



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JANET T. MILLS  
GOVERNOR



MELANIE LOYZIM  
COMMISSIONER

October 21, 2025

Mr. Michael Harris  
Lincolnville Sewer District  
P.O. BOX 302  
Lincolnville, ME. 04849

*Sent via electronic mail  
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102857  
Maine Waste Discharge License (WDL) Application #W007496-6B-I-R  
Proposed Draft MEPDES Permit Renewal**

Dear Mr. Harris:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter, you are provided with an opportunity to comment on the proposed draft permit and its special and standard conditions. If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies and from any other parties who have notified the Department of their interest in this matter.

The comment period begins today, Tuesday, October 21, 2025, and ends on **Friday, November 21, 2025**. All comments on the proposed draft permit must be received in the Department of Environmental Protection office on or before the close of business **Friday, November 21, 2025**. Failure to submit comments in a timely fashion may result in the proposed draft/license permit document being issued as drafted.

Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection  
Bureau of Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME 04333-0017

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769  
(207) 764-0477 FAX: (207) 760-3143

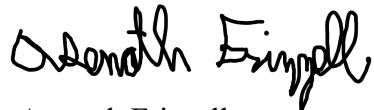
Lincolnville Sewer District

October 21, 2025

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If you have any questions regarding the matter, please feel free to call me at 207-215-6856.

Sincerely,



Asenath Frizzell

Division of Water Quality Management  
Bureau of Water Quality

Enclosure

cc: Lori Mitchell, DEP/CMRO  
William Johnson, DEP/CMRO  
Bradley Kelso, DEP/CMRO  
Gregg Wood, DEP/CMRO  
Holly Ireland, DEP/CMRO  
Laura Crossley, DEP/CMRO  
Michael Cobb, USEPA  
Kathryn Rosenberg, USEPA  
Richard Carvalho, USEPA  
Erin Wilson, DMR



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

**IN THE MATTER OF**

LINCOLNVILLE SEWER DISTRICT ) MAINE POLLUTANT DISCHARGE  
PUBLICLY OWNED TREATMENT WORK ) ELIMINATION SYSTEM PERMIT  
LINCOLNVILLE, WALDO COUNTY, MAINE ) AND  
ME0102857 ) WASTE DISCHARGE LICENSE  
W007496-6B-I-R      **APPROVAL** )      **RENEWAL**

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-C, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251 *et seq.*, and applicable rules of the Department of Environmental Protection (“Department”), the Department has considered the application of the LINCOLNVILLE SEWER DISTRICT (“LSD”/“permittee”), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On September 6, 2024, the Department accepted as complete for processing, an application from the Lincolnville Sewer District for renewal of combination Waste Discharge License (WDL) W007496-5C-H-R / Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102857, which was issued by the Department on August 5, 2019, for a five-year term. The August 5, 2019 permit authorized a daily maximum discharge of 25,000 gallons per day (GPD) of secondary treated municipal wastewater from a publicly owned treatment work facility to the West Penobscot Bay, Class SB, in Lincolnville, Maine.

**PERMIT SUMMARY**

This permitting action is carrying forward all the terms and conditions of the previous permitting action:

1. Removing all references to chlorine or chlorine-based chemicals due to the facility having no ability to use chlorine or chlorine-based chemicals, only UV treatment.
2. The monitoring frequency for pH and mercury were decreased to 3/Week and 1/YR, respectfully, due to the reported data being within the established limits and no exceedances.

## CONCLUSIONS

Based on the findings in the attached **PROPOSED DRAFT** Fact Sheet dated October 21, 2025, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. § 464(4)(F), will be met, in that:
  - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - b. Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
  - c. Where the standards of classification of the receiving waterbody are not met, the discharge will not cause or contribute to the failure of the waterbody to meet the standards of classification;
  - d. Where the actual quality of any classified receiving waterbody exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - e. Where a discharge will result in lowering the existing water quality of any waterbody, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

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**ACTION**

THEREFORE, the Department APPROVES the above noted application of the LINCOLNVILLE SEWER DISTRICT to discharge a daily maximum flow of 25,000 GPD of secondary treated wastewater from the Lincolnville Sewer District facility to the West Penobscot Bay, Class SB, in Lincolnville, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act and Other Administrative Matters*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2(21)(A) (effective September 15, 2024)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2025.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
For: Melanie Loyzim, Commissioner

Date of initial receipt of application: August 16, 2024

Date of application acceptance: September 6, 2024

This Order prepared by Asenath Frizzell, BUREAU OF WATER QUALITY

**SPECIAL CONDITIONS****A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

The permittee is authorized to discharge secondary treated municipal wastewater from **OUTFALL #001A** to the West Penobscot Bay, in Lincolnville, Maine. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)</sup>.

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	---	---	25,000 GPD [03]	---	---	---	1/Day [01/01]	Meter [MS]
BOD <sub>5</sub> [00310]	6.3 lbs./Day [26]	9.4 lbs./Day [26]	10.4 lbs./Day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [GR]
BOD <sub>5</sub> % Removal <sup>(2)</sup> [81010]	---	---	---	85% [23]	---	---	---	Calculate [CA]
TSS [00530]	6.3 lbs./Day [26]	9.4 lbs./Day [26]	10.4 lbs./Day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month [01/30]	Grab [24]
TSS % Removal <sup>(2)</sup> [81011]	---	---	---	85% [23]	---	---	---	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	3/Week [03/07]	Grab [GR]
Fecal Coliform Bacteria <sup>(3)</sup> (Year-round)[74055]	---	---	---	14/100 ml <sup>(3)</sup> [13]	---	31/100 ml [13]	1/Week [1/07]	Grab [GR]
Enterococci Bacteria <sup>(4)</sup> (Seasonally April 15 <sup>th</sup> - October 31 <sup>st</sup> Beginning 2021) [61211]	---	---	---	8/100 ml [13]	---	54/100 ml [13]	1/Week [1/07]	Grab [GR]
pH (Standard Units) [00400]	---	---	---	---	---	6.0-9.0 [12]	3/Week [03/07]	Grab [GR]
Mercury (Total) <sup>(6)</sup> [71900]	---	---	---	Report ng/L [3M]	---	Report ng/L [3M]	1/Year [01/YR]	Grab [GR]

