covered by EPA, require one hundred percent back-up incineration for most sources, and interpret by-passes greater than 15 minutes in duration to be exceedences. These additional burdens on the Maine pulp and paper industry significantly affect compliance and have placed additional capital burdens on the industry.

There are no Statutory requirements regarding TRS emissions. (Maine DEP rule adopted pursuant to Section 111(r) of the Clean Air Act).

Maine DEP regulations (Chapter 124) specify that numerous TRS sources from bleached Kraft mills receive incineration. The regulations require back-up incineration, and for by-passes of more than 15 minutes, require notification to the DEP.

EPA regulations (40 CFR 60.283 and 60.284) require TRS gases in excess of five ppm. to be collected and receive incineration from the digester system, brown stock washer system, multiple effect evaporator system, and condensate stripper system. EPA does not require back-up incineration. EPA does not require sources to report by-passes, nor does EPA consider these by-passes to be violations.

#### **Hazardous Material Issues:**

**Issue 1:** Maine imposes additional requirements on waste water treatment units which are exempt from Federal hazardous water regulations.

Maine statute, 38 MRSA §1319-L, exempts elementary neutralized wastes, from licensing and reporting requirements provided that facilities comply with requirements of law including compliance with waste water discharge permit, adoption of a spill prevention plan, and maintenance of collection and treatment equipment.

Maine DEP regulations, which did require licensing for elementary neutralization, have been superseded by 38 MRSA §1319-L. Prior to the legislation, the previously applicable regulations are contained in Chapter 856, §11.

EPA exempts elementary neutralization in facilities with NPDES permits from the hazardous waste regulations contained in the federal Resource Conservation Recover Act, 42 United States Code, §6901, *et seq.*, as amended.

**Issue 2:** Maine DEP regulations require Small Quantity Generators to conform to some Large Quantity Generator and Transportation and Disposal Facility Standards. Requirements for Small Quantity Generators that are beyond Federal requirements include but are not limited to: reduced threshold for reduced inspection and reporting requirements, daily inspection requirements, hazardous waste identification number, container size is limited to 55 gallons, and manifest and reporting requirements.

There is no state Statutory provision that requires Small Quantity Generators to conform to Large Quantity Generator and Transportation and Disposal Facility Standards. Maine Statute 38 MRSA §1319-O empowers the Board of Environmental Protection to adopt regulations regarding the identification, handling, transportation, treatment, and disposal of hazardous waste.

Maine DEP regulations specifying the requirements for Small Quantity Generators are contained in Chapter 850 §3A.

EPA regulations for Small Quantity Generators are contained in 40 CFR §261 and 262. Small Quantity Generators are exempt from the inspection, manifest, and reporting requirements of Large Quantity Generators.

#### **Water Issues:**

**Issue 1:** Maine has adopted restrictive water quality criteria relative to heat discharged to all freshwater rivers and streams. These criteria are applied universally throughout the State of Maine to protect cold water species from thermal impacts. The Maine Department of Inland Fisheries and Wildlife (IF&W), which has jurisdiction over freshwater fisheries, has stated that they consider cold water species such as brook trout and salmon to be indigenous to all fresh waters of Maine, based on historical documentation. The application of these criteria places facilities located on moderate and small size rivers in jeopardy. It requires that they install costly cooling systems or seek administrative relief in the form of extended mixing zones, Use Attainability Analysis (UAA) or development of site specific criteria.

38 MRSA §465 (4)(C) requires that “discharges to Class C waters may cause some changes to aquatic life, provided that the receiving waters shall be of sufficient quality to support all species of fish indigenous to the receiving water and maintain the structure and function of the resident biological community.” 38 MRSA §466(8) defines indigenous as “supported in a reach of water or known to have been supported according to historical records compiled by State and Federal agencies or published scientific literature.”



Chapter 582 of the DEP Regulations requires that no discharge may “cause the temperature of any waters to exceed the U.S. Environmental Protection Agency’s national ambient water quality criteria established to protect all species of fish that are indigenous to the receiving waters.” It further requires that “when the ambient temperature of any body of water naturally exceeds the limits set forth in this section, no thermal discharge may be allowed which alone or in combination with other discharges would raise the ambient temperature of the receiving water more than 0.5 ° Fahrenheit.”

EPA ambient water quality criteria has established 66 ° F as the optimum temperature to support most cold water species. Maine Class C rivers often naturally exceed 66 ° F during summer months, and several Maine rivers have occasionally exceeded 80 ° F.

38 MRSA §464(4)(I), was adopted in 1995. It allows discharges that raise ambient water temperature by more than 0.5 ° F when the receiving water is above 66 ° F to demonstrate “to the satisfaction of the department that they are unable to meet the standards in the existing temperature rule after application of the best practical treatment, are limited to discharging heat in an amount not exceeding the heat that has been discharged since January 11, 1989.” Three mills have taken advantage of this exemption.

EPA has no specific regulations that relate directly to the discharge of heat. However, Federal permits incorporate state standards for protecting indigenous species.

**Issue 2:** The treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining attainment of water quality standards has been variable.

There are no state statutory provisions regarding the treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining attainment of water quality standards.

There are no state regulatory provisions regarding the treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining attainment of water quality standards. Maine DEP and Maine Bureau of Health have historically interpreted non-detect results at the detection limit for development of advisory postings, risk assessments, and determining attainment of water quality standards. Beginning in 1995, the State has used one half the detection limit for non-detect readings when establishing fish advisories. The State is currently reviewing its policies and practices regarding treatment of non-detect analytical results.

There are no EPA regulatory requirements regarding the treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining

attainment of water quality standards. EPA guidance allows the use of zero, one-half the detection limit, or the detection limit for non-detect analytical results in the development of advisory postings, risk assessments, and determining attainment of water quality standards. The draft EPA reassessment for dioxin recommends using one half the detection limit for non-detect analytical results.

**TASK 1B.** *For those requirements that exceed the federal requirements, obtain data to compare them, at a minimum, to the five leading paper industry states.*

The ETF incorporated questions in the survey of the five leading pulp and paper states to determine general inconsistencies between state and federal requirements for each state and to explore inconsistencies between how Maine regulates the pulp and paper industry as compared to the other states.

### **Inconsistencies with Federal Requirements**

All states were asked the following general question regarding inconsistency with federal regulations. The response of each state is detailed below.

Survey Question (G-5): Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.

Georgia: Adopted all federal laws/regulations by reference or duplication. Nothing more stringent than federal law. Some extra regulations like water withdrawal permitting and industrial solid waste disposal facility.

Michigan: Water quality based effluent limits are more restrictive than treatment based limits in Federal Guidelines, however, federal guidelines require use of state water quality standards.

North Carolina: Most regulations adopted in whole. More stringent requirements for air toxics.

Washington: Clean Air and Water standards match federal standards. Regulate some wastes that exceed federal RCRA standards. Regulate high pH wastes as dangerous wastes. Some ground water regulations exceed federal standards.

Wisconsin: Require permitting for land application of residuals under NPDES program.

Maine: Regulation of non-hazardous industrial solid waste. Many requirements in air permitting including BPT, minor source regulation, minor new source review, non-Prevention of Significant Deterioration modeling, etc. Water program items include surface water toxics program, whole effluent testing program, and water quality evaluations. Hazardous materials/hazardous waste items include listing PCBs as a hazardous waste, inspections of hazardous waste accumulation and storage areas, requirements for small quantity hazardous waste generators, and annual hazardous waste report frequency.

### **Comparison with Other States**

Based upon survey responses, Maine has numerous inconsistencies with the other five leading pulp and paper states surveyed regarding the regulation of the pulp and paper industry. The parenthetical designations in the following summaries refer to specific survey questions, provided in full text in Appendix B of this report:

- (G-3) Maine is the only state that requires licensing of general development (i.e. Site Location of Development) of a new or expanded pulp and paper facility that would not otherwise trigger permitting for air, water, or solid waste.
- (G-4) Maine is the only state that requires a general facility permit for new construction at an existing pulp and paper facility (i.e. Site Location of Development)
- (W-1) Maine is the only state that does not have NPDES delegation.
- (W-7) Maine is inconsistent with the five states surveyed because there is wastewater, air, and solid waste licensing duplication at the local level.
- (W-8) Four out of the other five states surveyed utilize general permits or permit by rule for some type of water discharges associated with the pulp and paper industry. Maine does not.
- (S-10 & 13) Maine is the only state where municipalities are granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility.
- (S-11) Maine is the only state where there is duplication of solid waste facility licensing at the local level.
- (S-12) Maine is inconsistent with 3 out of 4 states responding by requiring licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills. Exemptions are provided for wastes that are hauled in generator-owned vehicles to generator-owned disposal sites.
- (S-14) Maine is the only state surveyed that requires permitting of all beneficial use activities. Three of the 5 states responding have no permitting requirements, the other two states have permitting requirements only for land application.

- (A-1) Maine is the only state that requires air quality modeling regardless of Prevention of Significant Deterioration/New Source Review status.
- (A-1) Maine is the only state that routinely requires on-site meteorological data.
- (A-2a) Four out of the other five states surveyed do not require an air license amendment for changes in fuel burned regardless of impact on emissions. Maine does.
- (A-3) Maine is the only state that has CEM uptime requirements for non-Prevention of Significant Deterioration sources that are more stringent than Federal Regulations.
- (A-4) Maine is the only state that requires a control technology review at the time of relicensing for existing sources with air pollution control apparatus greater than 15 years old.
- (A-5) Maine is the only state that may require new limits or standards as a matter of relicensing (Best Practical Treatment). Other states only impose new limits or standards when a new limit or standard is adopted by rule or when there is a modification made to the source.
- (H-3) Maine is one of two states that require a license for on-site treatment of waste generated at the facility.

The survey also identified several areas where Maine is consistent with the other five leading pulp and paper industry states surveyed. The results are summarized below:

- (S-1) Maine is consistent with 4 out of the 5 states surveyed in licensing solid waste facilities at the state level. The other state only licensed landfills at the local (county) level.
- (S-2) Maine is consistent with all five states surveyed in that pulp and paper mills dispose of their wastes primarily at company owned landfills.
- (A-2c) Maine is consistent with 4 out of the 5 states surveyed in requiring an air license amendment for increases in capacity that do not trigger Prevention of Significant Deterioration review.
- (H-1 & 4) Maine is consistent with the other states in not requiring licenses for on-site elementary neutralization into permitted NPDES treatment facilities.
- (H-2) Maine is consistent with 4 out of the 5 states surveyed in not requiring reporting of elementary neutralization volumes that go into NPDES permitted treatment facilities.
- (W-6) Maine is consistent with the five states surveyed in not requiring NPDES holders to be separately licensed for stormwater discharges for the pulp and paper industry.

**Table 2**

**Summary of State Statutory or Regulatory Requirements that Exceed or are Inconsistent with Federal Regulations**

**Water:**

- State of Maine designation of all rivers and streams as cold water fisheries.
- Maine's treatment of non-detect analytical results for use in advisory postings, risk assessments, and determining attainment of water quality standards has been variable.
- State of Maine upset and bypass requirements are more stringent than EPA's.
- State of Maine requires one priority pollutant scan per year on final effluent, which is not a federal requirement.
- Inconsistency in Whole Effluent Toxicity (WET) testing - State of Maine requires both acute and chronic testing performed on final effluent; whereas, federal requirement is only one or the other.

**Solid Waste:**

- Maine DEP requires both 10-5 cm/sec soils and composite liners for pulp and paper mill landfills, EPA requires either.
- Maine DEP requires time of travel calculations and minimum requirements for siting or expanding pulp and paper landfills. EPA has no such requirement.
- Maine DEP requires a hypothetical failure analysis of landfill systems.

**Air:**

- Maine mills are subject to control technology review (BPT) at the time of relicensing for existing sources with air pollution control apparatus greater than 15 years old. BPT has been used to require emissions limits, control, monitoring, and record keeping requirements on existing sources beyond Federal requirements.

- Maine DEP requires minor new sources and minor modifications demonstrate that they are meeting BACT. Federal law only requires this demonstration for major new or modified sources.
- Maine TRS regulation require collection from sources not covered by EPA and 100% back-up incineration for most sources. Maine interprets by-passes greater than 15 minutes in duration to be exceedences.
- Maine DEP exemption for excess emissions associated with start-up, shutdown, or unavoidable malfunctions is inconsistent and stricter than under Federal New Source Performance Standards.
- Maine requires CEM's on more sources than EPA requires. Maine requires CGA's and RATA's for all monitors, not just those required by EPA. Maine requires more QA/QC requirements for CEM's than does EPA. Maine's CEM uptime requirement is inconsistent with EPA's. Maine has a 95% uptime requirement for opacity, unless otherwise noted in license, EPA has no uptime requirement. Maine requires uptime for parameter monitors.
- Maine requires substantial ambient air modeling and on-site meteorological data.
- Maine takes enforcement and assesses penalties for all exceedences, regardless of compliance record.
- Maine's hazardous air pollutants inventory reporting has lower thresholds and contains more compounds than applicable federal requirements.

#### **Hazardous Materials:**

- State of Maine requires a chemical SPCC plan in order to take advantage of Reportable Quantities established under Federal Law.
- Maine requires reduction in hazardous waste generated and TRI emissions through Toxic Use Reduction Act.
- Maine has additional requirements for waste water treatment units that are exempt from federal hazardous waste regulation.
- PCB's are regulated as a hazardous waste.

- Maine requires Small Quantity Generators to conform to some of the Federal Large Quantity Generator and Transportation Storage and Disposal Facility Standards. Federal standards exempt Small Quantity Generators from most Large Quantity Generator requirements.
- Maine prohibits hazardous waste treatment in containers without a license; Federal law allows such treatment without a license as long as certain criteria are met.

**General:**

- Maine DEP requires a Site Location of Development permit for general development for any facility modifying more than 30,000 square feet in one year or a three acre development.
- Maine requires ground water clean-up to levels below Federal maximum contaminant levels for drinking water.

**Duplicate Review and Permitting**

**TASK 2:** *Duplicate review and permitting. In terms of duplicate review and permitting, the task force shall identify and make recommendations for eliminating duplicate review and permitting in all areas relative to the paper industry, including the following:*

**Task 2A:** Duplicate review when a municipality has a certified plan;

**Task 2C:** Duplicate review between activities reviewed by the Maine Land Use Regulation Commission and permitting requirements under the natural resources protection laws;

Municipalities currently have several plans, ordinances, and local review procedures that are designed to protect human health, the environment, and the ensure orderly development within the municipalities. Generally, these documents include a Comprehensive Plan, Shoreland Zoning Ordinance, Zoning Ordinance, and General Development regulation (commonly referred to as Site Plan Review or Planning Board Review). There are legal and regulatory provisions with which these ordinances must comply and some require approval by the Maine DEP (e.g. Shoreland Zoning). These ordinances often cover aspects for the protection of the environment including traffic, noise, erosion and sedimentation control, stormwater, groundwater protection, buffers, fugitive dust, aesthetics, scenic character, and financial capability.

The development of these local ordinances has resulted in duplicate review between the Maine DEP (Site Location of Development permitting) and the municipality for general development activities. Businesses like the paper industry are required to develop two permit applications and undergo duplicate review for substantially the same parameters for the same project.

Specifically there appears to be direct duplication between Shoreland Zoning Ordinances and the Natural Resources Protection Act for development within one hundred feet of mapped freshwater wetlands, rivers, streams, brooks, and great ponds. There also appears to be duplication between local Site Plan Review processes and the Site Location of Development Law.

The survey conducted of the five leading pulp and paper industry states indicated that no other state has a general development permitting process at the state level. These general development issues are handled at the local (municipal or county) level.

The Land Use Regulation Commission functions as the municipal review authority for development in the unorganized territories. Similar to municipalities, LURC has development plans and procedures that must comply with State Statutory and regulatory requirements. The same duplication issues exist between LURC and the Maine DEP as outlined for municipalities.

During 1995 and 1996 a significant effort was undertaken to remold the Site Location of Development law to change the way development is regulated. The 1996 legislation which resulted from that effort included a provision exempting projects up to seven acres or developments up to 20 acres from state review provided there is the municipal capacity to review it locally. At least three municipalities with pulp and paper mills have already satisfied the requirements to exempt developments in their towns. This program supplements an existing program which formally delegates Site Location review to any municipality which demonstrates the ability to administer the law. Finally, the law was also amended to clarify that developments within LURC jurisdiction are exempt from DEP review under the Site Law.

Based upon the review conducted by the ETF, there have been significant regulatory changes designed to reduce duplicative review and permitting for general development. The ETF recommends that DEP monitor progress of these new changes and solicit input from the regulated community.

**Task 2B:** Duplicate review between state and federal programs, such as National Pollutant Discharge Elimination Systems and wetlands management;



**Task 2I:** Duplicate standards between the natural resources protection laws and the federal Clean Water Act.

Substantial work has been done by the Maine DEP to reduce duplication between the federal NPDES program and State Waste Discharge licensing. The Maine DEP made a proposal to the legislature, which was carried over to the next session by the Natural Resource Committee, to seek EPA delegation for the NPDES program. Delegation will eliminate duplicative review, permitting, and reporting currently required of the Pulp and Paper Industry. All five of the leading pulp and paper industry states surveyed have delegated NPDES programs. The current debate in Maine is over fees associated with the delegated program, not the merits of delegation. The ETF strongly supports delegation of the NPDES program to the State of Maine.

Maine DEP has also made significant progress in reducing duplicative review of wetland permitting. The DEP has entered into a Memorandum of Understanding with the U.S. Army Corps of Engineers delegating the permitting of wetland impacts below three acres. The ETF recommends that the DEP and the State Planning Office evaluate the effectiveness of the Memorandum of Agreement and also evaluate the opportunity to expand the Agreement to cover wetland impacts greater than three acres.

Duplication between Maine's stormwater permitting program and EPA's stormwater permitting program as it relates to the paper industry was avoided when the proposed legislation was amended to exempt facilities covered under EPA's stormwater permitting program from the Maine program. The ETF recommends that the current exemption be maintained for facilities covered under EPA's stormwater permitting program.

Currently there is no duplicative review between state and federal programs in air quality and solid waste management.

**Task 2D:** Duplicative reporting under the new emissions inventory reporting rule;

**Task 2E:** Duplicative reports under the toxics use reduction reporting requirements;

**Task 2F:** Duplicative notice requirements for malfunctions and instances that exceed government standards;

**Task 2G:** Duplicative hazardous waste storage inspections and reporting requirements;

In addressing Tasks 2D through 2G the ETF incorporated the efforts of other groups that were working on similar efforts and obtained new information. The Maine DEP and the paper industry trade association (formerly known as PIIO and currently known as MPPA) began discussions in late 1994 regarding duplicative reporting requirements. This process involved the industry identification of 38 reports/notifications that were

considered burdensome or duplicative. The DEP reviewed the list and prepared responses to the industry. The issues were then divided up by environmental media and task groups comprised of industry and DEP members were commissioned to work on the identified issues. This effort directly addresses Tasks 2D, 2E, 2F, and 2G. A summary of the duplicative requirements identified are contained in Table 3. The recommendations of the ETF are summarized below:

- ETF recommends that Chapter 137 Hazardous Air Pollutant Inventory reporting frequency be reduced to once every two years and that SARA 313 de minimus provisions be incorporated.
- Recommend DEP incorporate, as appropriate, automatic exemptions for excess emissions associated with startups and shutdowns into Title V licenses for each source. Recommend examining the definition of unavoidable malfunction as it relates to malfunctions of equipment maintained to manufacturers' recommendations.
- Recommend DEP develop Memorandum of Understanding with EPA regarding the reporting of exceedences, by-passes, unlicensed discharges (spills) by the licensee to the DEP with notification to EPA done through regular monthly DMR submittal.
- Recommend reducing inspections of hazardous waste accumulation and storage areas to only exclude holidays and weekends when the area is not in use.