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports

**FOOTNOTES:** See Pages 5 – 9 of this permit for applicable footnotes.

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

#### **FOOTNOTES:**

1. **Sampling** – Influent samples must be taken prior to any treatment. Effluent samples must be taken after all treatment and prior to being discharged. Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (C.F.R.) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 C.F.R. Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW pursuant to *Waste discharge licenses*, 38 M.R.S. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Accreditation Rules*, 10-144 C.M.R. ch. 263 (amended March 15, 2023). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10 – 144 C.M.R. ch. 263. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).

In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the permittee must monitor according to sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O, for the analysis of pollutants or pollutant parameters (except WET). A method is “sufficiently sensitive” when: 1) The method minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant or pollutant parameter; or 2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The term “minimum level” refers either to the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher. Minimum levels may be obtained in the following ways: they may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor.

2. **Percent Removal** – The treatment facility must maintain a minimum of 85 percent removal of BOD<sub>5</sub> and a minimum of 85 percent removal for TSS for all flows receiving secondary treatment.
3. **Fecal Coliform Bacteria** – Limits apply on a year-round basis. The monthly fecal coliform average limitation is a geometric mean and results must be calculated and reported as such.

4. **Enterococcus Bacteria Reporting** – Enterococcus bacteria limits and monitoring requirements are seasonal running from April 15<sup>th</sup> – October 31<sup>st</sup>. The monthly average limitation for enterococci is a geometric mean and results must be calculated and reported as such.
5. **Mercury** – The permittee must conduct all mercury monitoring required by this permit required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 C.M.R. ch. 519 in accordance with the U.S. Environmental Protection Agency's (USEPA) "clean sampling techniques" found in USEPA Method 1669, *Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels*. All mercury analysis must be conducted in accordance with USEPA Method 1631 revision E, *Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry*. For the most up-to-date reporting form, go to [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html) or (DEP website at maine.gov/dep/index.html, and search "wastewater reporting forms" and select "Whole Effluent Toxicity, Chemistry, and Mercury Reporting Forms" for a reporting form for mercury test results. Compliance with the monthly average limitation established in Special Condition A of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Method 1669 and analysis Method 1631 revision E on file with the Department for this facility.

## B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsuitable for the designated uses and characteristics ascribed to their classification.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

## C. TREATMENT PLANT OPERATOR

The person who has management responsibility over the treatment facility must hold a **Maine Grade II**, Biological Treatment certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Wastewater Treatment Plant Operators*, 32 M.R.S. § 4171-4182 and *Wastewater Treatment Plant Operator Certification*, 06-096 C.M.R. ch. 531

(effective July 24, 2023). All proposed contracts for facility operation by any person must be approved by the Department before the **permittee** may engage the services of the contract operator.

#### **D. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on September 6, 2024; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

#### **E. LIMITATIONS FOR INDUSTRIAL USERS**

Pollutants introduced into the wastewater collection and treatment system by a non-domestic source (user) must not pass through or interfere with the operation of the treatment system.

**The permittee must conduct an Industrial Waste Survey (IWS) any time a new industrial user proposes to discharge within its jurisdiction; an existing user proposes to make a significant change in its discharge; or at an alternative minimum, once every permit cycle**, and submit the results to the Department. The IWS must identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of the federal Clean Water Act, 40 C.F.R. Part 403 (general pretreatment regulations) or *Pretreatment Program*, 06-096 C.M.R. ch. 528 (last amended March 17, 2008).

#### **F. NOTIFICATION REQUIREMENT**

In accordance with Standard Condition D, the **permittee** must notify the Department of the following:

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance.
3. For the purposes of this section, adequate notice must include information on:
  - a. The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - b. Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

## **G. MONITORING AND REPORTING**

### Electronic Reporting

*NPDES Electronic Reporting*, 40 C.F.R. Part 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic DMRs submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15<sup>th</sup> day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the Department toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15<sup>th</sup> day of the month following the completed reporting period.

## **H. OPERATIONS AND MAINTENANCE (O&M) PLAN**

The permittee must have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan must provide a systematic approach by which the permittee must at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

**By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades**, the permittee must evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan must be kept on-site at all times and made available to Department and EPA personnel upon request.

**Within 90 days of completion of new and or substantial upgrades** of the wastewater treatment facility, the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

## **I. WET WEATHER MANAGEMENT PLAN**

The treatment facility staff must have a current written Wet Weather Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfalls.

The plan must conform to Department guidelines for such plans and must include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events.

**The permittee must review their plan annually** and record any necessary changes to keep the plan up to date. The Department may require review and update of the plan as it is determined to be necessary.

#### **J. STATEMENT FOR REDUCED/WAIVED TOXICS TESTING**

In accordance with 06-096 C.M.R. ch. 530(2)(D)(4), and by **December 31** of each calendar year, the permittee must provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [*ICIS Code 75305*]. See **Attachment C** of the fact sheet for an acceptable certification form to satisfy this Special Condition.

- a. Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- b. Changes in the operation of the treatment works that may increase the toxicity of the discharge;
- c. Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge;

In addition, in the comments section of the certification form, the permittee must provide the Department with statements describing;

- a. Changes in stormwater collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and
- b. Increases in the type or volume of transported (hauled) wastes accepted by the facility.

The Department may require that routine screening or surveillance level testing be re-instated if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

#### **K. REOPENING OF PERMIT FOR MODIFICATION**

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the tests results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent limitations necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional

monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

**L. SEVERABILITY**

In the event that any provision, or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect, and must be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
MAINE WASTE DISCHARGE LICENSE**

**PROPOSED FACT SHEET**

DATE: **October 21, 2025**

PERMIT NUMBER: **ME0102857**

WASTE DISCHARGE LICENSE: **W007496-6B-I-R**

NAME AND ADDRESS OF APPLICANT:

**LINCOLNVILLE SEWER DISTRICT  
P.O. BOX 302  
LINCOLNVILLE, MAINE 04849**

COUNTY: **WALDO**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**LINCOLNVILLE SEWER DISTRICT  
15 MCKAY ROAD  
LINCOLNVILLE, ME 04849**

RECEIVING WATER CLASSIFICATION: **ATLANTIC OCEAN/CLASS SB**

COGNIZANT OFFICIAL CONTACT INFORMATION:

**MICHAEL HARRIS  
(207)-664-4404  
[harrisenvironmental@hotmail.com](mailto:harrisenvironmental@hotmail.com)**

## 1. APPLICATION SUMMARY

- a. Application: On September 6, 2024, the Department accepted as complete for processing, an application from the Lincolnville Sewer District for renewal of combination Waste Discharge License (WDL) W007496-5C-H-R / Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102857, which was issued by the Department on August 5, 2019, for a five-year term. The August 5, 2019 permit authorized a daily maximum discharge of 25,000 gallons per day (GPD) of secondary treated municipal wastewater from a publicly owned treatment work facility to the West Penobscot Bay, Class SB, in Lincolnville, Maine.
- b. Source Description: At present the LSD facility treats wastewater from a cluster of ten commercial entities along the beach on Route #1 in Lincolnville. Sources include restaurants, the fire station, antique and glass shops. Lincolnville Sanitary District facility will also treat wastewater from residential and commercial properties along Route 1 and Route 173 in Lincolnville. A site location map is included as **Attachment A** of this Fact Sheet.
- c. Wastewater Treatment: LSD is an Amphidrome system manufactured by FR Mahoney. It involves the equalization basins and a hybrid aerated sand filter with a clear well basin that leads to the outfall. Additional processes include ultraviolet disinfection. The outfall consists of a 3-inch HDPE pipe with multi-port diffuser that discharges 25,000 gpd into West Penobscot Bay. LSD is in the process and in 2026 should have a new outfall that will be about 50 feet away from the current outfall and consist of a 4-inch HDPE pipe with a multi-port diffuser. A schematic diagram of the wastewater treatment system is included as **Attachment B** of this Fact Sheet.

## 2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions from the previous permitting action:
  1. Removing all references to chlorine or chlorine-based chemicals due to the facility having no ability to use chlorine or chlorine-based chemicals, only UV treatment.
  2. The monitoring frequency for pH and mercury were decreased to 3/Week and 2/YR, respectfully, due to the reported data being within the established limits and no exceedances.
- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee.

*February 19, 1989* – The Department issued to Richard McLaughlin of the Lobster Pound Restaurant, Waste Discharge License (WDL) #W007496-66-A-N for the discharge of 6,000 gpd of treated wastewater from a 286-seat restaurant and a takeout stand. W007496-66-A-N replaced WDL #W003192-41-A-R.

*September 6, 1990* – The Department issued WDL #W007496-66-B-T to the Lincolnville Beach Sanitary Facility, transferring and modifying the previous license. WDL #W007496-66-B-T included the discharge from a number of commercial/residential structures, the previously permitted restaurant, takeout, and the local fire station, all of which were part of this permit.

*October 21, 1991* – The Department issued WDL #W007496-66-C-M modifying the previous license to include: the discharge from a one-bedroom year-round dwelling located above the restaurant on Lot 79; extending the operating period for the restaurant to nine months of the year; and adding the discharge from the Department of Transportation Ferry Terminal. The total licensed discharge was increased to 10,655 to accommodate the additional flow. All of the added discharges were in continuous existence for the year prior to June 1, 1987.

*December 30, 1992* – The Department issued WDL #W007496-66-D-R renewing the previous order as a conditional permit.

*July 31, 2000* – The Department issued WDL #W007496-5C-E-R renewing the previous order for 10 years.

*August 5, 2010* – The Department issued combination MEPDES permit #ME0102857/WDL #W007495-5C-F-R for a five-year term.

*October 6, 2015* – The Department issued combination MEPDES permit #ME0102857/WDL #W007495-5C-G-R for a five-year term.

*January 2, 2019* – The permittee submitted a timely and complete application to the Department to renew #ME0102857/WDL W007495-5C-G-R for a publicly owned wastewater treatment facility located at 15 McKay Road in Lincolnville, Maine. This facility will provide secondary treatment for 25,000 of municipally generated wastewater. The application was accepted for processing on January 2, 2019 and assigned #ME0102857 / #W007495-6B-H-R.

*August 5, 2019* – The Department issued combination MEPDES permit #ME0102857 / WDL #W007495-6B-H-R for a five-year term. Updated the permit to fit the new facility with a design plan of 25,000 gpd, (to reflect the design capacity of the new facility). The plant went through the an upgrade to become a true publicly owned treatment work run by the Lincolnville Sewer District.

*August 16, 2024* – The permittee submitted a timely and complete application to the Department for the renewal of the MEPDES permit #ME0102857 / WDL #W007495-6B-H-R and was accepted on September 6, 2024. This permit was assigned WDL #W007495-6B-I-R / #ME0102857.