**TASK 2, TABLE 3**

<b>Category</b>	<b>Subcategory</b>	<b>Issue</b>
<b>AIR</b>	Emissions Inventory Chapter 137	Maine requires reporting of estimated hazardous air pollutant emissions every 2 years. Not required by EPA. Duplicative of SARA313 reporting. Has lower thresholds than SARA313, does not incorporate de minimis provisions under SARA313, added compounds not listed in SARA313. By including compounds not covered by SARA313, data is not easily available.
	Excess Emissions Reporting	Currently requires report within two working days and then again quarterly. EPA does not require reporting within 2 working days.
	CEM Audit Notifications Chapter 117	EPA does not require any notice prior to audits. Maine DEP requires 30-day notice prior to CGAs and RATAs, plus report submittal within 30 days of the audits.
	Exemption Requests for excess emissions from Start-up, Shutdown, and Unavoidable Malfunctions	EPA does not require exemption request for excess emissions associated with start-up, shutdown, or unavoidable malfunctions. Maine requires all excess emissions associated with startup, shutdown, or unavoidable malfunctions to be reported within two working days, reported again in the quarterly report, and a request for exemption to be included in the quarterly report. Requires affirmative action by DEP for exemption.
<b>WATER</b>	Exceedence Reporting	Historically EPA has allowed all communications regarding exceedences, by-passes, unlicensed discharges (spills) to be between the licensee and the Maine DEP. Recently, EPA has requested duplicate notifications both verbally and written by the licensee at the time the event occurs as opposed to in the DMR report submitted to EPA monthly by DEP.
<b>LAND</b>	Site Location of Development Annual Expansion Report	Current statute requires annual report to DEP for construction covered under the 30,000 square foot exemption rule.
<b>SOLID WASTE</b>	Landfill Reporting Requirements	Duplicative monthly volume reports, quarterly environmental monitoring program reports, annual environmental report, and annual operations report. DEP has agreed to streamline reporting requirements in the draft rule revisions and to work with affected facilities to eliminate monthly volume reports.

Category	Subcategory	Issue
HAZARDOUS MATERIALS/ HAZARDOUS WASTE	Annual Hazardous Waste Report	EPA only requires once every 2 years. 40 CFR 362.41(a). DEP regulations require an annual report. DEP only required to report to Legislature every 2 years.
	Hazardous Waste Inspection Requirements	EPA only requires weekly inspections for hazardous waste accumulation areas and storage areas, DEP requires daily.
	TURA Release Reporting	TURA statute was developed consistent with SARA reporting requirements. DEP reporting requirements duplicative of SARA313 and Chapter 137 Hazardous Air pollutant reporting. Requires use of different forms and data manipulation different from SARA313 process. Statute allows use of SARA313 reporting information.
	TURA Hazardous Waste Reduction Reporting	Duplication with annual (EPA requires biennial) hazardous waste reporting. Requires use of different forms and data manipulation different from annual hazardous waste report.
	TURA Toxic Use Reporting	TURA statute was developed with the same structure of the SARA reporting requirements. Statute allows utilization of SARA 312 information. DEP requires submission of additional forms and manipulation of data different from SARA 312.

## **Task 2H: Duplicate Review of Landfills;**

Maine DEP landfill licensing process provides automatic intervenor status and funding for host municipalities. As intervenors, municipalities become parties to the proceeding and are afforded equal participation in the process and other special rights. Expenses incurred by the municipality in the DEP licensing process are reimbursable up to \$50,000 through the Maine DEP. Funding for municipal intervention is provided by the applicant (\$50,000) at the time of application submittal. Any unexpended funds are returned to the applicant.

Of the five other leading pulp and paper states surveyed, none provided automatic intervenor status or funding for municipal intervention.

Maine Statute also allows municipalities to develop regulations for landfills as long as the standards are not more stringent than the applicable state standard, 38 MRSA §1310-U. Most municipalities with existing commercial or industrial landfills, or who have had an industrial, commercial, or regional landfill proposed, have adopted local ordinances regulating the siting and operation of landfills. For the unorganized territories, the Land Use Regulation Commission (LURC) regulates landfills at the local level. These local ordinances contain substantially the same criteria as the DEP regulations. Duplicative review at the state and local level requires two separate permit applications and review processes by the applicant. This duplication substantially increases permitting costs and time. Combined state and local permitting is not possible with a municipal intervenor because of potential conflict of a municipality being an intervenor and a deciding body in the same proceeding. All but one municipality has required duplicative review of new or expanded landfills for the Maine pulp and paper industry. All new landfills in Maine (paper industry and others) since the adoption of the 1989 Regulations have involved duplicative review at the local level.

All five of the leading pulp and paper states surveyed do not have duplicative review of landfills. Four of the states regulate landfills at the state level and one state regulates landfills at the local (county) level.

The ETF recommends that the State work towards the elimination of time consuming and costly duplicative review of landfills.

### **Public Input**

*The task force shall compare the time taken for public input in this State with that in other states and, if that time is longer, identify if this is caused by opportunities provided by law or rule or whether the public takes more advantage of the opportunity provided. In exploring this issue, the task force shall determine the number of public hearings, the number of*

*witnesses at hearings and the expenditure by environmental and industry lobbying organizations.*

## **Public Involvement in Maine**

In examining this issue, the Task Force did not undertake a detailed quantitative evaluation of the time and financial costs associated with Maine's public participation processes. Instead it identified the existing permitting processes and related those to the answers obtained from an examination of the five other states surveyed.

In order to understand the opportunities for public input in decision making on environmental permitting in Maine, it is instructive to walk through the permitting process. For certain significant projects defined by DEP rule, the public's first opportunity to learn about and comment on a project is through a mandatory public meeting held before an application is even filed. Just prior to filing, all applicants, except those seeking minor revisions or permit-by-rule, must place a public notice in a local newspaper, provide that notice to the town and also to the project abutters. The notice describes the project and explains that there is the opportunity to provide comments on the application while it is pending, but that requests for a public hearing or for the Board of Environmental Protection to assume jurisdiction over the project must be filed within 20 days of the application being accepted by the DEP. These opportunities for public input are required by DEP regulation.

In addition to these general opportunities for public input, some special statutory provisions apply. For some solid waste facilities, the host community where a landfill is located is automatically an intervenor and the applicant must provide grant moneys to fund municipal participation in the state licensing process. The DEP is also required, if requested, to make draft orders available for public comment prior to final action. The period is five working days for commissioner orders and 15 working days for Board orders. Of the 846 applications requiring this notice in 1996, the vast majority elicited no public inquiry or involvement.

Where there is public involvement it generally falls into two categories, routine projects and large projects. Beneficial use of treatment plant sludge and shorefront activity which raises the concern of neighbors are the most common routine activities which generate letters or telephone calls from the public. Except for instances of property disputes, the latter are usually a matter of providing information and education to the public rather than any real objection to an application. Sludge spreading applications frequently generate public involvement over concern about treatment plant waste being spread in rural areas. These projects usually involve several DEP sponsored local public meetings to air concerns, identify issues and educate the public. Large projects involve public participation because of their potential economic or environmental impact. For the pulp and paper industry, examples

might include hydropower relicensing, creation of a new landfill or the reconstruction of a mill which significantly changes its siting or emissions. These types of projects are usually decided by the Board of Environmental Protection after public hearings.

The Board process adds a substantial amount of time to application processing times. In the last three years, the Board has considered nine projects, none of which were pulp and paper industry projects.

Based on the Maine survey results, public participation does not appear to cause extended permitting times, except for solid waste licensing. The survey data does suggest that permitting times are longer in Maine than in other states. Some of the attributable causes from the Maine DEP survey are low staff resources and requests for additional information.

New applications processed under time lines receive priority, followed by modified applications, and finally, renewal or landfill closure applications. DEP has given renewal applications the lowest priority, but without harm to the licensee, because a source can continue to operate under its existing license. The Task Force notes that the survey data does not necessarily represent current permitting processes because the data goes back five years to a time before the time lines for new applications were adopted. DEP has embarked on a concerted effort to clean up backlogged renewal applications.

### **Summary of Public Notice and Public Participation Information from State Surveys**

#### **Public Notice**

Generally all five states surveyed followed EPA's public notice requirements for new and renewal permit applications. All states reported a 30 day comment period with notice provided to the public by the local newspaper. Some notices were provided by the agency, and some by the applicant. No states surveyed required public notice of abutting property owners. One state surveyed also provided written notice to a list of interested persons.

#### **Public Participation Opportunities**

All states surveyed reported that the public had the opportunity to provide written comment during the allotted 30 day comment period, and during any public hearing or meeting, if one was held. All states indicated that a public hearing or meeting was optional and was the decision of the agency. No state, other than Maine, provides automatic intervenor status for the host municipality during solid waste permitting processes, or requires notice to abutters.

### Time Required to Process Permits

#### Does the State Have A Statutory or Regulatory Time Limit for Processing of Permit Applications?

	GA	MI	NC	WA	WI	ME
Water (W-2)	No	Yes	No	No	Yes	Yes, for new permits only
Solid Waste (S-4)	No	Yes	No	No	Yes	Yes, for new permits only
Air (A-6)	No	No	Yes	Yes	Yes	Yes, for new permits only

#### Time Actually Incurred to Process Permits (in days)

Water (W-3)	GA	MI	NC	WA	WI	ME
Minimum	90	150	180	30	5	45
Maximum	180	960	1000	180	20	3285
Average	120	510	270	90	12	540
Number	14	10	8	14	1	12

Solid Waste (S-5)	GA	MI	NC	WA	WI	ME
Minimum	55	45	90	90	1095	9
Maximum	110	90	365	456	2555	3285
Average	75	80	--	180	1825	1677
Number	11	--	--	5	--	12

Air (A-7)	GA	MI	NC	WA	WI	ME
Minimum	45	51	60	--	45	20
Maximum	365	392	90	--	200	3650
Average	120	52	--	30	120	206
Number	39	--	--	--	100	72

#### Attributed Cause of Permitting Delays

Water (W-9)	GA	MI	NC	WA	WI	ME
Incomplete Applications	Yes	Yes	Yes	Yes		
Low Staff Resources		Yes		Yes	Yes	
Public Participation		Yes	Yes			
Additional Information needed					Yes	
EPA Review		Yes				
Negotiations with licensee						Yes



**Time Required to Process Permits (continued)**

Solid Waste (S-15)	GA	MI	NC	WA	WI	ME
Incomplete Applications	Yes		Yes	Yes	Yes	
Low Staff Resources				Yes		Yes
Public Participation		Yes			Yes	Yes
Additional information requested						Yes
Air (A-12)	GA	MI	NC	WA	WI	ME
Incomplete Applications	Yes	Yes		Yes	Yes	Yes
Low Staff Resources				Yes		Yes
Public Participation			Yes			
Additional Information needed			Yes			Yes
Modeling requirements						Yes
Hazardous Materials/Waste (H-5)	GA	MI	NC	WA	WI	ME
Incomplete Applications	Yes	Yes		Yes		Yes
Low Staff Resources		Yes		Yes		Yes
Public Participation						

## CONCLUSIONS

The Task Force to Study Environmental Regulations was established by the 116th Maine Legislature with the purpose of comparing state and federal standards, identifying and making recommendations for eliminating duplicative review and permitting requirements, and comparing the process for public participation in environmental permitting in Maine with the process in other states.

To accomplish these tasks, the Task Force solicited information from paper industry environmental managers on inconsistencies between state and federal environmental regulations that affect compliance or the ability to attract capital, and surveyed five other leading pulp and paper states.

The Task Force limited its evaluation to those inconsistencies related to the paper industry that affect the industry's compliance or ability to attract capital. The Task Force did not identify or evaluate those inconsistencies that directly affect actual environmental quality. The Task Force was not asked to provide information regarding the basis for Maine's inconsistencies or to detail the magnitude of the impact of the inconsistencies on the Maine industry.

The Maine DEP has made progress in reducing duplicative review and permitting in the area of wetlands permitting and Site Location of Development. Both of these programs are very new and will require review to determine effectiveness and opportunities for expansion. The Maine DEP has also made progress in reducing duplicative reporting.

The Task Force identified nine inconsistencies in environmental regulation for presentation in this report. The Task Force compiled a summary of consistencies and inconsistencies in the regulation of the pulp and paper industry between Maine and five other leading pulp and paper states. Lastly, the Task Force identified many instances of duplicative reporting and made recommendations to reduce duplicative reporting by the pulp and paper industry. Only those recommendations supported by the entire Task Force are included in the report. None of the recommended changes would have a direct negative impact on Maine's environment. The recommendations are targeted at the reduction of monitoring and reporting requirements.

## **APPENDICES**

Appendix A, Chapter 22 Resolves, 117th Legislature

Appendix B, Surveys of Pulp and Paper Producing States

Georgia  
Michigan  
North Carolina  
Washington  
Wisconsin  
Maine





APPROVED

CHAPTER

JUN 20 '95

22

BY GOVERNOR

RESOLVES

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-FIVE

—  
S.P. 409 - L.D. 1097

**Resolve, to Establish the Task Force to Study Environmental  
Regulation Relating to the Paper Industry**

**Emergency preamble.** Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Commission on the Future of Maine's Paper Industry developed evidence that a number of Maine's environmental standards exceed those of the Federal Government; and

Whereas, the predominant complaint made to the commission about environmental standards concerned duplicate review and permitting; and

Whereas, the issues of standards and permitting are very important and immediate for the paper industry; and

Whereas, the predominant complaint made about environmental regulation, in general, concerned permit processing time; and

Whereas, the Commission on the Future of Maine's Paper Industry identified the public input as the time-consuming aspect of the permitting process; and

Whereas, the cycle in which the paper industry now finds itself is opportunistic for capital investment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**Sec. 1. Task force created and charged. Resolved:** That the Task Force to Study Environmental Regulation, referred to in this resolve as the "task force," is created to study state environmental standards and duplicate environmental review and permitting; and be it further

**Sec. 2. Appointment of members. Resolved:** That the task force consists of 5 members. The Governor shall appoint one member from the Department of Economic and Community Development, one member from the Department of Environmental Protection, one member from the federal Environmental Protection Agency and 2 members from the paper industry.

All appointments must be made no later than 30 days following the effective date of this resolve. The Governor shall notify the Executive Director of the Legislative Council upon making the appointments; and be it further

**Sec. 3. Convening of task force. Resolved:** That the Governor shall call the first meeting of the study commission between the 30th and 45th days following the effective date of this resolve. If the deadlines for the appointments and meeting are not met, the task force may extend the deadline for completion of its work in order to compensate for the lost days. A quorum for the task force is a majority of the members appointed at the time of the vote; and be it further

**Sec. 4. Selection of chair. Resolved:** That the Department of Economic and Community Development appointee is chair of the task force; and be it further

**Sec. 5. Study subjects and tasks. Resolved:** That the task force shall carry out the following 3 tasks in the manner indicated.

1. **Environmental regulations.** In terms of environmental regulations, the task force shall:

A. Determine which state statutory standards and regulatory standards, interpretations or other requirements that relate to the paper industry exceed or are inconsistent with federal requirements; and

B. For those requirements that exceed the federal requirements, obtain data to compare them, as a minimum, to the 5 leading paper industry states.

2. **Duplicate review and permitting.** In terms of duplicate review and permitting, the task force shall identify and make recommendations for eliminating duplicate review and permitting in all areas relative to the paper industry, including the following:

A. Duplicate review when a municipality has a certified plan;

B. Duplicate review between state and federal programs, such as National Pollutant Discharge Elimination Systems and wetlands management;

C. Duplicate review between activities reviewed by the Maine Land Use Regulation Commission and permitting requirements under the natural resources protection laws;

D. Duplicate reporting under the new emissions inventory reporting rule;

E. Duplicate reports under the toxics use reduction reporting requirements;

F. Duplicate notice requirements for malfunctions and instances that exceed governmental standards;

G. Duplicate hazardous waste storage inspection and reporting requirements;

H. Duplicate review of landfills; and

I. Duplicate standards between the natural resources protection laws and the federal Clean Water Act.

3. **Public input.** The task force shall compare the time taken for public input in this State with that in other states and, if that time is longer, identify if this is caused by opportunities provided by law or rule or whether the public takes more advantage of the opportunity provided. In exploring this issue, the task force shall determine the number of public hearings, the number of witnesses at hearings and the expenditures by environmental and industry lobbying organizations; and be it further

**Sec. 6. Staffing. Resolved:** That the Department of Economic and Community Development shall provide staffing and clerical support to the task force; and be it further

**Sec. 7. Compensation. Resolved:** That task force members serve without per diem or expenses; and be it further



**Sec. 8. Report. Resolved:** That the task force shall submit to the Legislature, with a copy to the Governor, a brief report of its findings and shall make an oral presentation to the joint standing committees of the Legislature having jurisdiction over economic development matters and environmental protection matters.

The task force shall finalize its conclusions and recommendations by November 1, 1995 and submit its report to the Legislature by December 1, 1995.

If the task force requires an extension, it may apply to the Legislative Council, which may grant the extension; and be it further

**Sec. 9. Budget. Resolved:** That the Department of Economic and Community Development shall administer the task force's budget; and be it further

**Sec. 10. Funding. Resolved:** That the task force may seek, accept and expend private or public funding for its activities; and be it further

**Sec. 11. Allocation. Resolved:** That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

1995-96

**ECONOMIC AND COMMUNITY DEVELOPMENT,  
DEPARTMENT OF**

**Office of Business Development**

All Other \$500

Allocates funds to authorize expenditures if private or public funds are received to support the activities of the Task Force to Study Environmental Regulation Relating to the Paper Industry.

**Emergency clause.** In view of the emergency cited in the preamble, this resolve takes effect when approved.





# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

INTERVIEWEE:           DAVID WORD  
                              ASSISTANT DIRECTOR  
                              DIVISION OF ENVIRONMENTAL PROTECTION  
                              GEORGIA DEPARTMENT OF NATURAL  
                              RESOURCES

INTERVIEWERS:         WENDY PORTER  
                              MICKEY KUHNS  
                              LINDA LOCKHART

DATE:                    MONDAY, NOVEMBER 4, 1996, 10:00 AM  
                              TELECONFERENCE

### General

**G-1** How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*Ten integrated mills, two recycled mills (newsprint).*

**G-2** What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*Georgia Environmental Protection Division only.*

**G-3** Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*No general overall permit.*

- G-4** Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*No general facility permits, local government can regulate noise, etc., but none do that he is aware of.*

*Last mill built = 1979-1980 Pulp  
Recycled = 1982-1983*

- G-5** Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.

*Adopted all federal laws/regulations by reference or by duplication.*

*Some extra, like water withdrawal permitting -cutoff is 100,000 gallons per day.  
Nothing more stringent than federal.*

*Also state construction land disturbing permit (silk screens, etc.)*

*Industrial solid waste permit (nonhazardous waste)*

*(Just disposal, not transport)*

*All mills have own industrial solid waste facility on site*

## Waste Water

- W-1** Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*Yes. Joint FED/NPDES permit.*

- W-2** Is there a statutory or regulatory time limit established for the processing of new or renewed waste water licenses? If yes, please describe.