### **3. CONDITIONS OF PERMIT**

*Conditions of licenses*, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require the application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and Department rule *Surface Water Toxics Control Program*, 06-096 C.M.R. ch. 530, require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 C.M.R. ch. 584 (last amended February 16, 2020), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

### **4. RECEIVING WATER QUALITY STANDARDS**

*Classification of estuarine and marine waters*, 38 M.R.S. § 469(6) states “**6. Waldo County**. All estuarine and marine waters lying within the boundaries of Waldo County and that are not otherwise classified are Class SB waters.” *Standards for classification of estuarine and marine waters*, 38 M.R.S. § 465-B(2), describes the standards for Class SB waters as:

“**2. Class SB waters.** Class SB waters shall be the 2nd highest classification.

- A. *Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.*
- B. *Class SB waters must be of sufficient quality to support all estuarine and marine species indigenous to those waters without detrimental changes in the resident biological community. The dissolved oxygen content of Class SB waters may not be less than 85% of saturation. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU or MPN per 100 milliliters in any 90-day interval or 54 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication.*
- C. *Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.”*

## 5. REASONABLE POTENTIAL

Pursuant to 33 U.S.C. § 1311(b)(1)(C) and 40 C.F.R. § 122.44(d)(1), NPDES permits must contain any requirements in addition to technology based effluent limitations (TBELs) that are necessary to achieve water quality standards established under 33 U.S.C. § 1311(b)(1)(C). In addition, limitations “must control any pollutant or pollutant parameter (conventional, non-conventional, or toxic) which the permitting authority determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard (WQS), including State narrative criteria for water quality.” 40 C.F.R. § 122.44(d)(1)(i). To determine if the discharge causes, or has the reasonable potential to cause, or contribute to an excursion above any WQS, EPA considers: 1) existing controls on point and non-point sources of pollution; 2) the variability of the pollutant or pollutant parameter in the effluent; 3) the sensitivity of the species to toxicity testing (when evaluating whole

effluent toxicity); and 4) where appropriate, the dilution of the effluent by the receiving water. *See* 40 C.F.R. § 122.44(d)(1)(ii).

If the permitting authority determines that the discharge of a pollutant will cause, has the reasonable potential to cause, or contribute to an excursion above WQSs, the permit must contain water quality-based effluent limitations (WQBELs) for that pollutant. *See* 40 C.F.R. § 122.44(d)(1)(i).

## 6. RECEIVING WATER QUALITY CONDITIONS

The State of Maine Department of Environmental Protection 2018/2020/2022 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists marine waters at the permittee's outfall (ME010500021909\_SB\_386772B) as “Category 3: Coastal Designated Beaches with Insufficient Data or Information to Determine if Designated Uses are Attained (One or More Uses may be Impaired) due to Enterococci bacteria.”

The Maine Department of Marine Resources (MEDMR) closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the MEDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant’s disinfection system.

Thus, shellfish harvesting area assessment unit ID #ME010500021909\_SB\_WW\_PE is considered a “Category 3: Estuarine and Marine waters with Insufficient Data or Information to Determine if Shellfish Harvesting Designated Use is Attained” due to the site being closed to the harvesting of shellfish due the location of Lincolnville Sanitary District’s wastewater treatment plant outfall. The shellfish closure area can be found at <http://www.maine.gov/dmr/shellfish-sanitation-management/closures/pollution.html>.

*Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants.* All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing (“shellfish” consumption) due to elevated levels of polychlorinated biphenyls (PCBs) and other persistent, bioaccumulating substances in lobster tomalley.

## 7. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established, and this permit is carrying forward, a daily maximum discharge flow limitation of 25,000 gpd year-round.

The Department reviewed 60 Discharge Monitoring Reports (DMRs) that were submitted for the period August 2019 through November 2024. A review of the data indicates that following:

### Flow March-November (DMRs=60)

Value	Limit (MGD)	Range (GPD)	Mean (GPD)
Daily Maximum	25,000	1,088 -31,433*	8,262

\*There were four exceedances in 2019, 2020 and 2024 of the previous permit cycle.

- b. Dilution Factors: *Surface Water Toxics Control Program*, 06-096 C.M.R. ch. 530(4)(a)(2) (effective March 21, 2012) states:

*“(2) For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.*

- (a) For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.*
- (b) For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*
- (c) In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor”*

Given the details in the application materials, the Department estimated the dilution factors for the outfall location (Table 1) based on:

- The daily maximum flow design criterion of 25,000 gpd; and
- Best Professional Judgement (BPJ) using on the amended discharge characteristics associated with the location and configuration of the outfall structure.

Table 1: Dilution Factors for Lincolnville Beach, Penobscot Bay

Type	Dilution Factor
Acute	125:1
Chronic	365:1
Harmonic Mean <sup>(1)</sup>	1,095:1

Notes:

<sup>1</sup>The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the U.S. EPA publication, “*Technical Support Document for Water Quality-Based Toxics Control*” (Office of Water; USEPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

c. Biochemical Oxygen Demand and Total Suspended Solids:

The previous permitting action established and this permitting action is carrying forward the technology-based monthly average, weekly average, and daily maximum BOD<sub>5</sub> and TSS concentration limits of 30 mg/L, 45 mg/L, and 50 mg/L, respectively. The monthly average concentration limit is based on secondary treatment requirements as defined in 06-096 C.M.R. ch. 525(3)(III)(a & b) and the Department’s best professional judgement.

Due to the facility upgrades, the previous permitting action established and this permitting action is carrying forward monthly average, weekly average and daily maximum mass limitations that are

based on a design capacity monthly average flow of 25,000 GPD (0.025 MGD). The mass limits were derived as follows:

Monthly Average Mass Limit:  $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.025 \text{ MGD}) = 6.3 \text{ lbs./day}$   
Weekly Average Mass Limit:  $(45 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.025 \text{ MGD}) = 9.4 \text{ lbs./day}$   
Daily Maximum Mass Limit:  $(50 \text{ mg/L})(8.34 \text{ lbs./gallon })(0.025 \text{ MGD}) = 10.4 \text{ lbs./day}$

The previous permitting action established and this permitting action is carrying forward the monitoring frequency of once per month (1/Month). This permitting action is carrying forward the requirement for a minimum of 85% removal of BOD<sub>5</sub> and TSS as required by 06-096 C.M.R. ch. 525(3)(III)(a)(3) and (b)(3) of the Department's rules. The permittee has not demonstrated that it qualifies for special considerations pursuant to 06-096 C.M.R. ch. 525(3)(IV)(d) to maintain a waiver from the 85% removal requirement when influent concentration is less than 200 mg/L.

The Department reviewed 59 DMRs that were submitted for the period August 2019 through November 2024. A review of data indicates the following:

**BOD<sub>5</sub> Mass (N = 59)**

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	6.3	0.00 – 0.64	0.05
Weekly Average	9.4	0.00 – 0.64	0.07
Daily Maximum	10.4	0.00 – 0.64	0.09

**BOD<sub>5</sub> Concentration (N = 59)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	<1.20 – 22.00	< 5.78
Weekly Average	45	< 0.06 – 40.00	< 6.16
Daily Maximum	50	< 2.00 – 40.00	< 6.25

**TSS Mass (N = 59)**

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	6.3	0.00 – 1.13	0.07
Weekly Average	9.4	0.00 – 1.13	0.07
Daily Maximum	10.4	0.01 – 1.13	0.10

**TSS Concentration (N = 59)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	< 2.20 – 39.00*	< 6.48
Weekly Average	45	< 0.06 – 39.00	< 6.42
Daily Maximum	50	< 2.20 – 39.00	< 6.48

\*There was a single exceedance in 2019 during the previous permit cycle.

d. Settleable Solids: The previous permitting action established and this permitting action is carrying forward a daily maximum technology limit of 0.3 ml/L for settleable solids, which is considered by the Department as a best professional judgment of BPT for secondary treated wastewater, along with a minimum monitoring frequency requirement of 3/Week.

The Department reviewed 59 DMRs that were submitted for the period August 2019 through November 2024. A review of data indicates the following:

**Settleable Solids Concentration (N = 59)**

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	< 0.10 – 0.10	<0.10

e. **Fecal Coliform Bacteria:** The previous permitting action established and this permitting action is carrying forward monthly average and daily maximum concentration limits of 14 colonies/100 ml and 31 colonies/100 ml, respectively, for fecal coliform bacteria, which are consistent with the National Shellfish Sanitation Program.

A summary of effluent fecal coliform bacteria data as reported on the DMRs for the period October 2015 – February 2019 is as follows:

**Fecal coliform bacteria (DMRs = 36)**

Value	Limit (col/100 mL)	Range (col/100 mL)	Mean (col/100 mL)
Monthly Average	14	< 1.00 – 109*	< 4.61
Daily Maximum	31	< 1.00 – 2,420*	< 128.6

\*Eight exceedances occurred during the previous permit cycle in 2022, 2023, and 2024

The previous permit established and this permit is carrying forward a minimum monitoring frequency for fecal coliform bacterial of one time per week (1/Week) based on the Department best professional judgment (BPJ). At the request of the Maine Department of Marine Resources **fecal coliform bacteria and monitoring limits are in effect year-round. Total residual chlorine (TRC) limits and monitoring requirements are in effect year-round whenever chlorine compounds are in use at the request of the Maine Department of Marine Resources in order to protect local shellfish resources near the outfall and to protect the health, safety and welfare of the public.**

f. **Enterococcus Bacteria:** The previous permitting action is established and this permitting action is carrying forward a monthly average and a daily maximum limit of 8 colonies/ 100 mL and 54 colonies/ 100 mL, respectively. In addition to fecal coliform limits to protect the designated use of “propagation and harvesting of shellfish”, it is appropriate to require end-of-pipe limits for enterococcus bacteria, based on current Maine criteria, to protect the designated use of “recreation in and on the water” on a seasonal basis. The seasonal reporting period will be April 15<sup>th</sup> through October 31<sup>st</sup> and a once per week (1/Week) monitoring requirement is also being carried forward in this permitting action.

A summary of effluent fecal coliform bacteria data as reported on the DMRs for the period October 2015 – February 2019 is as follows:

**Enterococci Bacteria (N = 21)**

Value	Limit (col/100 mL)	Range (col/100 mL)	Mean (col/100 mL)
Monthly Average	8	1.00 – 14.00*	2.33
Daily Maximum	54	1.00 – 2,420*	131.3

\*Two exceedances occurred during the previous permit cycle in 2022 and 2023.

g. **Total Residual Chlorine (TRC):** The previous permit established and this permit is eliminating the technology-based daily maximum limit of 1.0 mg/L. Limits on total residual chlorine are specified to ensure attainment of the in-stream water quality criteria for chlorine and that Best Practicable Treatment (BPT) technology is utilized to abate the discharge of chlorine. Permits issued by this

Department impose the more stringent of the calculated water quality based or BPT based limits. End-of-pipe water quality-based thresholds for TRC were calculated utilizing saltwater criteria found in 06-096 Ch. 584, as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Acute Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	125:1 (A) 365:1 (C)	1.6 mg/L	2.7 mg/L

The Department has established a daily maximum best practicable treatment (BPT) limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds unless the calculated acute water quality-based threshold is lower than 1.0 mg/L. For facilities that need to dechlorinate the discharge in order to meet water quality-based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively, only when the water quality based thresholds calculated are lower than the BPT limits. The permittee's facility does not need to dechlorinate the effluent prior to discharge in order to consistently achieve compliance with the calculated acute water quality-based threshold. Therefore, the Department has established the daily maximum best practicable treatment limit of 1.0 mg/L and a monitoring frequency of once per week (1/Week).