*None.*

**W-3** Please provide the minimum 90, maximum 180, and average 120 amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*Generally track time of permit processing from date of completed application (but lead time is not included in this - time for discussions, negotiations) 120 days (calendar days) is average from receipt of completed application; some faster.*

*Reissued or modified 14 NPDES permits. Everyone got one round in the last five years.*

**W-4** What public notice requirements exist for a new or renewed waste water discharge license?

*30 day public notice requirement -newspaper plus mailing list. No abutter notices. (Applicant does no noticing).*

**W-5** What public participation opportunities exist for a new or renewed waste water discharge license?

*Comments; public meeting or hearing; extended comment period after request for hearing and hearing.*

*For the 14 permits in last 5 years, no requests for public hearings were received.*

*Public notice for hearing is 30 days.*

*Public meeting and 2 Weeks notice for just a couple of inquiries - less formal process.*

**W-6** Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*Erosion and sedimentation during construction.*

**W-7** Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

*No local permitting of waste water discharges, except one mill that is a pre-treater.*

*Permit issued by local authority pursuant to delegation.*

**W-8** Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*Stormwater general permit consistent with federal regs for all industries.*

**W-9** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications.*

**Q: WHEN YOU HAVE THE PRE-APPLICATION MEETINGS DO YOU USE THE FEDERAL FORMS?**

*No, we ignore those.*

*We require application 180 days before reissuance.*

*The pre-application process consists of one meeting with staff technical people. The mill receives an answer that day as to whether or not a permit will be issued.*

*Georgia has never formally denied an application -it would be perceived as an agency failure to get that far into the process before knowing that it won't fly.*

## **Solid Waste**

**S-1** Does your state license solid waste disposal facilities for the pulp and paper industry?

*State permit required for landfill of pulp and paper solid waste.*

**S-2** Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

*All mills dispose of all waste on own site.*

**S-3** Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*No time permit limits - reopener clauses for rule changes or modifications, expiration or relicensing on routine basis.*

*Horizontal and vertical require capacity change relicensing.*

*Design and operation plan - location, monitoring, etc.*

*If design and operation plan is modified, permit must be reissued - usually at mill's request.*

*Two page application, refer to plan which is approximately two inches thick, plus 7-8 pages of rolled-up plans and specs.*

*Water - 17-18 pages for NPDES permits.*

**S-4** Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*No statutory or regulatory time frame.*

**S-5** Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*Reopened 10 permits, working on number 11. Minimum = 55 calendar days; average = 75 days; maximum = 110 days -- from receipt of revised plan.*

**S-6** Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*No application fee, no annual fee (runs from general fund and EPA grants).*

**S-7** Are annual fees required for solid waste disposal facility licenses? If yes,



what is the basis for the fee?

*No application fee, no annual fee.*

- S-8** What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*No regulatory requirement for public notice, but done as a matter of policy.*

- S-9** What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*Public not interested in industrial waste because it is isolated and controlled.*

*Only municipal waste engenders public interest (no garbage in our neighborhood --all go to court).*

*People don't like garbage, but they don't mind the industrial disposal because they are large sites with large buffers (they dislike the trucks, transfer, smell, etc.)*

- S-10** Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

*No intervenor standing or funding.*

- S-11** Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

*No local permitting.*

- S-12** Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

*Not applicable - all mills have landfills on site. Waste haulers are not permitted. Just end point.*

- S-13** Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

*No funding for municipalities.*

**S-14** Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*No permit required for materials that are to be re-used, beneficial or otherwise (some P&P - sludge for fuel, one mill looking for market for ash) .*

*The economy handles that; no environmental incentives are needed..*

**S-15** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications, poor quality applications.*

### Air

**A-1** How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*If PSD, modeling is required for new or reissued permit; optional for company to hire own consultants or use state.*

*State provides meteorological data (doesn't make sense for individuals to collect).*

**A-2** Under what conditions are minor license amendments required? Please describe and address these particular situations:

- Changes in Fuels burned regardless of impact on emissions
- Addition of insignificant emission sources like an on-site diesel generator
- Increases in capacity that do not trigger PSD review

*Consistent with feds.*

*Yes, if change in fuel means modification of physical equipment, not for change in supplier of fuel*

*No, for insignificant emission sources like on-site diesel, as long as permit thresholds are not exceeded.*

*If new polluting equipment is added that is not considered insignificant, permit must be reissue,*

*We do a fair amount of reissuing of air permits - changes in air emissions.*

**A-3** Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*No.*

**A-4** Are existing sources, undergoing license review, required to undergo a control technology review?

*No.*

**A-5** When, if ever, are existing sources subject to new limits or standards?

*If we adopt a new rule or limits affecting that source .*

*If an existing source is modified.*

**A-6** Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*No.*

**A-7** Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or modified air operating permit for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*39 times in last five years, reissued or modified air permit.*

*Minimum = 45 days, average = 120, (one 365 day outlier not included in average)  
(calendar days counted from receipt of application).*

**A-8** Is a fee required for an application for a new, renewed, or modified air operating permit? If yes, what is the basis for the fee?

*No application fee.*

**A-9** Are annual fees required for air operating permits? If yes, what is the basis for the fee?

*Title 5 federal permit fees based on emissions.*

**A-10** What public notice requirements exist for new, renewed, or modified air operating permit?

*For PSD - prescriptive federal public notice requirements, all administered by state.*

*Non PSD - simple public advisory program.*

**A-11** What public participation opportunities exist for a new, renewed, or modified air operating permit?

*Same as for water and solid waste.*

**A-12** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Quality of applications.*

## **Hazardous Waste**

**H-1** Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.

*No separate permits - covered under NPDES permit.*

**H-2** Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.

No.

**H-3** Does your state require a license for on-site treatment of waste generated at the facility?

*For on-site treatment of hazardous waste - if going into NPDES, no extra permitting required; if not NPDES, then RCRA TSD permit. Examples: waste water lagoons (black liquor storage) and old landfills (probably exceeding MPLs for ground water).*

**H-4** Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.

No.

**H-5** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications.*

\*\*\*\*\*

**DISCUSSION**

**GEORGIA HAS APPROXIMATELY 700 EMPLOYEES IN THEIR STATE ENVIRONMENTAL PROTECTION AGENCY.**

**HEAVILY STAFFED IN PERMITTING, THEY HAVE NEVER HAD A BACKLOG AND HAVE NEVER HAD A PERMIT APPLICATION EXPIRE DUE TO AGENCY ACTIVITY.**

**HOPING TO MOVE TOWARD RESEARCH AND SERVICES.**

**GEORGIA HAS 3-4 KEY ENVIRONMENTAL GROUPS, SOME VERY ANTAGONISTIC TOWARD THE STATE AGENCY.**

**THE ENVIRONMENTAL ACTIVISM IS PROGRAM FOCUSED- NOT SPECIFIC PERMITS, NOT FACILITY-SPECIFIC.**

**WHEN LEGISLATURE IN - VERY BUSY -**

***GOOD RELATIONSHIP WITH LEGISLATURE - SOME VERBAL ABUSE IN ASSEMBLY, BUT DOES NOT TRANSLATE INTO VOTES.***

***LEGISLATORS ARE INTERESTED IN ENVIRONMENT, BUT UNWILLING TO GO BEYOND FEDERAL STANDARDS.***

***FUNDING - GOV'S OFFICE SAYS NO NEW FEES.***

***ANNUAL BUDGET APPROX. \$30 MILLION, \$10 MILLION DEDICATED TO CLEANUP, HAZARDOUS WASTE.***

***FEDERAL GOVERNMENT SUBSIDIZES THE CLEANUP FUND WITH \$10 MILLION FROM EPA FUNDING.***



# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

INTERVIEWEE: Four divisions of Michigan Department of Environmental Quality, contact: Wendy Fitzner

INTERVIEWERS: Task Force - survey returned in written format

### General

G-1 How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*48, 5, 43, 5*

*Twenty major discharger mills and 10 minor discharger mills. See attached.*

G-2 What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*Michigan Department of Environmental Quality, Air Quality Division (AQD), Surface Water Quality Division (SWQD), and Water Management Division (WMD).*

G-3 Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*No. Permits for waste water discharge, air pollution control and solid waste disposal are separately issued.*

G-4 Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*No, MDEQ does not have a general facility permit.*

*Yes, the local government regulates land use activities including odor in some communities.*



- G-5 Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.  
Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*On many occasions, the water quality-based effluent limits based on state water quality standards are more restrictive than treatment-based limits based on federal guidelines. (However, application of state water quality standards is required by federal statute).*

#### Waste Water

- W-1 Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*Yes (Note: An NPDES permit is issued instead of a wastewater license).*

- W-2 Is there a statutory or regulatory time limit established for the processing of new or renewed waste water licenses? If yes, please describe.

*The state water pollution control statute mandates that new use permits be issued within 180 days after receiving a complete application. The reissuance/modification of permits have no mandated issuance deadline, but are generally completed within the fiscal year (12-month period).*

- W-3 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*5, 32, 17 months, 10 licenses included in the average, (not days, and for NPDES permit, not discharge license)*

*New permits are processed more rapidly than reissuances and usually meet the statutory 180-day deadline.*

- W-4 What public notice requirements exist for a new or renewed waste water discharge license?

*A public notice is published in a newspaper of general circulation in the area of the discharge location. The comment period is for a minimum of 30 days.*

- W-5 What public participation opportunities exist for a new or renewed waste

water discharge license?

*The public can comment during the 30-day public notice period and also at the public meeting/public hearing with the Office of the Director, if one is held.*

- W-6 Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*The storm water discharge can either be authorized separately by the General Permit or it can be covered in an individual NPDES permit.*

- W-7 Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

*No, except for local soil erosion and sedimentation control permits which are coordinated with NPDES storm water permits for construction sites.*

- W-8 Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*Not at the present time, except for general permits for storm water discharges.*

- W-9 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*All of the above reasons and U.S. EPA review (not currently required), and review by other states for discharge to boundary waters. Disagreement by the applicant could also cause delays.*

#### Solid Waste

- S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?

*Yes.*

- S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

*Generally, they own their own landfills or have merged landfilling operations with other paper companies. In some cases, private company landfills may be utilized.*

- S-3 Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*Licenses are for operations in Michigan and are required to be reviewed every two years. New calls require a new license.*

- S-4 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*Siting permits for construction must be issued or denied within 120 days of receipt of an administratively complete application. Action to issue or deny an operating license must be completed within 90 days.*

- S-5 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*45 days, 90 days, 80 days*

- S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*Construction Permit - \$750 - \$1,000, depending on classification of waste.  
Two-year Operating license - \$2,500  
Fee established in legislation.*

- S-7 Are annual fees required for solid waste disposal facility licenses? If yes, what is the basis for the fee?

*Biennial license - \$2,500  
Also, an annual Administrative fee is paid by all landfills based upon their pro-rata share of a perpetual care fund.*

- S-8 What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*Permits for construction require a 30-day public notice and public hearing of*

*requested by host township or local unit of government.*

- S-9 What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*Construction permits must be consistent with the County solid Waste Management Plan. Plan is adopted by each county and can only be adopted when 67% of all local units have voted to adopt the plan.*

- S-10 Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

*No.*

- S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

*No.*

- S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

*No.*

- S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

*No.*

- S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*It may require authorization but not a formal permit.*

- S-15 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Public participation and applications that are poorly prepared.*

**Air**

A-1 How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*1. Quite frequently for these sources to determine compliance with the federal National Ambient Air Quality Standards, federal Prevention of Significant Deterioration (PSD) increment standards and the DEQ-AQD air toxic contaminant (TAC) levels.*

*2. Rarely, only for areas with large concentration of elevated terrain.*

A-2 Under what conditions are minor license amendments required? Please describe and address these particular situations:

- Changes in Fuels burned regardless of impact on emissions
- Addition of insignificant emission sources like an on-site diesel generator
- Increases in capacity that do not trigger PSD review

*See attached.*

A-3 Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*No.*

A-4 Are existing sources, undergoing license review, required to undergo a control technology review?

*If it is a major modification to an existing source, it may require a control technology review (federal PSD).*

*If it is a modification to increase emissions to an existing source with either production limitations and/or toxic pollutant limitation, it may require a control technology review (R336.1230).*

A-5 When, if ever, are existing sources subject to new limits or standards?

*If the federal EPA changes the regulations, such as NSPS, NESHAPS, etc.  
For the same reasons as stated in A-4.*

A-6 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*No, but the Air Quality Division has a timeliness standard (MDEQ Standards). Plus, Act on permit applications so that 95 percent of the applications are processed within 60 days of a complete application (120 days for one needing public participation).*

A-7 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or modified air operating permit for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*392, 52, 51*

A-8 Is a fee required for an application for a new, renewed, or modified air operating permit? If yes, what is the basis for the fee?

*No.*

A-9 Are annual fees required for air operating permits? If yes, what is the basis for the fee?

*Yes, Title V renewable air operating permits have an annual air quality fee based on fee-subject facilities according to category I-III facilities and an emission charge rate of \$25 per ton of fee-subject air pollutants with a "cap" of 4000 tons per facility or 1000 tons per pollutant if facility emissions are less than 4000 tons (R324.5522).*

*Category I PTE > 100 TPY \$2500.00*

*Category II THAPs > 25 TPY IHAPS > 10 TPY \$1000.00*

A-10 What public notice requirements exist for new, renewed, or modified air operating permit?

***Title V operating permits:***

***\*Notice to public: 30 days comment period (R336.1214(e)(a))***

***\*Notice to affect states (R336.1214(4))***

***\*Notice of public hearing (R336.1214(3)(c))***

***Permit to install applications (Title III)***

***Notice to public and affected states and Notice of Public Hearing***

- A-11** What public participation opportunities exist for a new, renewed, or modified air operating permit?

***Title IV - During the review of a permit application, the public can comment on it.***

***Title III - Based on either federal regulations and/or public concerns, the public can comment on these permit applications during the 30-day comment period & hearing, if required.***

***Title IV - Public participation for Title V operating permits allow for a 30-day public comment period, public hearing and 45 days EPA review (R336.1214).***

- A-12** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

***Incomplete applications due to complexity of the process emissions.***

## **Hazardous Waste**

- H-1** Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.

***Generator treatment by elementary neutralization is exempt from licensing requirements.***

- H-2** Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.

***This would have to be reported in accordance with the federal biennial reporting requirements.***

- H-3** Does your state require a license for on-site treatment of waste generated at the facility?

*Generators who treat on-site in tanks or containers are not required to be licensed, provided they comply with certain management standards for tanks and containers.*

**H-4** Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.

*Treatment of on-site generated wastewater in "wastewater treatment units" (tanks with discharge regulated under 402 or 307(b) of federal clean water act) is exempt from licensing requirements. Treatment of off-site generated waste would be subject to licensing.*

**H-5** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Delays in processing applications are generally a combination of the reasons state above. We encourage discussions with applicants prior to their submittal to minimize problems with incomplete applications. Public participation would only become a significant delay if the proposal is very controversial and there is a great volume of public comment.*



## G-1

2611	Pulp Mills	5
2621	Paper Mills	23
2631	Paperboard Mills	20
2652	Set-up Paperboard Boxes	9
2653	Corrugated & Solid Fiber Boxes	21
2655	Fiber Cans, Tubes, Drums & Similar Products	1
2656	Sanitary Food Containers	2
2657	Folding Paperboard Boxes	0
2671	Packaging Paper	9
2676	Sanitary Paper Products	1

## A-2

- Changes in Fuels burned regardless of impact on emissions - If a change in fuel causes an increase in a toxic pollutant limitation and it is not exempt, it may require a permit (R336.1230, 1279 and 1285b). If a change in fuel causes a new toxic pollutant to be emitted and it is not exempt, it may require a permit (R336.1230 and 1279).
- Addition of insignificant emission sources like an on-site diesel generator - A permit to install is required unless the generators are exempt from the permitting process; (R336.278, 279 and 282b)(i) addresses exemptions of the generators.
- Increases in capacity that do not trigger PSD review - If it is a modification to increase production with production limitations, it may require a toxic pollutant review (R336.1230).

# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

**INTERVIEWEES:** James A. Carter  
Jim Coffey  
Betsy Huddleston  
Colleen Sullins  
for North Carolina Department of  
Environment, Health & Natural Resources

**INTERVIEWERS:** Wendy Porter  
Mickey Kuhns  
Alan Brigham  
Linda Lockhart

### General

**G-1** How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*14, only 3 (1 non wood) (includes deinking, balance deinking), only 4 (recycling), 4 (non wood)*

**G-2** What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*DEHNR - 3 divisions: Air Quality  
Water Quality - surface and ground  
Waste Management - solid and hazardous waste*

**G-3** Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*Not within DEHNR, some municipalities have rules.  
Department of labor requires registration of sources - minor.*

- G-4** Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*Not if it doesn't trigger any permit amendment. Some municipalities deal with traffic, noise, lighting by zoning.*

- G-5** Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.

*NESHAP, NSR, PSD adopted in whole. More stringent for toxics (air) - different than NESHAPS. Ozone, PM consistent. Do own monitoring. No info on water or solid waste side.*

## Waste Water

- W-1** Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*Yes, for both discharges and storm water. Do not have sludge delegation presently - are trying to get sludge land application and air quality.*

- W-2** Is there a statutory or regulatory time limit established for the processing of new or renewed waste water licenses? If yes, please describe.

*Not for NPDES permits. Supposed to be issued within 180 days - policy, no statutory or regulatory time frame. For past 3-4 years, legislature argued issue, but nothing has been passed to date. Significantly reduced time over last several years.*

- W-3** Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*6 months, 11 months- 2 years, 9 months, 8.  
CIC - permit renewal application received November, 1994 - issued last week.*

W-4 What public notice requirements exist for a new or renewed waste water discharge license?

*Only applies to NPDES. 30 days newspaper publication, Director can take to public hearing and then re-notice for 30 days.*

W-5 What public participation opportunities exist for a new or renewed waste water discharge license?

*Occurs after intent to issue or deny. 30 days comment. Request public hearing, determined by level of interest.*

W-6 Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*Yes. State storm water program associated with sensitive waters (storm water control measures or drinking water).*

*Low density or other control. Taking program further in one of our basins - expanding to all areas, not just sensitive waters.*

W-7 Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

*Not that I am aware of. County handles septic tanks. Two counties do inspections for them. For land disturbing activities - another group handles erosion control. Water takes erosion provisions and makes them enforceable under NPDES storm water. Erosion can be delegated to local program.*

W-8 Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*Cooling water discharge.*

*Petroleum. Contaminated OW rem-----*

*Wood products general permit (includes mills themselves).*

W-9 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications and misunderstanding of information needed. Public participation (for CIC). Staff turnover. Heat put on permitting staff. Had a permit*

*action team set up last year (multimedia) - looked at ways to improve permit process.*

*All pulp and paper reissued in last 2-3 years.*

*1800 industrial permitted discharges.*

*1200 waste water general permits*

*4000 storm water general permits*

*500 non-discharge program*

*136 spray irrigation (mostly single family residences).*

S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?

S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

S-3 Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*Yes, 5-year permit review.*

S-4 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*No.*

S-5 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*We don't have any record of permitting time for industrial landfills over the last 5 years. However, landfill permits normally require from 3 months to 12 months to process.*

S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*No.*

S-7 Are annual fees required for solid waste disposal facility licenses? If yes, what is the basis for the fee?

*No.*

S-8 What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*None for industrial landfills.*

S-9 What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*None for industrial landfills.*

S-10 Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*Jim Coffey: No permit, however, a case-by-case approval is required for most reuses.  
Colleen Sullins: Yes, applications do exist. Adopted reuse rules to reduce permitting. Land application through water non-discharge program. Composting would require permitting. Aggregate processing -- unknown.  
Reuse rules -- tried to make easier to do -- getting up on learning curve. Focus was reuse of waste water.*

S-15 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications.*

#### Air

A-1 How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*Only if multiple complaints and reason -- PSD, toxics.  
No. Never. Watered down modeling air toxics requirements.*

A-2 Under what conditions are minor license amendments required? Please describe and address these particular situations:

- Changes in Fuels burned regardless of impact on emissions

*Fuel use limitations included in license. Requires permit modification.*

- Addition of insignificant emission sources like an on-site diesel generator

*Detailed list of sources. If it fits category, don't get permit, but catch-up during next*

*license. Notification required.*

- Increases in capacity that do not trigger PSD review

*As long as it doesn't exceed any other permit limits.*

- A-3 Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*Have uptime consistent with CFR. Don't require CEMs on sources with limits. Have own state enforcement plan for monitors -- triggers enforcement. Guidelines. Quarterly report.*

- A-4 Are existing sources, undergoing license review, required to undergo a control technology review?

*No! As long as meeting standards, leave it alone.*

- A-5 When, if ever, are existing sources subject to new limits or standards?

*Depends. When pass new regulations or emission change.*

- A-6 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*Yes. Statutory time limit. State permit 90 days after complete application. Clock stops for missing technical information. Hammer is application gets returned to applicant, start again, including fees. Requirement was passed in the last year because we were lazy. PSD -- 12 months period. Usually 6 months. Title V -- 180 days minor modification, no time for major modification.*

- A-7 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or modified air operating permit for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*60, 90*

- A-8 Is a fee required for an application for a new, renewed, or modified air



operating permit? If yes, what is the basis for the fee?

***Permit fees for new or modified. Renewal fee. Will fax fee sheet to Mickey. Annual tonnage fees plus flat fees for non-Title V sources.***

- A-9 Are annual fees required for air operating permits? If yes, what is the basis for the fee?

***Yes. Title V fees. Flat fee plus tonnage > \$200,000. Flat fee for synthetic minors and small sources; discount for good compliance.***

- A-10 What public notice requirements exist for new, renewed, or modified air operating permit?

***State permits don't require notice. PSD -- federal rules requirements. Consent orders -- require public notice. Title V -- federal requirements.***

- A-11 What public participation opportunities exist for a new, renewed, or modified air operating permit?

***Haven't seen a lot of participation. Some people look at files. Public participation not pressed. Public hearings only held if required or requested. Not use to public participation at all. People get involved with notice of violations.***

- A-12 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

***Additional information requests to applicant. Can be public participation. Do negotiations with public inquiries. Completeness determination within 10 days. Public complaint -- open burning, odor complaints. No low staff resources -- tripled in size last 2 years.***

### **Hazardous Waste**

- H-1 Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.

- H-2 Does your state require the pulp and paper facilities to report elementary

neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.

**H-3** Does your state require a license for on-site treatment of waste generated at the facility?

**H-4** Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.

**H-5** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

We thank you for your assistance. Your telephone interview is scheduled for \_\_\_\_\_ . (One week after sending the survey, we will contact your agency to schedule your interview.)



# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

**INTERVIEWEES:** Mary Rivland  
Mike Palco  
Merly McCall  
for the Washington Ecology  
Department

**INTERVIEWERS:** Wendy Porter  
Mickey Kuhns  
Linda Lockhart

**DATE:** November 5, 1996, 11:30 am  
teleconference

**G-1** How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*16, 2, 4, 10*

**G-2** What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*Ecology (primary: issues wastewater permits, air regulation of chemical pulp mills, dangerous waste regulation)*

*Siting, shoreland, etc. can be regulated by other agencies such as local health departments. Locals submit comprehensive plans to Ecology Department for approval - once the plan is approved, authority is delegated to the local entity. Decision-making activities are reviewed by Ecology.*

- G-3** Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*No*

- G-4** Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*No. we do have requirements -- local governments for land use activity, and state regulations for siting new activities.*

*We have a growth management policy; local growth management plans are approved by the state, and there are some state environmental requirements.*

- G-5** Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.

*State-only waste regulations that exceed federal RCRA requirements. There have been recent efforts to refine -- to eliminate some categories and simplify others.*

*We regulate high pH as dangerous waste.*

*We have some groundwater regulation that exceeds federal regulations.*

*Clean air and water regulations match federal standards.*

#### **Waste Water**

- W-1** Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*yes*

*no separate state license*

- W-2** Is there a statutory or regulatory time limit established for the processing of new or renewed waste water licenses? If yes, please describe.

*no*

- W-3 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*30, 180, 90*

*14 ; does not include appeals*

- W-4 What public notice requirements exist for a new or renewed waste water discharge license?

*30 day comment period for new permits*

*30 day comment period for renewals*

*The applicant fulfills the public notice requirement.*

*Notice is provided through newspaper advertising and an interested party mailing list. The EPA is noticed. There is no requirement to provide notice to adjacent landowners.*

- W-5 What public participation opportunities exist for a new or renewed waste water discharge license?

*State regulation allows as broad a public process as the Department feels is necessary or the local citizenry feels is necessary. Public hearings are provided on request.*

*There is a fair amount of Director's discretion in the public participation requirement.*

*For example, there was an application to site a 3rd runway and a good amount of public opposition. The Department determined not to hold public hearing due to the cost involved. After opposition by citizens, public hearings were scheduled.*

*We recently held a public hearing for expansion of a kraft mill that was adding a de-inking facility that used chlorine (Boise Cascade - 400 ton/day de-inking facility). A public hearing was contemplated from the beginning. A public workshop was*

*available for other folks down river from the facility.*

- W-6 Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*Yes. There is a general permit for smaller industry.*

- W-7 Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

*No*

- W-8 Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*For pulp & paper no, but there is a State general permit program for storm water.*

- W-9 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Staff resources*

*Incomplete applications  
checklist shifts accountability back to applicant*

### **Solid Waste**

- S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?

*No - at local level*

- S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

*Mixed bag: many use own site, some use local landfills.*

- S-3 Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*Yes. Solid waste permits are triggered by an annual renewal requirement.*

- S-4 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*Generally 90 days. No time frame for renewals, but must be processed prior to expiration.*

- S-5 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*New/expanded: 90, 1 1/4 years, average 6 months.*

*Renewal: 30, 60, 45 days.*

*Five.*

- S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*Application fee and per ton charge (goes to county)*

- S-7 Are annual fees required for solid waste disposal facility licenses? If yes, what is the basis for the fee?

*see S-5*

- S-8 What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*Varies with local authority, but must meet state plan standards. Generally none for renewals.*

- S-9 What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*Varies with local authority; hearings generally held for major facility.*

- S-10 Are municipalities granted automatic intervenor status and provided



funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

*No.*

S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

*No.*

S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

*No.*

S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

*The state does not license or pre-empt local decisions.*

S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*Yes. The local authorities require a solid waste handling permit, mostly for sludge and wood land application. Exempt for road building, animal and plant bedding and ornamental use.*

S-15 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*1) Incomplete applications.*

*2) Low staff resources at state level (they provide review and comment).*

#### Air

A-1 How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*Any new sources, PSD, and NSR review and any increased air toxics.*

*We prefer on-site meteorological data, but will accept nearby useable data.*

*Only 2 or 3 mills have on-site meteorological data.*

*The meteorological data source must meet calibration requirements for PSD, but no there is no distance requirement -- depends on the terrain, etc. We accepted Ft. Townsend Paper data at a distance of 30 miles. The Department's meteorological expert makes the call.*

A-2 Under what conditions are minor license amendments required? Please describe and address these particular situations:

- Changes in Fuels burned regardless of impact on emissions

*Generally, yes, at least an NOC and we take a look at it.*

- Addition of insignificant emission sources like an on-site diesel generator.

*No - if listed as de minimis.*

*Q: What about a fixed back-up diesel generator for back-up and emergency lighting?*

*We are working on the issue of de minimis - we were directed by our legislature to define de minimis -- a diesel generator would probably be considered de minimis.*

- Increases in capacity that do not trigger PSD review

*Yes - an increase in emissions requires some kind of NOC.*

*Any construction, modification of a source or control device, or increase in capacity resulting in a new emission source requires review.*

A-3 Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*In 1989 we wrote a 10% policy - we are trying to decide whether to formalize that in the permitting policy.*

*Now, by rule, we have identified startup, shutdowns and unavoidable emissions as*

*something that is allowable activity.*

*The old 10% is being reassessed.*

- A-4 Are existing sources, undergoing license review, required to undergo a control technology review?

*Not necessarily. The State is just getting into the operating permit business; it can require and may require a RACT review at relicensing.*

- A-5 When, if ever, are existing sources subject to new limits or standards?

*When there is an expansion, modifications, change in process or fuel,*

*When new requirements are promulgated under new rules.*

*The cluster rule will be the most significant new thing.*

- A-6 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*Yes.*

*New Source Review = 30 days from completed application to notice of construction*

*AIR operating permits must be in place by end of 97 - a real monstrous activity - not just between us and the sources, but between us and the EPA; everybody needs to understand all the words the same way. Real slow going.*

- A-7 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or modified air operating permit for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*See A-6.*

- A-8 Is a fee required for an application for a new, renewed, or modified air operating permit? If yes, what is the basis for the fee?

*Yes. see A-9*

- A-9 Are annual fees required for air operating permits? If yes, what is the basis for the fee?

*One third of the fee is an application fee, one third is an emission load fee, and one third is an industrial category fee.*

*The annual rate is approximately \$50,000 per year, per mill.*

- A-10 What public notice requirements exist for new, renewed, or modified air operating permit?

*The requirements are the same as EPA requirements -- 30 day comment period.*

*Notice is the same as water.*

*Publication is by newspaper.*

- A-11 What public participation opportunities exist for a new, renewed, or modified air operating permit?

*Same as A-10*

- A-12 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Staff resources*

*Incomplete applications*

### Hazardous Waste

- H-1 Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.

*No*

**H-2** Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.

*No.*

**H-3** Does your state require a license for on-site treatment of waste generated at the facility?

*No. Covered by NPDES exemption.*

**H-4** Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.

*No.*

**H-5** What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Staff resources.*

*Incomplete applications.*

*Broad Comments: Washington has established an organizational approach -- a multimedia approach with a single point of contact in the Department.*

*This reduces transaction costs and industry likes the single-point of contact.*

*TMDLs on 308 list; we will have to negotiate a time line with EPA.*

*A couple of attorneys have found it very lucrative to litigate citizen suits for ecological violations. This is disturbing because we're trying to work with the various entities in a cooperative effort and the environmental ambulance chasers throw a monkey wrench in the works.*

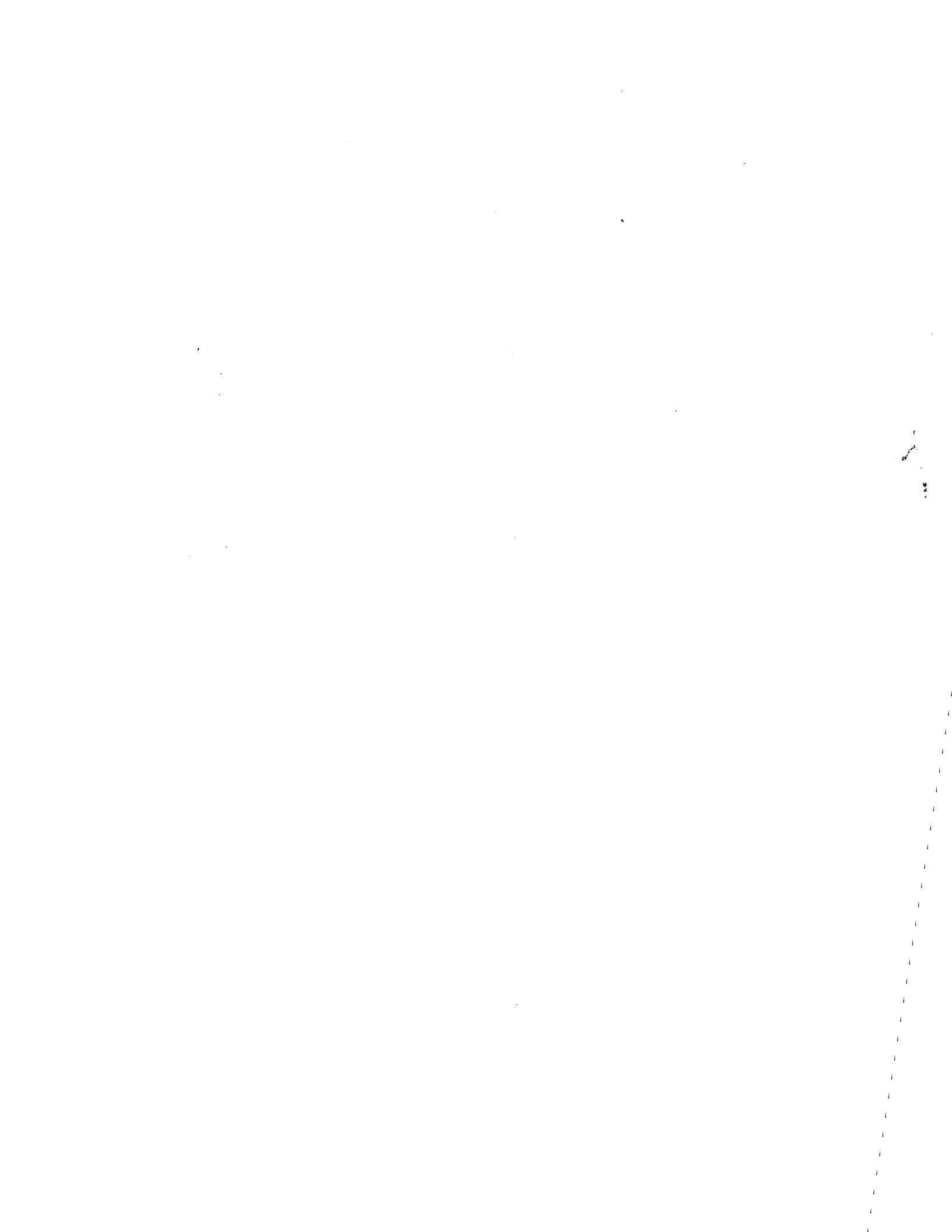
*A recent citizen initiative, resulting in the Model Toxic Control Act, promoted the principal that the polluter pays. All water quality permits, etc. are fee driven. Funding for ecology has moved further away from general fund. This causes a problem with enforcement of non-permitted uses of the environment such as agriculture and forest practices.*

*For contaminated sediment standards - we're in the forefront and that further complicates our work.*

*Our river studies show high levels of PCBs and health warnings have been issued.*

*Economic development efforts in Washington are targeted toward high tech, and are working well, promoting industries that have less impact on the environment.*

*There is not too much pressure from industry to roll back regulations. Aluminum worries about electric rates. Deregulation of electricity worries us in terms of environmental impact.*



# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

INTERVIEWEE: Michael D. Witt, State of Wisconsin  
Department of Natural Resources

INTERVIEWERS: survey returned in written form

### General

G-1 How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*approximately 41, 1, 17, 23*

G-2 What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*DNR*

G-3 Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*Not really - only local land use ordinances, etc.*

G-4 Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*Local.*

G-5 Are there any areas in your environmental statutes or regulations that exceed or



are inconsistent with federal requirements? If so, briefly describe.

*We require permitting (NPDES) of discharges to groundwater -- e.g. land application.*

### Waste Water

W-1 Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*Yes.*

W-2 Is there a statutory or regulatory time limit established for the processing of new or renewed waste water licenses? If yes, please describe.

*180 days.*

W-3 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*5, 20, 12, 1*

W-4 What public notice requirements exist for a new or renewed waste water discharge license?

*Same as federal -- 30 days.*

W-5 What public participation opportunities exist for a new or renewed waste water discharge license?

*Public hearing can be requested during comment period.*

W-6 Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*No -- done under NPDES.*

W-7 Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

No.

W-8 Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*Yes -- may be used for cooling water, boiler blowdown, etc., but generally is part of specific permit.*

W-9 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*--Need for additional data.*

*--Staff workload.*

#### Solid Waste

S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?

*Yes.*

S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

*Own their own landfill.*

S-3 Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*Licenses expire annually and require renewal.*

S-4 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*Yes.*

S-5 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses

included in the average \_\_\_\_\_.

*3, 7, 5, years (not days, for new only)*

*Usually 5 year process, please see attached "Wisconsin's landfill siting process."*

- S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*Yes, fee based on average amount of Department time required for each type of submittal, i.e. feasibility takes greatest amount of time, construction documentation takes least amount of time.*

- S-7 Are annual fees required for solid waste disposal facility licenses? If yes, what is the basis for the fee?

*Yes -- annual license fee based on design capacity.  
-- environmental repair fees based on volume disposed.*

- S-8 What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*Once complete feasibility report is received and preliminary determination made on need for environmental impact statement, a public notice stating that the WDNR has received a complete feasibility report is published in the local newspaper to invite public comment and provide information on how the public can request an informational or contested case hearing.*

- S-9 What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*Public may submit comments to WDNR. Public may request informational or contested case hearing. Public = 6 citizens, official of the host municipality or any municipality located within 1,200 feet of the proposed landfill.*

- S-10 Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

*No, municipalities do not participate in licensing process. They do participate in local approvals process.*

S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

*No.*

S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

*Yes, unless no travel on public roads.*

S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

*Not required, but usually negotiated for in the local approval process.*

S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*Yes. - sludge land spreading requires permit from industrial wastewater section.*

*-sludge processing may require license from solid waste section under NR502.08WAC.*

*-ash land spreading may require approval from solid waste section under NR502.08WAC.*

*-wood waste -- no permit required to burn.*

S-15 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Public opposition, incomplete application/information, poor site selection.*

#### Air

A-1 How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*Whenever a construction permit is issued for a source with significant emissions which have an impact which can be modeled. Sometimes for hazardous air pollutant reviews and operation permit.*

*No.*

A-2 Under what conditions are minor license amendments required? Please describe and address these particular situations:

- Changes in Fuels burned regardless of impact on emissions.
- Addition of insignificant emission sources like an on-site diesel generator.
- Increases in capacity that do not trigger PSD review.

*Ch. NR 406, W. Adm. Code, Non Source Permits, is attached. This chapter is quite long and complex. However, we essentially look at the emissions increase and compare such to fuel based threshold.*

A-3 Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*No.*

A-4 Are existing sources, undergoing license review, required to undergo a control technology review?

*Assuming "license review" is equivalent to permit review, an existing source may be subject to a control technology review if modified, if it emits hazardous air pollutants above state thresholds or for organic compound emissions subject to control.*

A-5 When, if ever, are existing sources subject to new limits or standards?