The Department reviewed 13 DMRs that were submitted for the period August 2019 through November 2024. A review of data indicates the following:

**Total Residual Chlorine (N=13)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.00 – 0.98	0.70

LSD facility is set-up to use UV light for disinfection since 2021, and not TRC. The TRC limits and requirements previously established are being eliminated from this permit due to the fact that LSD has no capability to use chlorine or chlorine-based compounds.

h. pH: The previous permitting action established a technology-based pH limit of 6.0 – 9.0 standard units (SU), which is based on 06-096 C.M.R. ch. 525(3)(III)(c), and an increased monitoring frequency requirement of 3/Week. This permitting action is carrying forward the limit and monitoring frequency set forth in the previous permit.

The Department reviewed 54 DMRs that were submitted for the period of August 2019 through November 2024. A review of data indicates the following:

**pH (N=54)**

Value	Limit (SU)	Range (SU)	Mean (SU)
Minimum	6.0 – 9.0	6.50 – 8.42	7.59
Maximum	6.0 – 9.0	7.70 – 8.94	8.05

i. Mercury: This permitting action is establishing an interim monthly average of 4.5 ng/L and a daily maximum of 6.75 ng/L and a monitor frequency of 1/Year for Mercury pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Waste Discharge Licenses*, 38 M.R.S. § 413 and

*Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 C.M.R. ch. 519 (last amended October 6, 2001).

The interim limits were established according to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 C.M.R. ch. 519 (last amended October 6, 2001). Due the monthly average calculation being 1.52 ng/L which is below the stated monthly average minimum of 4.5 ng/L, 06-09 C.M.R. ch. 519 (4)(B)(2). Therefore, the monthly interim limit for mercury is 4.5 ng/L. The calculations were done as follows:

$$\text{Monthly Average} \Rightarrow \left( \left( \frac{0.26}{\sqrt{11}} \right) \times 1.2 \right) + 0.094 = 1.52 \frac{\text{ng}}{\text{L}}$$

$$\text{Daily Maximum} \Rightarrow 4.5 \frac{\text{ng}}{\text{L}} \times 1.5 = 6.75 \frac{\text{ng}}{\text{L}}$$

The permittee must conduct all mercury sampling required by this permit or required to determine compliance with interim limitations established pursuant to 06-096 C.M.R. ch. 519 in accordance with the USEPA's "clean sampling techniques" found in USEPA Method 1669, *Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels*. All mercury analysis must be conducted in accordance with USEPA Method 1631 revision E, *Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Atomic Fluorescence Spectrometry*. The Effluent Mercury Test Report Form can be found at [https://www.maine.gov/dep/water/wd/municipal\\_industrial/index.html](https://www.maine.gov/dep/water/wd/municipal_industrial/index.html).

The Department reviewed 11 DMRs that were submitted for the period of August 2019 through November 2024. A review of data indicates the following:

#### Mercury (n=11)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	Report Only	0.74 – 1.65	1.43
Daily Maximum	Report Only	0.63 – 3.66	1.34

j. Nitrogen: The USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. To date, the permittee has not conducted total nitrogen testing on its discharge. As of December 2024, the Department has 327 total nitrogen effluent values with an arithmetic mean of 20.9 mg/L collected from various municipally-owned treatment works that discharge to marine waters of the State. None of the facilities whose effluent data were used are specifically designed to remove total nitrogen. For the MEPDES permitting program, the Department considers 20.9 mg/L to be representative of total nitrogen discharge levels for all facilities providing secondary treatment that discharge to marine waters in the absence of facility specific data, and therefore 20.9 mg/L is being used as the total nitrogen discharge concentration from the Lincolnville Sanitary District.

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in USEPA's Region 1, numeric total nitrogen criteria have been established for relatively few estuaries, but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L. Based on studies in USEPA's Region 1 and the Department's best professional judgment of thresholds that are protective of Maine water quality

standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of aquatic life using eelgrass as the indicator.

Three known surveys have been completed along the Lincolnville Beach shoreline to document presence/absence of eelgrass. The 1992 and 2003 surveys were conducted by the ME Department of Marine Resources, and documented eelgrass within 40 m of the wastewater outfall. The fringing eelgrass noted along the shoreline was similar in both years, and in 2003, was documented as moderate (40-70%) cover adjacent to the outfall. The Department (DEP) mapped eelgrass in the larger Penobscot Bay in 2024, and determined that distribution along the Lincolnville shoreline was quite similar to that mapped in 2003, with moderate to high cover within 5 m of the outfall. Based on this mapping history and persistence of eelgrass resource in the vicinity of the Lincolnville Beach outfall, the use of 0.32 mg/L as a total nitrogen threshold value for protection of eelgrass is appropriate for this receiving water.