*Existing sources are subject to new limits /standards if established in an operation permit or if new rules are adopted which apply to existing sources.*

A-6 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*Yes. 20 days for completeness review. 120 days for major source review and 30 days for minor source review (construction permits). These times are to take out for public comment. 60 days after public comment period to make a final determination.*

A-7 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a

complete application for a new, renewed, or modified air operating permit for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*over 100 in average*

*We have not renewed any operations permits nor have we issued any "operating permits" for such facilities. We have issued construction permits to new and modified sources. Our average processing time is 120 days and the minimum is 45-60 days.*

A-8 Is a fee required for an application for a new, renewed, or modified air operating permit? If yes, what is the basis for the fee?

*New and modified sources which require a construction permit are subject to fees. Their fees are based on the complexity of the permit through a rule-based fee table. There is no charge for issuing operation permits.*

A-9 Are annual fees required for air operating permits? If yes, what is the basis for the fee?

*Yes, fees are charged on a \$/ton of emissions.*

A-10 What public notice requirements exist for new, renewed, or modified air operating permit?

*A 30-day public comment period is required for all permits.*

A-11 What public participation opportunities exist for a new, renewed, or modified air operating permit?

*The public may submit written comments or oral comments at a public hearing.*

A-12 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications.*

### Hazardous Waste

H-1 Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.

*No, but facilities must notify of these treatment activities, as well as comply with some minor regulations (i.e., reporting).*

- H-2 Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.

*The WDNR requires hazardous waste generators to prepare an annual report. In addition, if neutralization is performed, additional reporting regarding quantity and disposition is required.*

- H-3 Does your state require a license for on-site treatment of waste generated at the facility?

*No.*

- H-4 Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.

*Yes. Notification (HW); security; inspections; operational requirements; manifest, record keeping and reporting requirements; discharge reporting (HW).*

- H-5 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Self implementing, therefore, no delays caused by bureaucracy.*

## Chapter NR 406

## CONSTRUCTION PERMITS

NR 406.01	Applicability; purpose	NR 406.08	Action on permit applications
NR 406.02	Definitions	NR 406.09	Air quality analysis
NR 406.03	Permit requirements and exemptions for construction permits	NR 406.10	Violations
NR 406.04	Direct sources exempt from construction permit requirements	NR 406.11	Construction permit revision, suspension and revocation
NR 406.07	Scope of permit exemption	NR 406.12	Permit duration periods
		NR 406.13	Duty to comply
		NR 406.15	Relocation of portable sources

**NR 406.01 Applicability; purpose.** (1) **APPLICABILITY.** This chapter applies to all air contaminant sources, except indirect sources, which may be required under s. 144.391, Stats., to obtain construction permits. In accordance with s. 144.391 (6), Stats., this chapter exempts sources of certain sizes and types from the requirement to obtain a permit. For nonattainment area major sources the construction permit requirements of ch. NR 408 apply in addition to the requirements of this chapter.

**Note:** Construction permit application requirements for indirect sources are contained in ch. NR 411.

(2) **PURPOSE.** This chapter is adopted under ss. 144.31, 144.391 (6), 144.393, 144.394 and 144.396, Stats., to exempt types of stationary sources from the requirement to obtain a construction permit and to establish permit and permit review requirements and permit duration for construction permits.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86; am. Register, April, 1988, No. 388, eff. 5-1-88; emerg. am. (1), eff. 11-15-92; am., Register, May, 1993, No. 449, eff. 6-1-93; am. (1), Register, June, 1995, No. 474, eff. 7-1-95.

**NR 406.02 Definitions.** The definitions contained in ch. NR 400 apply to the terms used in this chapter. In addition, the following definitions apply to the terms used in this chapter:

(6) "Municipal garbage and refuse" means garbage and refuse, as those terms are defined in ch. NR 500, which are primarily generated by residential activities but which may include minor amounts of commercial and industrial garbage and refuse that are in the total waste stream and are not hazardous. Municipal garbage and refuse does not include sludge which is generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility.

(10m) "Permit revision" means any change to a construction permit to reflect a change at a source that is not a modification of the source.

**History:** Cr. (intro.), renum from NR 154.01, Register, September, 1986, No. 369, eff. 10-1-86; r. (1), r. and recr. (2), renum. (3) to (7) and (9) to be NR 400.02 (17m), (43m), NR 406.02 (1), NR 400.02 (46s), NR 406.02 (6) and (10), cr. (3) to (5), (7), (9) and (11), (12) renum. from NR 400.02 (98) and am., Register, April, 1988, No. 388, eff. 5-1-88; correction in (6) made under s. 13.93 (2m) (6) 7, Stats., Register, April, 1988, No. 388; (1) renum. from NR 400.02 (16), renum. (1) to be (1m), am. (3), Register, August, 1991, No. 428, eff. 9-1-91; emerg. cr. (2m) and (13), eff. 11-15-92; am. (intro.), Register, May, 1993, No. 449, eff. 6-1-93; cr. (10m), Register, December, 1993, No. 456, eff. 1-1-94; r. (1) to (5), (7) to (10), (11) and (12), Register, June, 1995, No. 474, eff. 7-1-95.

**NR 406.03 Permit requirements and exemptions for construction permits.** No person may commence construction, reconstruction, replacement, relocation or modification of a stationary source unless the person has a construction permit for the source or unless the source is exempt from the requirement to obtain a permit under s. 144.391 (5), Stats., or under this chapter. Applications for the construction permit shall be submitted on forms which are available from the department at its Madison headquarters and district offices.

**Note:** The address of the Madison headquarters is: Wisconsin Department of Natural Resources, Bureau of Air Management, PO Box 7921, Madison WI 53707, Attention: Permit Application Forms

**History:** Renum. from NR 154.04 (1), Register, September, 1986, No. 369, eff. 10-1-86; emerg. am. eff. 11-15-92; am. Register, May, 1993, No. 449, eff. 6-1-93.

**NR 406.04 Direct sources exempt from construction permit requirements.** (1) **SPECIFIC CATEGORIES OF EXEMPT SOURCES.** The following categories of direct sources are exempt from the requirement to obtain a construction permit unless construction, reconstruction, replacement, relocation or modification of the source is prohibited by any permit, plan approval or special order applicable to the source or the source is required to obtain a permit under ch. NR 408 because of a significant net increase in the emissions of an air contaminant for which the area is designated nonattainment:

(a) An external combustion furnace which will not burn any hazardous waste identified under ch. NR 605, or which has been issued a license under ch. NR 680, and which is designed to burn the following fuels at the maximum rates indicated:

1. Coal, coke or other solid fuels, except wood, at a heat input rate of not more than 1.0 million Btu per hour;

2. Wood alone or wood in combination with gaseous or liquid fuels at a heat input rate of not more than 5.0 million Btu per hour;

3. Residual or crude oil at a heat input rate of not more than 5.0 million Btu per hour;

4. Distillate oil at a heat input rate of not more than 10 million Btu per hour; and

5. Gaseous fuel at a heat input rate of not more than 25 million Btu per hour.

(b) Equipment which is designed to incinerate solid wastes, which are not pathological wastes, infectious



wastes, municipal wastes or hazardous wastes under ch. NR 605, at a rate of not more than 500 pounds per hour.

(c) Equipment which is designed to dry grain at a rate of not more than 1,500 bushels per hour at 5% moisture extraction and which is not subject to ch. NR 440.

(d) Portland concrete batch plants which produce or will produce less than 20,000 cubic yards of concrete per month averaged over any 12 consecutive month period.

(e) Storage tanks containing organic compounds with a true vapor pressure in pounds per square inch absolute at 70°F of less than 1.52 with a combined total tankage capacity of not more than 40,000 gallons.

(f) VOC storage tanks with a combined total tankage capacity of not more than 10,000 gallons of volatile organic compounds.

(g) Painting or coating operations, including associated cleaning operations, which emit or will emit not more than 1666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices unless the emissions of any single hazardous air pollutant as listed under section 112 (b) of the act equal or exceed 10 tons per year or the cumulative emissions of hazardous air pollutants listed under section 112 (b) of the act equal or exceed 25 tons per year.

(h) Graphic arts operations, including associated cleaning operations, which emit or will emit not more than 1666 pounds of volatile organic compounds per month, which are measured prior to entering any emission control devices unless the emissions of any single hazardous air pollutant as listed under section 112 (b) of the act equal or exceed 10 tons per year or the cumulative emissions of hazardous air pollutants listed under section 112 (b) of the act equal or exceed 25 tons per year.

(i) 1. Equipment used or to be used for the purpose of testing or research provided:

a. A complete application for exemption is made describing the proposed testing or research and including an operating schedule and the types and quantities of emissions anticipated; and

b. The department determines that the equipment to be used and the anticipated emissions from the testing or research will not present a significant hazard to public health, safety or welfare or to the environment and approves the application for exemption.

2. The department shall approve or deny the application in writing within 45 days of receiving a complete application for exemption under this paragraph. The department may provide public notice of an application for research and testing exemption, may provide an opportunity for public comment and an opportunity to request a public hearing and may hold a public hearing on any application under this paragraph. The department shall make all nonconfidential information available to the public upon request.

(j) A laboratory which emits volatile organic compounds, sulfur dioxide, carbon monoxide, nitrogen oxides or particulate matter or a combination thereof at a rate of less than 5.7 pounds per hour unless the emissions of any single hazardous air pollutant as listed under section 112

(b) of the act equal or exceed 10 tons per year or the cumulative emissions of hazardous air pollutants listed under section 112 (b) of the act equal or exceed 25 tons per year. Hourly emissions shall be determined, based on the quantitative estimate of air contaminants before they enter any emission control devices, by dividing the total uncontrolled emissions which would have occurred during a calendar month by the total hours of operation of the laboratory during that calendar month. A laboratory is in operation if laboratory apparatus or equipment is in use.

(k) Equipment whose primary purpose is to transport or sort paper.

(l) Facilities for chlorination of municipal drinking water, the intake of once through industrial process or cooling water, or water for swimming pools, spas or other recreational establishments.

(m) The following procedures for the remediation or disposal of soil or water contaminated with organic compounds, provided the potential to emit, considering emission control devices, for any hazardous air contaminant listed in Table 1 to Table 5 of s. NR 445.04 is not greater than the emission rate listed in Table 1 to Table 5 of s. NR 445.04 for the air contaminant at the respective stack height, and the procedure is not subject to any standard or regulation under section 111 or 112 of the act (42 USC 7411 or 7412):

1. Landspreading of contaminated soil, including the agricultural landspreading of soil contaminated with pesticide or fertilizer;

2. Negative pressure venting of contaminated soil or bioremediation, provided the remediation is completed within 3 months or the potential to emit organic compounds from the remediation site is at a rate of not more than 5.7 pounds per hour, considering emission control devices;

3. Pilot testing of a negative pressure venting system provided the testing is limited to a total withdrawal of not more than 150,000 standard cubic feet (scf) of air;

**Note:** The total withdrawal may be determined by the equation: Total withdrawal (scf) = hours of operation of pilot test (hr) × average flow rate in cubic feet per minute at standard conditions (scfm) × 60 min/hr. An example is: 10 hours of operation × 250 scfm × 60 min/hr = 150,000 scf. When testing at multiple flow rates, determine the withdrawal for each flow rate and sum the withdrawals for a total withdrawal.

4. Landfilling of contaminated soil;

5. Installation and use of devices which remove organic compounds from a private or municipal potable water supply;

6. Installation and use of crop irrigation systems or dewatering wells to remediate contaminated water;

7. Installation and use of air strippers for treatment of contaminated water, provided the remediation is completed within 3 months or the potential to emit organic compounds from the remediation site is at a rate of not more than 5.7 pounds per hour, considering emission control devices;

8. Installation and use of any devices or techniques not listed in this paragraph which are used to remediate soil or water contaminated with organic compounds, if the device or technique is not portable and is not a thermal

evaporation unit, and the remediation is completed within 3 months; and

9. Installation and use of any technique or device to remediate soil or water contaminated with organic compounds as part of actions taken by EPA under the authority of the comprehensive environmental response compensation and liability act of 1980, 42 USC 9601 et seq., by the department under the authority of s. 144.442 or 144.76, Stats., or by a responsible party in compliance with the requirements of an administrative order, consent decree or contract issued pursuant to the comprehensive environmental response compensation and liability act of 1980, 42 USC 9601 et seq., or s. 144.442 or 144.76, Stats.

**Note:** Even though these sources are exempt from permit requirements, they are still subject to the notification requirements under s. NR 419.07 (2).

(n) Renovation or demolition operations involving friable asbestos containing material provided:

1. The amount of asbestos containing material is less than 260 linear feet on pipes or 160 square feet on other facility components; or

2. If the amount of asbestos containing material is at least 260 linear feet on pipes or at least 160 square feet on other facility components:

a. Notice of intention is provided under s. NR 447.07;

b. The notice indicates that the project will meet all applicable requirements of ch. NR 447; and

c. The fee required under s. NR 410.05 (2) and (3) is submitted with the notice.

(o) Batch cold cleaning equipment with a total air to solvent interface of 1.0 square meters or less during operation.

(p) Batch open top vapor degreasing equipment with a total air to vapor interface of 1.0 square meters or less during operation.

(q) Private alcohol fuel production systems as defined in s. 144.438 (1) (c), Stats.

(r) Perchloroethylene dry cleaning area sources as defined in s. NR 468.20 (2) (am).

(s) Crematories.

(t) Indirect malt dryers which are designed to burn fuels specified in par. (a) at a heat input rate less than the rates specified in par. (a).

(u) Gasoline dispensing facilities which dispense gasoline or other petroleum products.

(v) Bulk gasoline plants which distribute gasoline or other petroleum products.

(w) Emergency electric generators powered by internal combustion engines which are fueled by gaseous fuels, gasoline or distillate fuel oil with an electrical output of less than 3,000 kilowatts.

(x) Any quarry, mine or other facility where nonmetallic minerals are extracted that is not a ledge rock quarry or industrial sand mine.

(y) Ledge rock quarries with actual production of less than 25,000 tons per month on a rolling 12 month average, or with actual operation of less than 365 days per 5 year period.

(z) Industrial sand mines with actual production of less than 2,000 tons per month on a rolling 12 month average.

(za) Fixed sand and gravel plants and fixed crushed stone plants with capacities of 25 tons per hour or less.

(zb) Portable sand and gravel plants and portable crushed stone plants with capacities of 150 tons per hour or less.

(1m) ASBESTOS ABATEMENT NOTICE. Each asbestos abatement notice of intention is considered an application for permit exemption. The department may place conditions on any permit exemption granted under sub. (1) (n).

(2) GENERAL CATEGORY OF EXEMPT SOURCES. In addition to the specific categories of exempt sources identified in sub. (1), no construction permit is required prior to commencing construction, reconstruction, replacement, relocation or modification of a direct source if all of the following conditions are met:

(a) The construction, reconstruction, replacement, relocation or modification of the source is not prohibited by any permit, plan approval or special order applicable to the source.

(b) The maximum theoretical emissions from the source for sulfur dioxide or carbon monoxide do not exceed 9.0 pounds per hour for each air contaminant.

(c) The maximum theoretical emissions from the source for particulate matter, nitrogen oxides or volatile organic compounds do not exceed 5.7 pounds per hour for each air contaminant.

(cm) The maximum theoretical emissions from the source for PM<sub>10</sub> do not exceed 3.4 pounds per hour.

(d) The maximum theoretical emissions from the source for lead do not exceed 0.13 pounds per hour.

(e) The source will not emit any of the air contaminants listed in s. NR 405.02 (27) (a) at a rate greater than the applicable emission rate listed in s. NR 405.02 (27) (a).

(f) 1. The maximum theoretical emissions from the source for any hazardous air contaminant listed in Table 1 or Table 4 of s. NR 445.04 are not greater than the emission rate listed in Table 1 or Table 4 of s. NR 445.04 for the air contaminant for the respective stack height.

2. The maximum theoretical emissions from a source which manufactures or processes pesticides, rodenticides, insecticides, herbicides or fungicides for any hazardous air contaminant listed in Table 2 of s. NR 445.04 are not greater than the emission rate listed in the table for the air contaminant for the respective stack height.

3. The maximum theoretical emissions from the source of any hazardous air contaminant listed in Table 3 of s. NR 445.04 do not exceed the emission rate contained in the table.

3m. The maximum theoretical emissions from the source of any hazardous air contaminant listed in Table 5 of s. NR 445.04 are not greater than the emission rate

listed in that table for the air contaminant for the respective stack height.

4. The source does not combust municipal solid waste, as defined in s. NR 500.03 (86), or infectious wastes.

(g) The maximum theoretical emissions from the source for any air contaminant not mentioned in par. (b), (c), (cm), (d), (e) or (f), do not exceed 6.0 pounds per hour for each air contaminant.

(h) The source is not required to obtain a permit under ch. NR 408 because of a significant net increase in the emissions of an air contaminant for which the area is designated nonattainment.

(i) The source is not subject to any standard or regulation under section 111 or 112 of the act.

**(3) DETERMINATION OF HAZARDOUS EMISSIONS.** (a) For the purpose of determining emissions under sub. (2) (f), the owner or operator of a source may rely on information on an approved material safety data sheet if the approved material safety data sheet lists a hazardous air contaminant listed in Tables 1 to 5 of s. NR 445.04 and the hazardous air contaminant listed in Tables 1, 2, 4 or 5 of s. NR 445.04 constitutes 10,000 parts per million or more of the material or the hazardous air contaminant listed in Table 3 constitutes 1,000 parts per million or more of the material. If an approved material safety data sheet for a material is not classified as proprietary and does not list a hazardous air contaminant in Tables 1 to 5 of s. NR 445.04 at or above the amounts listed in this paragraph, the material will be presumed not to result in emissions of a hazardous air contaminant unless a hazardous air contaminant is formed in processing of the material.

(b) For the purpose of determining emissions under sub. (2) (f), the owner or operator of a source may rely upon mass balance, or other use, consumption and analytical methodologies for calculating potential emissions. However, the department may require that a stack test be conducted to affirm the accuracy of emission estimations.

(c) For the purpose of determining emissions under sub. (2) (f), the owner or operator of a source is not required to consider indoor fugitive emissions in calculating emissions of any substance in Table 1, 2 or 4 of s. NR 445.04.

(d) For the purpose of determining emissions under sub. (2) (f), the owner or operator of a source is not required to consider emissions resulting directly from naturally occurring constituents in windblown soil.

**(4) EXCLUSIONS FROM MODIFICATION.** For the purpose of determining if a modification occurs, a physical change in, or change in the method of operation of, a stationary source, may not include:

(a) *Use of alternate fuel or raw material.* Use of an alternate fuel or raw material which the source is designed to burn or use if:

1. The source has continuously had such design capability;

2. The use will not cause or exacerbate the violation of an ambient air quality standard or an ambient air increment;

3. The use is not prohibited by any permit, plan approval or special order applicable to the source;

4. The use will not result in a net emissions increase of a hazardous air contaminant above the threshold amount listed for the contaminant in Tables 1 to 4 of ch. NR 445 or the product of the following equation is equal to or less than 1.0:

$$\frac{\text{TLV (old substance)}}{\text{TLV (new substance)}} \times \frac{\text{Emissions (proposed new substance)}}{\text{Emissions (permitted old substance)}} =$$

5. The use will not result in a violation of any emission limit in chs. NR 405, 408 and 415 to 436; and

6. The use will not subject the source to any standard or regulation under section 112 of the act.

(b) *VOC RACT compliance.* A change at a source which is made primarily for the purpose of complying with the requirements of a RACT compliance plan approved under chs. NR 419 to 425, or a VOC RACT variance approved under s. NR 436.05, if the change does not cause or exacerbate the violation of an ambient air quality standard or ambient air increment for any air contaminant other than ozone.