Except for ammonia, nitrogen is not a conventional toxic pollutant; thus, the department does not generally use near-field dilution factors to evaluate the reasonable potential for impacts due to nitrogen. Due to the difficulty of determining a far-field dilution factor for this minor, unconfined discharge, however, use of a near-field dilution factor is sufficient to demonstrate there is no reasonable potential to exceed the total nitrogen limit protective of eel grass outside the zone of initial dilution (i.e., in the far-field). The permittee's facility has a chronic near-field dilution factor of 365:1. Using this dilution factor as a conservative limit and the effluent total nitrogen concentration of 19.1 mg/L documented above, the increase in the total nitrogen concentration of the receiving water in the far-field is calculated to be less than 0.052 mg/L.

$$\text{Increase in ambient TN concentration in the far - field} < \frac{19.1 \frac{\text{mg}}{\text{L}}}{365} < 0.052 \text{ mg/L}$$

The Department and external partners have been collecting ambient total nitrogen data along Maine's coast. No total nitrogen data are known to exist close to the shallow subtidal shoreline in the vicinity of Lincolnville. In general, few data points exist along the exposed coastline of western Penobscot Bay where eelgrass is present and upland development could contribute seasonally to stormwater nutrients. For the calculation of a background total nitrogen value, the Department is carrying forward use of data from six sites along the exposed shoreline of western Penobscot Bay and islands, sampled in 2003 and 2015. For a more recent comparison, provisional data from two 2020 National Coastal Condition Assessment sites in western Penobscot Bay demonstrate total nitrogen values within the range of the data used from 2003 and 2015. The total nitrogen data from the six sites for which data are final provide a reasonable approximation for the background concentration likely to occur along the Lincolnville shoreline. From these sites, the Department has calculated a median background concentration of 0.16 mg/L (n=6).

Using the background ambient concentration of 0.16 mg/L documented above, the ambient total nitrogen concentration in the far-field is calculated to be less than 0.212 mg/L.

$$\text{Ambient TN concentration in the far-field} < 0.16 \text{ mg/L} + 0.052 \text{ mg/L} < 0.212$$

A total nitrogen concentration less than 0.212 mg/L does not exceed the total nitrogen threshold of 0.32 mg/L for the protection of eelgrass. Using the reasonable potential calculations above and in the absence of any information that the receiving water is not attaining standards, the department is making a best

professional judgment determination that the discharge of total nitrogen from the Lincolnville Beach facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters. This permitting action is not establishing limitations or monitoring requirements for total nitrogen.

k. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing:

38 M.R.S. § 414-A and 38 M.R.S. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 C.M.R. ch. 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 C.M.R. ch. 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters. 06-096 C.M.R. ch. 530(2)(A) specifies the dischargers subject to the rule as;

*“All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria.”*

06-096 C.M.R. ch. 530(2)(A) further specifies the criteria for the exemption of certain discharges from toxics testing as follows:

*“The following dischargers are exempt from testing requirements of this rule unless the Department determines that there is a need for testing based on the nature, location or circumstances of an individual discharge.*

- (1) *Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*
- (2) *Discharges from residential overboard discharge systems; or*
- (3) *Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program. See Chapter 570, Combined Sewer Overflow Abatement.”*

The permittee's facility is exempt from the 06-096 C.M.R. ch. 530 requirements as it permitted to discharge less than 50,000 gpd or solely domestic wastewater and the chronic dilution factor is greater than 50:1. However, should there be a substantial change in the characteristics of the discharge in the future; the Department may reopen this permit pursuant to Special Condition K, Reopening of Permit for Modifications, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

## 8. ANTI-BACKSLIDING

Federal regulation 40 C.F.R. §122.44(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the

regulation states that except for provisions specified in the regulation, effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit.

Applicable exceptions include: (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance, or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance. All limitations in this permit are equally or more stringent than those in the previous permit.

## **9. ANTI-DEGRADATION**

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of West Penobscot Bay to meet standards for Class SB classification.

## **10. PUBLIC COMMENTS**

Public notice of this application was made in the *Camden Herald* newspaper on or about August 14, 2024. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 C.M.R. ch. 522 (effective January 12, 2001).

## **11. DEPARTMENT CONTACTS**

Additional information concerning this permitting action may be obtained from, and written comments sent to:

Asenath Frizzell  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017      Telephone: (207) 215-6856  
e-mail: [Asenath.Frizzell@maine.gov](mailto:Asenath.Frizzell@maine.gov)