(c) *Resumption of operation.* 1. The resumption of operation of a source after a period of closure if the existing equipment was continuously included in the department's emissions inventory as an existing source covered by plans submitted under s. 144.31 (1) (f), Stats.

2. The resumption of operation of a source after a period of closure if the source was never included and never required to be included in the emissions inventory as an existing source covered by plans submitted under s. 144.31 (1) (f), Stats., and the resumption of operation of the source will not cause or exacerbate the violation of an ambient air quality standard or an ambient air increment, will not result in the emission of a new air contaminant and is not prohibited by any permit, plan approval or special order applicable to the source.

(d) *Increase in production rate.* An increase in production rate if:

1. The increased production rate does not exceed the design capacity of the source;

2. The production rate increase does not require any change to existing equipment;

3. The increase is not prohibited by any permit, plan approval or special order applicable to the source; and

4. The increase will not cause or exacerbate the violation of an ambient air quality standard or ambient air increment or violate an emission limit.

(e) *Increase in hours of operation.* An increase in hours of operation if:

1. The increase is not prohibited by any permit, plan approval or special order applicable to the source; and

2. The increase will not cause or exacerbate the violation of an ambient air quality standard or ambient air increment or violate an emission limit.

(f) *Change of ownership.* A change in ownership of a source.

(g) *Routine maintenance or repair.* The routine maintenance or repair of a source.

(5) **EXEMPT RELOCATIONS.** (a) In addition to the approved relocated sources which are exempt from the need for an additional permit under s. 144.391 (5), Stats., and the relocation of an emissions unit within the contiguous property of an attainment area major source, no construction permit is required for the relocation of an emissions unit within the contiguous property of a minor source or a nonattainment area major source if:

1. The relocation of the emissions unit is not prohibited by any permit, plan approval or special order applicable to the source;

2. The emissions unit will not be modified;

3. The emissions unit meets all applicable emission limitations; and

4. The emissions unit's stack height or stack gas exit velocity or temperature will not be decreased.

(b) If the criteria in par. (a) 1, 2, and 3, are met but the emissions unit's stack height or stack gas exit velocity or temperature will be decreased, no construction permit is required for the relocation of the emissions unit if the allowable emissions from the source will not cause or exacerbate the violation of an ambient air quality standard or ambient air increment.

(6) **EXEMPT REPLACEMENTS.** No construction permit is required for the replacement of a source if:

(a) The replacement is for only a portion of a basic emissions unit;

(b) Such replacement is not prohibited by any permit, plan approval or special order applicable to the source; and

(c) The essential components of the basic emissions unit are not replaced through several partial replacements within a 12-month period.

(7) **CONDITIONS FOR SPECIFIC EXEMPTIONS.** In order to be eligible for a specific exemption under sub. (1) (d), (g), (h), (j), (m), (o), (y) or (z), the owner or operator of a direct stationary source shall keep and maintain records of materials used, emissions or production rates, that are adequate to demonstrate that the source qualifies for the exemption. The owner or operator of a direct stationary source shall begin keeping these records no later than January 1, 1996 or the date that the source commences operation, whichever is later, and maintain them for a minimum of 5 years. After January 1, 1996, any direct stationary source that ever exceeds any level listed in sub. (1) (d), (g), (h), (j), (m), (o), (y) or (z) is not eligible for the exemption under that subsection.

**History:** Cr. Register, March, 1972, No. 195, eff. 4-1-72; r. and recr. Register, June, 1975, No. 234, eff. 7-1-75; am. (1), renum. (2) and (3) to be (3) and (4) and am., cr. (2), Register, April, 1977, No. 256, eff. 5-1-77; r. and recr. Register, April, 1983, No. 328, eff. 5-1-83; reprinted to correct error in (2) (a) 8., Register, July, 1983, No. 331; renum. from NR 154.04 (2) to (6), Register, September, 1986, No. 369, eff. 10-1-86; am. (1) (intro.), (e) and (f), (2) (intro.) and (g), (4) (a) (intro.), r. (1) (m) to (o), renum. (3) (intro.), (a) to (c), (7) (a) to (c) to be (4) (intro.), (e) 1. to 3., NR 406.07 (1) and (2) and NR 406.04 (7) and am. (4) (intro.), (e) 3., NR 406.07 and NR 406.04 (7), cr. (4) (e) (intro.), Register, April, 1988, No. 388, eff. 5-1-88; r. (2) (e) and (4) (d), renum. (2) (d), (f), (g) and (4) (e) to be (2) (e), (g), (h) and (4) (d) and am. (2) (g), cr. (2) (d), (f), (3) and (4) (a) 4., am. (4) (a) 2. and 3., Register, September,

1988, No. 393, eff. 10-1-88; cr. (2) (cm), Register, December, 1988, No. 396, eff. 1-1-89; cr. (1) (m), am. (1) (a) 1. to 3., (g), (h), and (j), (2) (b), (c), (cm), (d), (e) 1. and 5., (f) 1. to 3. and (g), (7) (a), (b) and (c) 1. and 5., Register, August, 1991, No. 428, eff. 9-1-91; cr. (1) (n), Register, October, 1991, No. 430, eff. 11-1-91; correction in (1) (a) and (b), (4) (d) 2. made under s. 13.93 (2m) (b) 7, Stats., Register, October, 1991, No. 430; correction in (1) (a) and (n) made under s. 13.93 (2m) (b) 1 and 7, Stats., Register, May, 1992, No. 437; emerg. am. (1) (intro.), (a) (intro.) and 5., (b), (c), (e), (g), (h), (j) and (l), (2), (4) (intro.) to (c), (5) and (6) (intro.), cr. (1) (lm), (4) (e) to (g), r. and recr. (4) (d), r. (7), eff. 11-15-92; am. (1) (intro.), (a) (intro.) and 5., (b), (c), (e), (g), (h), (j) and (l), (2), (4) (intro.) to (c), (5) (a) (intro.), (b) and (6) (intro.), r. (1) (d) and (7), cr. (2) (i), (4) (a) 5. and 6., (e) to (g), r. and recr. (4) (d), Register, May, 1993, No. 449, eff. 6-1-93; corrections made under s. 13.93 (2m) (b) 12, Stats., Register, May, 1993, No. 449; cr. (1) (d), (o) to (w), am. (1) (e) and (f), Register, December, 1993, No. 456, eff. 1-1-94; cr. (1) (x) to (zb), Register, June, 1994, No. 462, eff. 7-1-94; am. (1) (m) (intro.) to 3., r. (1) (m) 5., renum. (1) (m) 6. to 10. to be 5. to 9. and am. 7. and 9., Register, September, 1994, No. 465, eff. 10-1-94; am. (2) (f) 3., (3) (a), cr. (2) (f) 3m., Register, December, 1994, No. 468, eff. 1-1-95; am. (1) (n) 2. c., Register, February, 1995, No. 470, eff. 3-1-95; am. (1) (a) 5., re. and recr. (1) (r), Register, June, 1995, No. 474, eff. 7-1-95; am. (1) (m) (intro.), Register, August, 1995, No. 476, eff. 9-1-95; am. (1) (intro.), (g), (h), (j), (2) (intro.), (c), (f) 3m., (h), (i) and (4) (a) 6.; cr. (7), Register, December, 1995, No. 480, eff. 1-1-96.

**NR 406.06 Indirect sources exempt from construction permit requirements.** **History:** Cr. Register, April, 1988, No. 388, eff. 5-1-88; emerg. am. (1) (intro.), (2) and (3), eff. 11-15-92; am. (1) (intro.), (2) and (3), Register, May, 1993, No. 449, eff. 6-1-93; r. Register, June, 1995, No. 474, eff. 7-1-95.

**NR 406.07 Scope of permit exemption.** (1) Exemption or the granting of an exemption under this chapter from the requirement to obtain a permit does not relieve any person from compliance with the emission limitations of chs. NR 400 to 499, the air quality requirements of ch. NR 404, the reporting requirements of ch. NR 438, or with any other provision of law.

(2) If a source undergoes a modification which is exempt from the requirement to obtain a construction permit under s. NR 406.04 (4), it will not be treated as a modified source for purposes of the emission limitations under chs. NR 400 to 499.

**History:** Renum. from NR 406.04 (7) (a) and (b), Register, April, 1988, No. 388, eff. 5-1-88; am. (2), Register, September, 1988, No. 393, eff. 10-1-88; emerg. am. (2), eff. 11-15-92; am., Register, May, 1993, No. 449, eff. 6-1-93.

**NR 406.08 Action on permit applications.** The department shall act upon permit applications submitted by sources to which this chapter applies in accordance with the procedures set forth in s. 144.392, Stats.

**History:** Cr. Register, September, 1986, No. 369, eff. 10-1-86; emerg. renum. from NR 408.025, eff. 11-15-92; renum. from NR 408.025, Register, May, 1993, No. 449, eff. 6-1-93.

**NR 406.09 Air quality analysis.** The air quality impact of a proposed stationary source will be determined at such locations where members of the public might reasonably be exposed for time periods consistent with the ambient air quality standards for the pollutants for which analysis is carried out.

**History:** Renum. from NR 154.06 (8) and am. Register, September, 1986, No. 369, eff. 10-1-86; emerg. renum. from NR 408.03, eff. 11-15-92; renum. from NR 408.03, Register, May, 1993, No. 449, eff. 6-1-93.

**NR 406.10 Violations.** Any owner or operator who fails to construct a stationary source in accordance with the application as approved by the department; any owner or operator who fails to construct and operate a stationary source in accordance with conditions imposed by the department under s. 144.394, Stats.; any owner or operator who modifies a stationary source in violation of conditions imposed by the department under s. 144.394, Stats.; or any owner or operator who commences construction or modification

## NR 406.10

of a stationary source without applying for and receiving a permit as required under this chapter or ch. NR 408 shall be considered in violation of s. 144.391, Stats.

**History:** Renum. from s. NR 154.05 (1) and am. Register, September, 1986, No. 369, eff. 10-1-86; emerg. renum. from section NR 408.04 and am., eff. 11-15-92; renum. from section NR 408.04 and am., Register, May, 1993, No. 449, eff. 6-1-93.

**NR 406.11 Construction permit revision, suspension and revocation.** (1) After providing 21 days written notice to the permit holder and to the persons listed under s. 144.392 (5) (a) 2. to 5., Stats., the department may revise, suspend or revoke a construction permit, part of that permit or the conditions of that permit if there is or was:

(a) *Violation.* A significant or recurring violation of any condition of the permit which causes or exacerbates a violation of any ambient air quality standard or ambient air increment or which causes air pollution;

(b) *Misrepresentation or deliberate failure to disclose.* Any misrepresentation or a deliberate failure to disclose fully all relevant, significant facts when obtaining the permit;

(c) *Department determination.* A determination by the department that the permit shall be revised to assure compliance with the applicable requirements;

(d) *Request.* A request by the permit holder to revise, suspend or revoke the permit;

(e) *Failure to pay fees.* An intentional failure by the permit holder to pay in full the fees required under ch. NR 410, except the department may not suspend or revoke the permit for failure to pay fees while those fees are being disputed under s. NR 410.04 (6); or

(f) *Failure to file annual emission inventory reports.* An intentional failure by the permit holder to file annual emission inventory reports required under ch. NR 438.

(2) Any revised permit may be issued only if it meets the criteria in s. 144.393, Stats.

**History:** Cr. Register, December, 1993, No. 456, eff. 1-1-94; am. (1) (f), Register, June, 1995, No. 474, eff. 7-1-95.

**NR 406.12 Permit duration periods.** Approval to construct or modify a stationary source shall become invalid 18 months after the date when a construction permit was issued by the department unless the permit specifies otherwise. The department may only extend such a time period for up to 18 additional months on written request upon satisfactory showing that an extension is justified unless the permit specifies otherwise.

**History:** Renum. from NR 154.05 (12), (13) and (14) and am. Register, September, 1986, No. 369, eff. 10-1-86; renum. (1) and am., r. (2) and (3), Register, May, 1992, No. 437, eff. 6-1-92; emerg. renum. from NR 408.05 and am., eff. 11-15-92; renum. from NR 408.05 and am., Register, May, 1993, No. 449, eff. 6-1-93; renum. from NR 406.11, Register, December, 1993, No. 456, eff. 1-1-94.

**NR 406.13 Duty to comply.** Approval to construct or modify does not relieve any owner or operator of the responsibility to comply with the emission limits of chs. NR 400 to 499, the air quality standards of ch. NR 404 or the control strategies of all local, state and federal regulations which are part of the state implementation plan.

**History:** Renum. from NR 154.05 (15), Register, September, 1986, No. 369, eff. 10-1-86; am. Register, May, 1992, No. 437, eff. 6-1-92; emerg. renum. from NR 408.06, eff. 11-15-92; renum. from NR 408.06, Register, May, 1993, No. 449, eff. 6-1-93; renum. from NR 406.12, Register, December, 1993, No. 456, eff. 1-1-94.

**NR 406.14 Exemption from requirements for indirect sources.** **History:** Cr. Register, May, 1992, No. 437, eff. 6-1-92; emerg. renum. from NR 408.07, eff. 11-15-92; renum. from NR 408.07, Register, May, 1993, No. 449, eff. 6-1-93; renum. from NR 406.13, Register, December, 1993, No. 456, eff. 1-1-94; r. Register, June, 1995, No. 474, eff. 7-1-95.

**NR 406.15 Relocation of portable sources (1) APPLICABILITY.** This section applies to all portable sources of air contaminants which are required under s. 144.391, Stats., to have a construction permit and to notify the department prior to relocation.

(2) **PERMIT REQUIREMENT.** No person may cause, allow or permit the relocation of a portable source to a new site without first obtaining a construction permit unless the portable source is exempt from the requirement to obtain a permit under s. NR 406.04, the portable source is an approved relocated source under s. 144.391 (5), Stats., or the portable source is exempt from the requirement to obtain an additional permit under sub. (3).

(3) **RELOCATION INTO AND WITHIN OZONE NONATTAINMENT AREAS.** Notwithstanding s. 144.391 (5) (a) 1., Stats., and pursuant to s. 144.391 (6), Stats., a portable source may relocate into or within a nonattainment area for ozone without obtaining an additional permit if all of the following requirements are met:

(a) The source has the potential to emit less than 25 tons per year of VOC and less than 25 tons per year of NO<sub>x</sub>.

(b) The source has an operation permit under s. 144.391, Stats., prior to relocation.

(c) The owner or operator of the source provides written notice to the department at least 20 days prior to relocation and the department does not object to the relocation.

(d) The source in its new location will meet all applicable emission limitations and any visibility requirements in chs. NR 401 to 499.

(e) The source is not an affected source.

**History:** Renum. (1) from NR 409.01 (1) and am., (2) from NR 409.025 and am., (3) from section NR 409.03, Register, April, 1995, No. 472, eff. 5-1-95.

# WISCONSIN'S LANDFILL SITING PROCESS

SEPTEMBER 1996

3-2  
1-8  
5/2

By Paul M. Huebner<sup>1</sup>

Wisconsin's landfill siting process is considered one of the most successful in the country because it strikes a balance between the statewide need for environmentally sound waste disposal capacity and the legitimate concerns of local citizens and municipalities. The siting process requires that landfills meet stringent siting, design, construction, operation, monitoring, performance and financial responsibility requirements to maximize the protection of public health and the environment.

In Wisconsin, all new landfills and expansions to existing landfills must obtain both state and any applicable local approvals prior to construction. Licensing of a landfill and the negotiation/arbitration of local approvals are two separate processes and occur concurrently. The landfill licensing process administered by the Wisconsin Department of Natural Resources (WDNR) is a technical decision-making process focusing on the ability of the proposed landfill design to meet all criteria and standards to protect public health and the environment. The local approval process focuses on the local economic, social and land use impacts of the landfill and is overseen by the Wisconsin Waste Facility Siting Board.

Over the last several years, a number of landfill applications in Wisconsin have been significantly delayed by new state and federal locational requirements regarding wetlands and airports and new state statutory changes made to the siting process since 1988. Other major factors contributing to such delays were lack of planning and poor site selection by some applicants, submittal of incomplete information, inadequate justification for exemptions or unique/alternative designs, and of course public opposition.

In 1995 with the assistance of a public technical advisory committee (TAC), the WDNR completed the task of incorporating the necessary changes into Wisconsin's solid waste management regulations (chs. NR 500 - 520, Wis. Adm. Codes) to conform to the new statutory requirements and the federal (Subtitle D) criteria for municipal solid waste landfills. Another primary goal of the TAC and the WDNR was to streamline the NR 500 series of codes without jeopardizing public health or the environment. Areas of duplication and unnecessary and burdensome requirements found over the past several years to not be providing any additional environmental protection were eliminated. Significant clarification was also added to make the codes more user friendly. Since the landfill siting process is laid out in state statutes it essentially remained unaltered. However, substantial changes made to the front of the technical decision making process and streamlining of the technical submittal requirements should lead to some efficiencies being realized.

---

<sup>1</sup>Solid Waste Team Leader, Bureau of Waste Management, Wisconsin Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, 53707.

*Landfill Licensing Process* - The WDNR technical decision-making process is summarized in Figure 1. It includes the following mandatory steps:

#### INITIAL SITE INSPECTION

The purpose of an initial site inspection is to obtain a preliminary evaluation from the WDNR on the potential a proposed property has to comply with the locational criteria and performance standards specified in s. NR 504.04, Wis. Adm. Code. As specified in ch. NR 509, Wis. Adm. Code, an applicant must first submit a written request to the WDNR to arrange for an initial inspection. This request must include the following minimum information:

1. A cover letter identifying the applicant and authorized contact, type of landfill and operation being proposed, property ownership, location by quarter -quarter section and present land use.
2. A letter from the WDNR's Bureau of Endangered Resources addressing the known presence of critical habitat areas and state or local natural areas within one mile of the proposed landfill, in accordance with ch. NR 29, Wis. Adm. Code.
3. A letter from the Wisconsin State Historical Society identifying the presence of any historical, scientific or archaeological areas within the vicinity of the proposed landfill, in accordance with s. 44.40, Stats.
4. A map depicting existing conditions within one mile of the proposed boundaries of the proposed landfill.
5. A preliminary identification of all potential conflicts with the locational criteria and performance standards specified in s. NR 504.04, Wis. Adm. Code, for landfills, except for s. NR 504.04(4)(d) to (f).

Note: An initial site inspection is also required for all noncommercial soil borrow sources designated to be used in the construction, operation, or closure of a specific landfill. A written request for an inspection of a soil borrow source must include the information listed in items 1. through 4. above, and a preliminary identification of all potential effects on wetlands, critical habitat areas or surface waters.

During the inspection, WDNR staff evaluate whether or not the proposed landfill would be within a floodplain or within an area that would have an adverse impact on critical habitat, historical/archeological features, and wetlands. The WDNR staff also check to see if the anticipated landfill footprint would be within required setback distances to navigable waters, state and federal highways, public parks, airports, and water supply wells. After the inspection the applicant is notified in writing which locational criteria and performance standards the proposed property complies with and does not comply with and if further evaluations or additional studies are necessary. The initial site inspection letter from the WDNR can be used by an applicant to decide if the proposed property merits further investigation. If no follow up evaluations or studies are necessary to determine navigability of nearby surface waters, the presence of critical habitat, or to define wetland boundaries etc., the completion of this step by the WDNR generally should not take more than a couple of weeks.

# LANDFILL LICENSING PROCESS

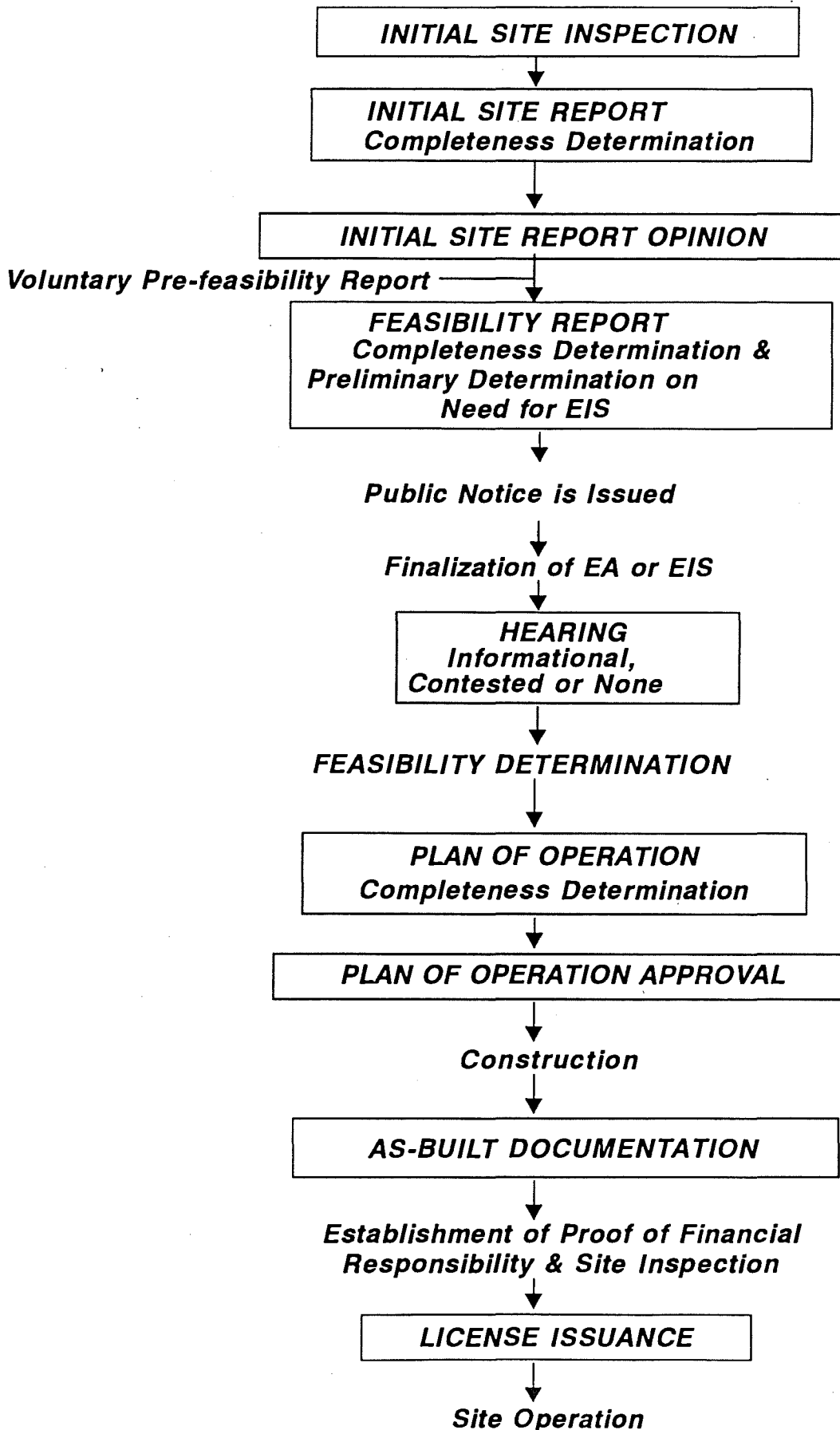


Figure 1. Landfill Licensing Process



## INITIAL SITE REPORT

The next step in the landfill licensing process is for the applicant to submit an Initial Site Report (ISR). The ISR was originally developed as a voluntary screening tool to allow an applicant to receive an opinion from the WDNR on whether a proposed property had potential for development as a landfill before committing to the time and cost of a preparing a feasibility report. In 1990, the state's comprehensive recycling law became effective and it mandated that all applicant's proposing to site a new landfill or to expand an existing landfill shall submit an ISR to the WDNR. Over the years, some of the requirements originally specified for a feasibility report were moved to or added to the minimum ISR submittal requirements reducing the effectiveness of the report as an inexpensive screening tool. The new rule revisions returned this report back to its original purpose by significantly streamlining the minimum requirements for an ISR.

The minimum requirements for an ISR are found in ch. NR 509, Wis. Adm. Code. An ISR must include the information submitted for the initial site inspection and the WDNR's initial site inspection response letter; the proposed project's title; identification of the owner and proposed operator of the landfill and any consultant; a description of the proposed property and the anticipated limits of filling; proposed landfill life and disposal capacity; municipalities and industries to be served; anticipated waste types, characteristics and amount of waste to be handled; anticipated cover frequency; mode of operation; and the anticipated subbase, base and final grades. An ISR must also contain a thorough discussion of the land uses which may have an impact on the suitability of the property for waste disposal or on groundwater quality, and include a summary of the available published information concerning the regional geotechnical characteristics of the proposed location. No site-specific geotechnical investigation is required.

An ISR is evaluated by a WDNR plan review team consisting of a hydrogeologist and an environmental engineer. The hydrogeologist has the lead review responsibility and receives comments on the report from a waste management investigator in the applicable local WDNR field office. After completing a review of the ISR, the WDNR renders an opinion on the proposed property's potential for development as a landfill and notifies the applicant in writing. The ISR opinion letter is also used by the plan review team to identify any known constraints to feasibility. In a favorable ISR response, the WDNR specifies site-specific additional or unique information needed to be included in a feasibility report which is the next mandatory step in the siting process. An unfavorable opinion letter is used to discourage an applicant before an irrevocable financial or political commitment to an unsuitable property is made. The completion of this step by the WDNR generally should not take more than a couple of months.

### Pre-feasibility report

In those cases where the regional geotechnical or any available site-specific geotechnical information indicates the proposed property may have poor geology or unusual hydrogeological conditions, the WDNR will suggest that a pre-feasibility report be submitted. Submitting a pre-feasibility report, however, is not a required step in the siting process. The level of site-specific geotechnical information specified for a pre-feasibility report is found in ch.

NR 510, Wis. Adm. Code, and it is similar to the information formerly required for ISR's. The advantage of the voluntary pre-feasibility report option is that it allows a landfill applicant to obtain a revised opinion from the WDNR based on site-specific geotechnical information which should reduce the risk of proceeding directly from the reduced scope ISR to doing major feasibility studies on a property which may have little or no potential of being approved.

## FEASIBILITY REPORT

Obtaining a favorable feasibility determination from the WDNR virtually assures the applicant the proposed landfill can be developed from a technical standpoint. Chapter NR 512, Wis. Adm. Code, specifies the minimum information that must be included in a feasibility report. Required items already addressed in an ISR or a pre-feasibility report can be cross referenced rather than included in the feasibility report. Along with information requested in the WDNR's ISR opinion letter and any revised pre-feasibility opinion letter, a feasibility report must contain a comprehensive and detailed site-specific geologic and hydrogeologic investigation that includes baseline groundwater quality data; a preliminary engineering design that includes a description of the proposed environmental monitoring for groundwater, leachate, surface water, gas, air quality, and soil moisture (if applicable); an environmental assessment; documentation of the need for the proposed landfill; and an analysis of the alternatives to landfilling such as waste reduction, reuse, recycling, composting, and energy recovery initiatives and services. Initial site inspection response letter(s) and soil test results for any proposed noncommercial soil borrow source(s) designated to be used in the construction, operation, or closure of the first phase of the proposed landfill also must be included in a feasibility report.

For a feasibility report, the hydrogeologist of the WDNR plan review team is once again the lead reviewer and receives comments from a waste management investigator and several other program specialists in the applicable local WDNR field office. The hydrogeologist fills out a feasibility completeness checklist to determine if all of the minimum information required by ch. NR 512, Wis. Adm. Code, has been submitted. If required information is found to be missing, the WDNR notifies the applicant in writing that the report is incomplete and lists the information needed to make the report complete. The incompleteness letter may also include a request for additional or unique information the plan review team believes is necessary before a feasibility determination can be made.

### Environmental analysis

When a feasibility report is found to be complete, the hydrogeologist prepares an analysis of the significance of any impacts the proposed project would have on the public's health, welfare and the environment. After completing a draft of the analysis, the hydrogeologist recommends whether or not an Environmental Impact Statement (EIS) should be completed on the proposed project. If the WDNR decides that an EIS must be written, the feasibility determination is delayed until the EIS is completed. The completion of an EIS, and an associated mandatory public hearing on the completeness of the study, can take up to a year or more to complete.

## Public hearings

If an EIS is not required or after an EIS is completed, the hydrogeologist prepares a short summary of the proposal and a public notice stating that the WDNR has received a complete feasibility report. The public notice is published in the local newspaper to invite public comment and provide information on how six citizens or an official of the host municipality or any municipality located within 1,200 feet of the proposed landfill can request that an informational public hearing or a contested case hearing be held on the technical feasibility of the proposal.

If no hearing is requested, the plan review team considers the public comments received before writing the feasibility determination. If an informational public hearing is held the feasibility determination is written within 60 days after the hearing. When a contested case hearing is held, it is conducted before a hearing examiner in much the same way as a court trial. The WDNR plan review team and the other parties to the hearing testify under oath and are subject to cross examination. After a contested case hearing, the feasibility determination is made by the Secretary of the WDNR or the WDNR Secretary's designee based only upon a review of the hearing record. A contested case hearing is intended to address technical issues of site feasibility including the need for the landfill and the ability of the proposal to meet design and performance standards and to protect the public's health, welfare and the environment.

Submittal of incomplete/inadequate information, public controversy, locational problems such as potential impacts to wetlands or the potential of creating a bird hazard to aircraft, and poor geology and unusual hydrogeologic conditions significantly impact the review time for some feasibility reports. Depending on the completeness of a feasibility report, any locational problems, and whether or not an EIS must be prepared or a public hearing must be held, the WDNR's completion of the feasibility step in the siting process can take six months to more than three years.

## PLAN OF OPERATION REPORT

A plan of operation report includes the final engineering design, design calculations, details on the phases of construction, proposed construction documentation, sequencing of operations, daily operations, monitoring, closure design, long-term care of the proposed landfill after closure and a detailed estimate of the costs for construction, operation, closure and long-term care of the landfill. Chapter NR 514, Wis. Adm. Code, and the conditions in a feasibility determination specify the minimum information a plan of operation must contain. After the applicant receives a feasibility determination there is usually at least one meeting between the applicant and the WDNR to discuss the feasibility conditions of approval, prior to the submittal of the plan of operation report.

The WDNR plan review team is responsible for ensuring that all design, construction, operation, closure and financial responsibility details required by ch. NR 514, Wis. Adm. Code, and all of the conditions of feasibility are addressed in the plan of operation. The environmental engineer is the lead reviewer and makes sure that good engineering practices are being proposed. The hydrogeologist reviews the environmental monitoring proposal, any

alternative concentration limits proposed for exemptions to the groundwater standards which were granted in the feasibility determination and preventative action limits proposed for the groundwater quality indicator parameters for each well at the site. The WDNR typically completes its review of a plan of operation in four to six months.

## LANDFILL CONSTRUCTION DOCUMENTATION REPORT

Following WDNR approval of a plan of operation for the proposed landfill and after obtaining any required local approvals, the owner can begin construction of the facility. Landfills are constructed one phase or unit at a time. During major construction steps of the landfill, WDNR staff conduct inspections. Documentation (as-built) plans are prepared by the applicant's engineering consultant documenting the construction process such as the compaction of the clay liner and installation of the geomembrane liner (composite liners consisting of a 60-mil HDPE geomembrane and 4 foot thick clay liner are now required for municipal solid waste landfills) and leachate collection pipes.

After construction, the owner must submit a comprehensive report containing a detailed narrative describing the construction of the landfill phase or unit in chronological fashion with particular emphasis given to any deviations from the approved plan of operation. The report must also include detailed documentation of all aspects of construction. This includes surveys of various grades, field and laboratory soil test results, engineering plan sheets documenting the constructed grades, the precise location of all leachate collection storage and removal structures, the specifications of materials, and photo documentation.

Chapter NR 516, Wis. Adm. Code, describes what elements must be included in a landfill construction documentation report. After the as-built documentation has been reviewed and approved by the assigned WDNR engineer and the proofs of financial responsibility have been implemented, a final inspection of the constructed phase or unit is made before a license is issued. The landfill owner can only begin to accept waste after receipt of the license from the WDNR. The review of a landfill construction documentation report is usually concluded by the WDNR in a month.

*Local Approval Process* - Simultaneous to the WDNR technical decision-making process, the applicant must seek and obtain any applicable local approvals (see Figure 2). These would include any permits or approvals required by pre-existing local ordinances to construct or operate a landfill such as zoning variances, building permits, etc. Although local approvals need only be obtained prior to construction of a landfill, as a practical matter, many applicants do not proceed to develop a feasibility report until the issue of local approvals is resolved. The local approval process has two major components: negotiation and state arbitration if a negotiated agreement cannot be reached.

## NEGOTIATION

A person proposing a new landfill or expansion of an existing landfill must apply for all local approvals at least 120 days before submitting a feasibility

# LOCAL APPROVAL PROCESS

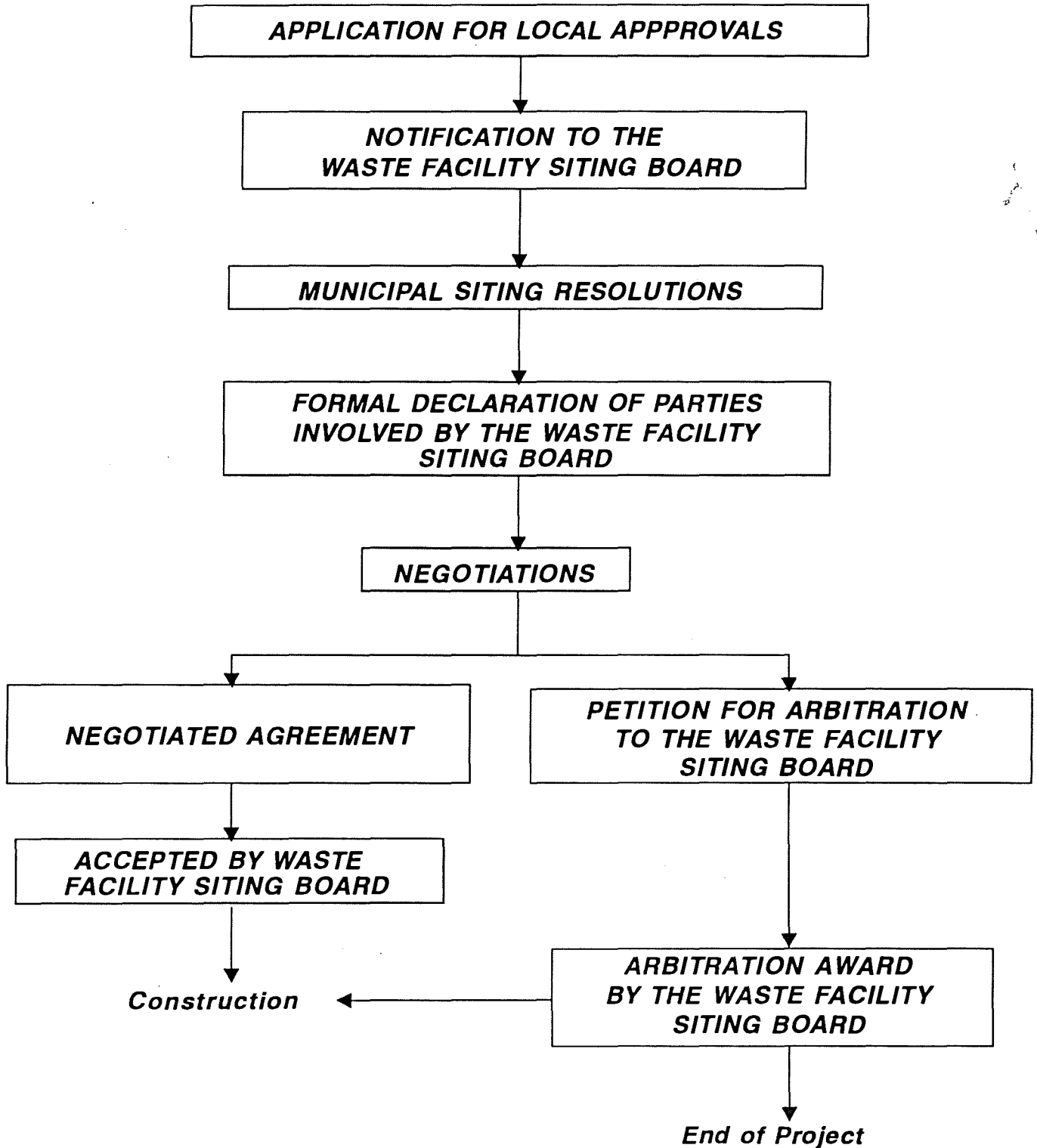


Figure 2. Local Approval Process

report to the WDNR. At that time, any affected municipality (county, township, village, or city within 1,200 feet of the proposed landfill's limits of filling) may choose to enter into negotiations with the applicant. Any municipality choosing not to negotiate waives its rights to enforce any local approval requirements. In general, the site owner will offer design, financial and operational incentives to the municipality in exchange for a negotiated agreement and to gain waiver or approval of local permits. Virtually any issue is negotiable except the need for the proposed landfill and agreements which would make the owner's responsibilities under the WDNR approved feasibility report less stringent. Commonly negotiated concessions on the part of the owner include: operational issues such as hours of operation, waste materials accepted, nuisance control, lighting, vehicle routes and access, aesthetic screening and fencing; recycling efforts to be implemented; private well monitoring and replacement if necessary; post-closure site use; payments to local governments for local costs of regulation, fire control, road maintenance, payments in lieu of taxes; economic protection of neighboring property owners for loss of property value; and establishment of a local advisory committee.

#### ARBITRATION

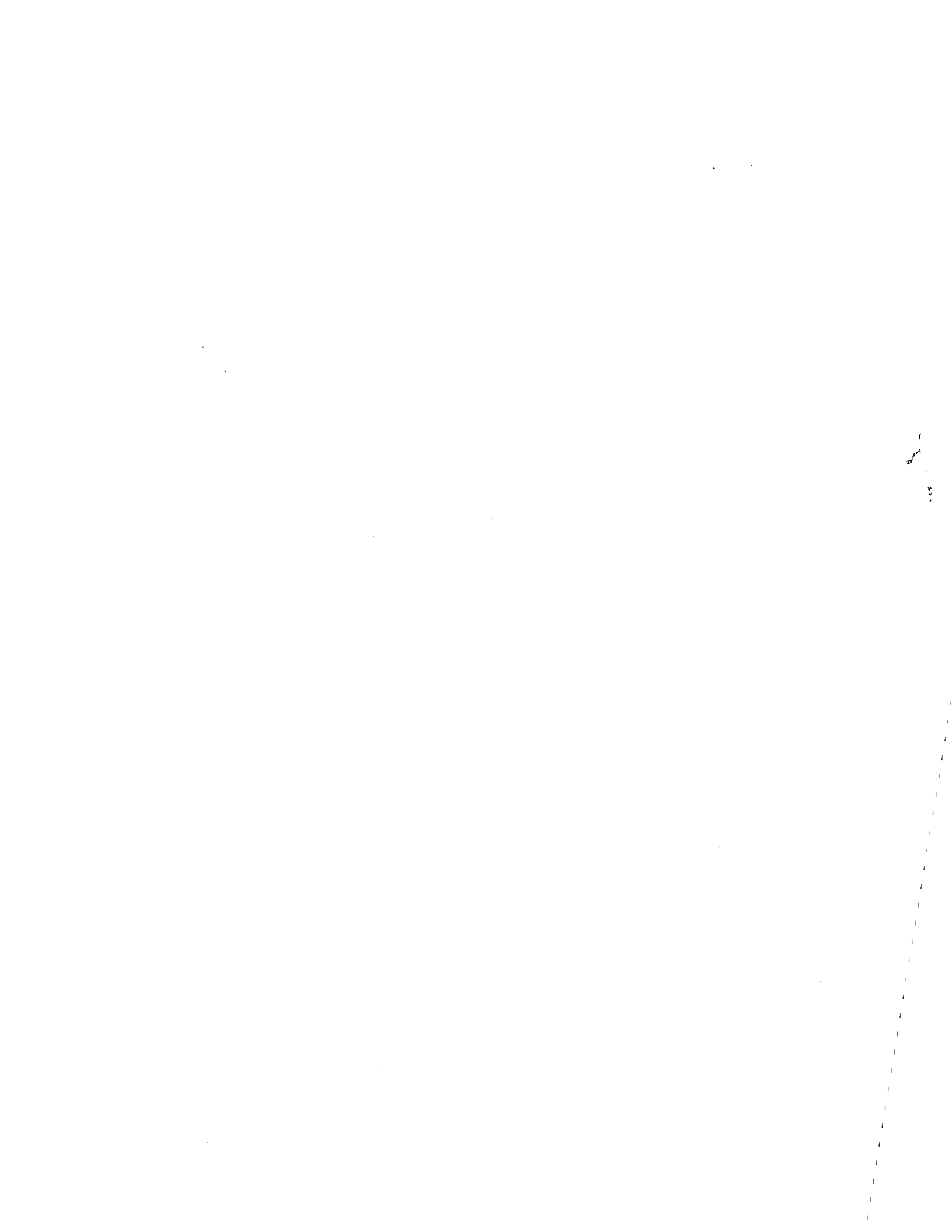
If the parties are unable to reach a negotiated settlement, they may petition the Wisconsin Waste Facility Siting Board (WWFSB) to issue an arbitration award. Each party must submit its final offer for a negotiated settlement to the WWFSB. After a hearing on the final offers, the WWFSB must select, without modification, the final offer of either the applicant or the local committee.

As described above, Wisconsin's landfill siting process is complex, comprehensive and time consuming. It can take three to five years or more to plan, design and construct a new facility.

If you should have questions on the WDNR technical decision-making process please contact Paul Huebner at (608) 267-7573. If you should have questions on the local approval process please contact Patti Cronin, Executive Director of the WWFSB at (608) 267-7854.

#### References

1. Schuff, R.G. 1986. Solid Waste Landfill Siting in Wisconsin an Effective Process. 12 pp.
2. Huebner, P.M. 1991. Wisconsin's Landfill Siting Process. 8 pp.
3. Sections 144.43 - 144.447, Stats.
4. Chapters NR 500 - 520, Wis. Adm. Code, Revisions Effective July 1, 1996.



## Regulation of Elementary Neutralization Units

Ed Lynch, P.E., Environmental Engineering Supervisor

Lauranne, Here is the article on elementary neutralization. You probably don't like my style (I mean the way I wrote this), so as WLN editor, you are welcome to change it. I've asked Dave to review this as well so ask him for his comments before you dive into this too deep. --Ed. (let me know if you want the disk)

*Elementary Neutralization.* Elementary neutralization is specific form of hazardous waste treatment that does not require a hazardous waste treatment license provided certain requirements are satisfied. An "elementary neutralization unit" is a device used for neutralize wastes that are hazardous waste only because they exhibit the corrosivity characteristic or are a listed hazardous waste solely for that reason; and, is a tank, tank system, container, transport vehicle or vessel as those terms are defined in s. NR 605.03, Wis. Adm. Code. To be eligible for the licensing exemption, a person operating an elementary neutralization unit must: notify and obtain an EPA identification number (s. NR 630.11); comply with security requirements (s. NR 630.14); follow inspection activities (s. NR 630.15); fulfill the operation requirements (s. NR 630.17(2)); satisfy the manifest, recordkeeping and reporting requirements (ss. NR 630.30, .31 & .40); and, follow the hazardous waste discharge reporting requirements (s. NR 630.22(2)(c)).

Sludge and other process residue generated during the neutralization are subject to applicable hazardous waste management requirements and at closure all hazardous waste must be removed from the unit and properly managed. The unit must be constructed of sturdy, leakproof material and be designed and operated so as to prevent release of hazardous waste.

*Pre-Neutralization Storage Requirements.* Tanks or containers used for storing of on-site generated corrosive waste prior to the waste being neutralized are subject to generator standards. Tanks or containers used for storage of corrosive waste from off-site prior to the waste being neutralized are subject to the full licensing requirements.

*Corrosive Waste Definition.* A corrosive waste that would typically be managed in an elementary neutralization unit is an aqueous liquid with a pH less than or equal to 2 or greater than or equal to 12.5. Corrosivity is also defined as a liquid waste which corrodes plain carbon steel with a carbon content of 0.20% at a rate greater than 6.35 mm (0.125 inch) per year at a temperature of 55° C (130° F). It is important to emphasize that the elementary unit exemption is only applicable to corrosive waste. Wastes that exhibit another characteristic, such as toxicity or ignitability, or are listed for a reason other than the corrosive characteristic, are not eligible for this exemption. For instance, neutralizing a hazardous waste that exhibits both the characteristics of corrosivity and ignitability may result in a waste stream that is still ignitable. Neutralizing a corrosive waste with a high pH (highly alkaline) that also exhibits the toxicity characteristic for a metal waste may actually increase the amount available to come out of solution. Both of these cases may result in violations of pretreatment requirements and could have serious detrimental effects to a municipal wastewater treatment facility.

*Pretreatment Requirements.* Effluent from elementary neutralization units is routinely discharged to sanitary sewers. Any industry discharging to a sanitary sewer must comply with the requirements of ch. NR 211, Wis. Adm. Code, General Pretreatment Requirements. Industrial users can not discharge pollutants to a publicly owned wastewater treatment facility or its sanitary sewer that will pass through or interfere with the operation or performance of the treatment plant causing a violation of the wastewater treatment facility's discharge permit. Furthermore, pollutants can not be discharged to the sanitary sewer or treatment facility if they would contribute to a fire or explosive hazard, contribute to corrosive structural damage, cause obstruction, result in excessive heat as well as several other criteria.

*Hazardous Waste Annual Reporting.* Small and large quantity generators of hazardous waste are required to complete annual reports. The hazardous waste must be reported on the GM form and when it is neutralized, it must be reported on the PS form. Any hazardous waste generated by the neutralization process must also be reported on a GM form. If waste to be neutralized is received from off-site, then it must be reported on a WR form. Please



take a look at your annual report package for more information on this and an explanation of these forms. Very small quantity generators do not typically have to prepare annual reports.

*a:elemnuet.d21*

# STATE OF MAINE ENVIRONMENTAL TASK FORCE

Fall 1996

## SURVEY: PULP AND PAPER PERMITTING REQUIREMENTS

**Interview:** April 24, 1997

**Interviewees:** Cynthia Darling (G, SW)  
Gregory Wood (G, W)  
Marc Cone (G, A)  
Kim Hibbard (G, A)  
Stacy Ladner (H)  
for Maine Department of Environmental  
Protection

**Interviewers:** Wendy Porter  
Linda Lockhart

### General

**G-1** How many pulp and paper facilities exist in your state? \_\_\_\_\_ How many facilities are pulp \_\_\_\_\_, paper \_\_\_\_\_, and integrated pulp and paper \_\_\_\_\_?

*20, 1, 3, 16, 9 have solid waste licenses*

**G-2** What agency(ies) is (are) responsible for environmental permitting of pulp and paper facilities?

*Solid Waste: DEP, municipalities, LURC, Army Corp.*

*Water: DEP and EPA*

*Air: DEP, Jay, EPA delegates to state*

*Hazardous Waste: only Maine DEP*

**G-3** Does your state require licensing of general development of a new or expanded pulp and paper facility that would not otherwise trigger permitting for water, air, or solid waste? If yes, please describe.

*Site location.*

- G-4** Does your state require a general facility permit for new construction at an existing pulp and paper facility? If yes, please describe. If no, does the local (municipal or county) government regulate land use activities such as traffic, noise, lighting, visibility?

*Same as previous. You do have to modify your site location permit. Some municipalities do and some do not regulate site development.*

- G-5** Are there any areas in your environmental statutes or regulations that exceed or are inconsistent with federal requirements? If so, briefly describe.

*Solid waste - Feds don't regulate nonhazardous solid waste for the most part. Respondent is part of task force (Region I rep.) stakeholder process to create guidance for the handling of industrial D waste. EPA is fully committed to doing guidance document rather than issuing regulations.*

*Water - wet program more stringent, surface water testing, wet testing.*

*Air - fed requirements are not applicable to any minor source, so we have minor source review in state, DPT, anything that's non-PSD - state uses modeling in non-ambient sources.*

*Hazardous Waste - PCBs are regulated as hazardous waste, licensing and reporting of elementary neutralization, NPDES permitted facilities, more frequent inspections of hazardous waste accumulation and storage areas, small quantity generators (SQG) must comply with large quantity generator (LQG) provisions, annual report (vs. EPA every 2 years), fees for hazardous waste generation, mandated reduction requirements that EPA does not have.*

**Waste Water**

- W-1** Is your state an NPDES delegated state? If no, is a separate state waste water license required?

*No.*

*Yes.*

- W-2** Is there a statutory or regulatory time limit established for the

processing of new or renewed waste water licenses? If yes, please describe.

*Not for renewed, but 270 days for new.*

- W-3** Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new or renewed waste water discharge license for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*45 days, 9 years, 18 months.*

*In the last 5 years, 12 have been issued.*

- W-4** What public notice requirements exist for a new or renewed waste water discharge license?

*Just in the application process - 30 day newspaper notice, abutter notice required, file application with town.*

- W-5** What public participation opportunities exist for a new or renewed waste water discharge license?

*Comments on application, on draft license, aggrieved party can appeal license to board.*

*No intervenor status.*

- W-6** Does your state have a separate licensing requirement for storm water discharges (other than NPDES)? If yes, please describe.

*Yes, under the landfill regulations. The state water bureau is not addressing storm water. If NPDES is delegated, the state will do stormwater, but under the land bureau.*

- W-7** Is there duplication of waste water discharge licenses at the local (municipal or county) level? If yes, please describe.

*Only at International Paper, Jay has a town ordinance.*

- W-8** Does your state utilize general permits or permit by rule for any type of discharge associated with the pulp and paper industry?

*No.*

- W-9 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Negotiations between state and licensee.*

### Solid Waste

- S-1 Does your state license solid waste disposal facilities for the pulp and paper industry?

*Yes, we have 9 licenses.*

- S-2 Do pulp and paper facilities generally own their own landfill, or do they generally utilize a commercial or community facility?

*Mostly own.*

- S-3 Do licensed solid waste disposal facilities require period relicensing? If so, what triggers the relicensing?

*Yes, under '89 rules - statutory change since removes relicensing requirements, only triggered with vertical or horizontal expansions.*

- S-4 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or expanded solid waste disposal facilities?

*Yes, time limit, if exceeded the facility has to agree to extend the timeline or DEP has to give the money back.*

- S-5 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or expanded solid waste disposal facility for pulp and paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*One new, several renewals, a couple of expansions.*

- S-6 Is a fee required for an application for a new, renewed, or expanded solid waste disposal facility? If yes, what is the basis for the fee?

*Yes, 38 MRSA §352, flat fee.*

- S-7 Are annual fees required for solid waste disposal facility licenses? If yes, what is the basis for the fee?

*Same statute, yes, flat fee based upon the type of facility.*

- S-8 What public notice requirements exist for a new, renewed, or expanded solid waste disposal facility application?

*Notify abutters, municipality, general 30-day newspaper notice.*

- S-9 What public participation opportunities exist for a new, renewed, or expanded solid waste disposal facility?

*Once the application comes in there is a written comment opportunity, opportunity to request a public hearing, opportunity to participate in public hearing. A public information meeting must be held in advance of application. Give municipality 60 days of notice prior to submission of application.*

- S-10 Are municipalities granted automatic intervenor status and provided funding by the applicant for participation in the licensing of a new or expanded solid waste disposal facility? If yes, please describe.

*Yes. \$50,000.*

- S-11 Is there duplication of solid waste disposal facility licensing at the local level (municipal or county)? If so, please describe.

*This is up to the municipality. Sometimes is duplication, but it cannot be more stringent than state. Most municipalities do regulate landfills.*

- S-12 Does your state require licensing of transporters of pulp and paper mill wastes to either commercial, municipal, or company owned landfills? If yes, please describe.

*Yes, but there are very generous exemptions that most seem to be able to come under.*

---

*Non hazardous residuals to a compost utilization site.*

S-13 Is the applicant for a new or expanded landfill required to provide funding for municipal interventions into the permitting process? If yes, please describe.

*\$50,000*

S-14 Do beneficial use opportunities for pulp and paper mill residuals (sludge, ash, woodwaste) require permitting? If yes, please describe.

*Yes, generally.*

S-15 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Varies depending on the application and the number of big projects pending at the same time. Process issues:*

*1. Response time for requests for additional information from applicants, consultants*

*2. Low staff resources*

*3. Other agency review*

*4. Public participation.*

#### **Air**

A-1 How often is air quality modeling required for sources? \_\_\_\_\_ Is on-site meteorological data required? \_\_\_\_\_

*All facilities are required to do the modeling once, then only in the case of significant modification, or new ambient source regulations.*

*Depends on what model you're using. Depends on whether or not you can pass without on-site meteorological data. In statute, a facility is required to have a 5 year meteorological database, and that makes on-site necessary. About 75% of the 20 facilities have on-site data.*

A-2 Under what conditions are minor license amendments required? Please describe and address these particular situations:

*Anything that's not on the insignificant list. Most anything you do differently at the facility.*

- Changes in Fuels burned regardless of impact on emissions

*Yes, a license amendment is required.*

- Addition of insignificant emission sources like an on-site diesel generator

*No, not if it's on the insignificant list - diesel generators are on the insignificant list if they're less than 1/2 million.*

- Increases in capacity that do not trigger PSD review

*Yes.*

A-3 Does your state have CEM uptime requirements for non-PSD sources more stringent than Federal Regulations? If so, please describe.

*In certain places, yes.*

A-4 Are existing sources, undergoing license review, required to undergo a control technology review?

*Yes, if greater than 15 years old.*

A-5 When, if ever, are existing sources subject to new limits or standards?

*They can be subject to new standards or limits any time they come up for licensing if best practical treatment finds it applicable. Also when new standards are issued.*

A-6 Is there a statutory or regulatory time limit established for the processing of complete applications for new, renewed, or modified air operating permit? If yes, please describe.

*Yes, we have to specify in each year for both new and modified. If more than 1990 or 1992, anything newer has time frames, anything older does not.*

A-7 Please provide the minimum \_\_\_\_\_, maximum \_\_\_\_\_, and average \_\_\_\_\_ amount of time in days actually incurred for the processing of a complete application for a new, renewed, or modified air operating permit for pulp and



paper facilities in the last 5 years. Please indicate the number of licenses included in the average \_\_\_\_\_.

*Renewals: 120 days, 7-10 years, 3 years*

*Modified, minor: 20 days, 90 days, 45 days*

*Modified, PSD: 60 days, 3 years, 6 months*

*New-only one, 6 months*

*All together, they've done about 7 renewals in the last 5 years, 4 PSD, 60+ minor.*

- A-8 Is a fee required for an application for a new, renewed, or modified air operating permit? If yes, what is the basis for the fee?

*Only required for new applications, not renewal or modification - based on annual fee (particulate emissions).*

- A-9 Are annual fees required for air operating permits? If yes, what is the basis for the fee?

*Yes. Pollutants.*

- A-10 What public notice requirements exist for new, renewed, or modified air operating permit?

*Public notice is required for renewal, minor, PSD. Only minor revisions do not require public notice. Twenty day newspaper notice, 20 day comment period. For PSD there's a 30 day review period once the draft license has been issued. Abutters must be noticed for PSD and license transfers. Copy of the public notice and copy of the application must be provided to town.*

- A-11 What public participation opportunities exist for a new, renewed, or modified air operating permit?

*Written comments, mandatory review period for PSD sources, or any license. Public participation can occur at any time by anyone who makes their interest known up until the time the license is signed. Appeal to the board is allowed.*

- A-12 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete applications due to lack of communication with the source concerning requests for additional information.*

*Modeling requirements.*

*Incompetent industry consultants.*

*Low staff resources is a problem for low priority projects.*

### **Hazardous Waste**

**H-1 Does your state require facilities to receive licenses for on-site elementary neutralization into permitted NPDES treatment facilities? If so, please describe.**

*No licenses are required for the onsite elementary neutralization of hazardous wastes.*

**H-2 Does your state require the pulp and paper facilities to report elementary neutralization volumes that go into permitted NPDES treatment facilities? If so, please describe.**

*If quantity is known.*

**H-3 Does your state require a license for on-site treatment of waste generated at the facility?**

*Certain hazardous waste treatment activities are required to be licensed, others are exempt from licensing.*

**H-4 Does your state impose requirements on wastewater treatment facilities beyond the conditions imposed by Federal law? If so, please describe.**

*If hazardous wastes are to be treated in a wastewater treatment facility (non POTW) then the facility must meet basic containment, operation, inspection and maintenance requirements -- such as:*

- tanks, piping, etc, must be constructed of materials which are compatible with the wastes.*
- secondary containment for the treatment units,*
- periodic inspections of the units and any sewer lines for corrosion and deterioration,*
- the water discharge license must contain limits on the hazardous characteristics and hazardous constituents for which the waste is hazardous. These must be tested for at least annually.*
- the wastewater treatment units must be equipped with high level alarms, the alarms must be inspected and tested for operability.*
- procedures for responding to activation of the high level alarms to prevent the release of hazardous waste to the environment.*
- repairs must be made to equipment and structures to maintain structural integrity.*

*The Department must be notified of these situations and a repair plan and schedule must be submitted to the Department.*

- *wastewater analysis and inspection records are maintained at the facility and made available to the Department or municipal officials upon request.*
- *certification is filed with the Department that the facility meets the above standards.*

H-5 What causes the longest delays in processing applications? Public Participation? Low staff resources? Incomplete applications? Other? Please describe.

*Incomplete or inadequate applications are the primary cause, followed by staff resources. Public participation is rarely a cause for delay of an application.*