## **12. RESPONSE TO COMMENTS**

*This section reserved for future comments*

## **ATTACHMENT A**



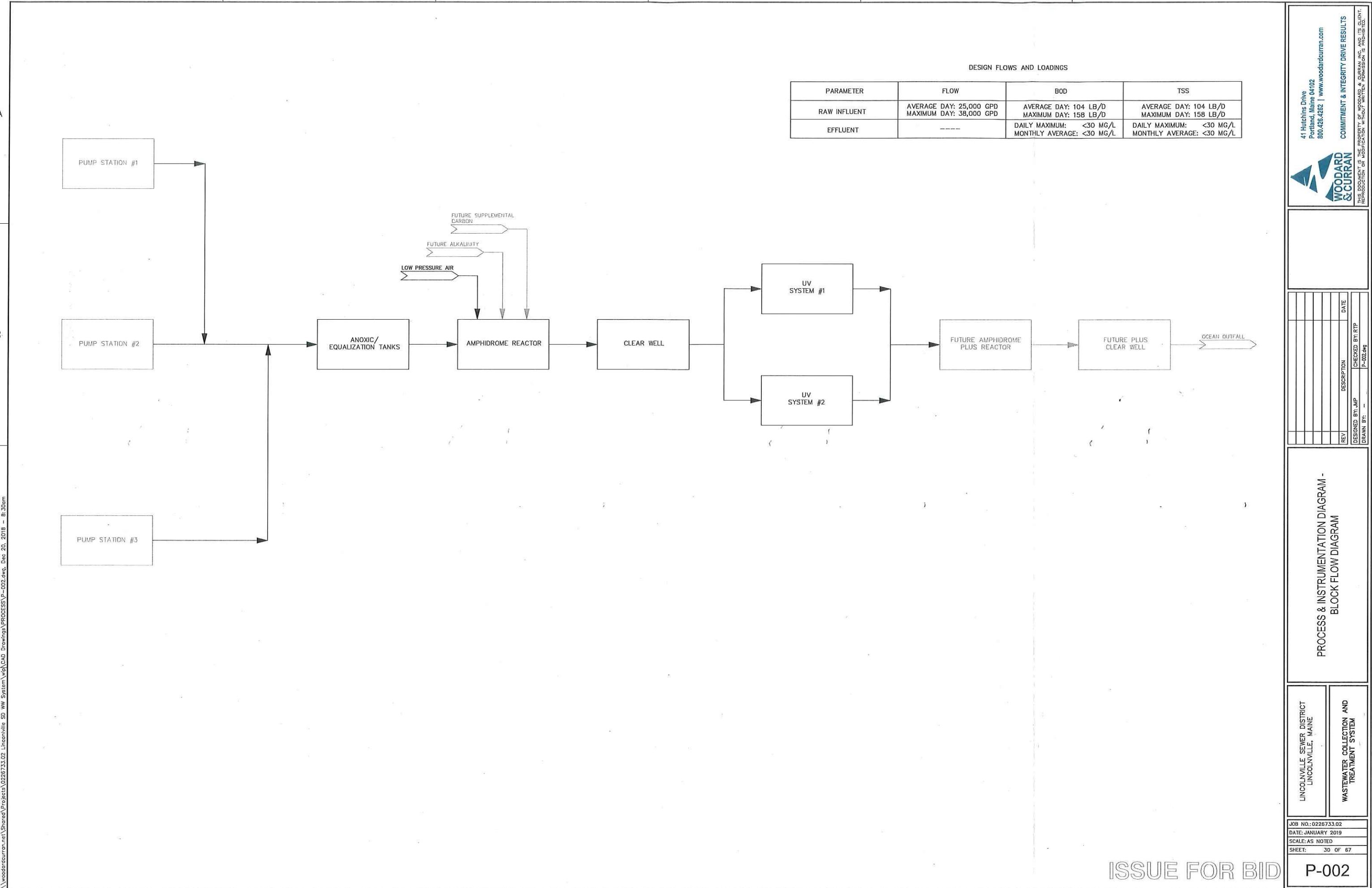
Lincolnville

Lincolnville  
Beach  
Area

LINCOLNVILLE BEACH SANITARY FACILITY

001

## **ATTACHMENT B**



## **ATTACHMENT C**

**STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**CHAPTER 530.2(D)(4) CERTIFICATION**

MEPDES# \_\_\_\_\_ Facility Name \_\_\_\_\_

Since the effective date of your permit, have there been;		<b>NO</b>	<b>YES</b> Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	<input type="checkbox"/>	<input type="checkbox"/>
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
4	Increases in the type or volume of hauled wastes accepted by the facility?	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**This document must be signed by the permittee or their legal representative.**

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

**Scheduled Toxicity Testing for the next calendar year**

Test Conducted	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
WET Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Priority Pollutant Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analytical Chemistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other toxic parameters <sup>1</sup>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.*

<sup>1</sup> This only applies to parameters where testing is required at a rate less frequently than quarterly.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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**A. GENERAL PROVISIONS**

**1. General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

**2. Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
  - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
  - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

**3. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**4. Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**5. Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6. Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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**7. Oil and hazardous substances.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

**8. Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

**9. Confidentiality of records.** 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

**10. Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

**11. Other laws.** The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee if its obligation to comply with other applicable Federal, State or local laws and regulations.

**12. Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## B. OPERATION AND MAINTENACE OF FACILITIES

### 1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

**2. Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**3. Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**4. Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

#### 5. Bypasses.

##### (a) Definitions.

- (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (c) of this section.
  - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

**6. Upsets.**

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated; and
  - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).
  - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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**C. MONITORING AND RECORDS**

**1. General Requirements.** This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

**2. Representative sampling.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

- (ii) The following shall be included as information which must be reported within 24 hours under this paragraph.
  - (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
  - (B) Any upset which exceeds any effluent limitation in the permit.
  - (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.
- (iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.
- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.
- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**2. Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**3. Availability of reports.** Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

**4. Existing manufacturing, commercial, mining, and silvicultural dischargers.** In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) One hundred micrograms per liter (100 ug/l);
  - (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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(b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) Five hundred micrograms per liter (500 ug/l);
- (ii) One milligram per liter (1 mg/l) for antimony;
- (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
- (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

#### 5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
  - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

#### E. OTHER REQUIREMENTS

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminates and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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**Discharge Monitoring Report ("DMR")** means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Flow weighted composite sample** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**Grab sample** means an individual sample collected in a period of less than 15 minutes.

**Interference** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Maximum daily discharge limitation** means the highest allowable daily discharge.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Pass through** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**Permit** means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

**Person** means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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**Point source** means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

**Time weighted composite** means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.



# DEP INFORMATION SHEET

## Appeals to the Board of Environmental Protection

Date: November 2024

Contact: [Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov) or  
(207) 314-1458

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### **SUMMARY**

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of: (1) a final license decision made by the Commissioner of the Department of Environmental Protection ("DEP"); or (2) an insurance claim-related decision ("Clean-up and Response Fund decision") made by the Commissioner or the Office of State Fire Marshal pursuant to [38 M.R.S. § 568-A](#).

Except as explained below, there are two methods available to an aggrieved person seeking to appeal a license decision made by the Commissioner or a Clean-up and Response Fund decision: (1) an administrative appeal before the Board of Environmental Protection ("Board"); or (2) a judicial appeal before Maine's Superior Court. An aggrieved person seeking review of a license decision or Clean-up and Response Fund decision made by the Board may seek judicial review in Maine's Superior Court.

An appeal of a license decision made by the DEP Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)), a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)), or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

A person filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, [Processing of Applications and Other Administrative Matters \(06-096 C.M.R. ch. 2\)](#); Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); and the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#).

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Within 30 calendar days of the date of: (1) a final license decision of the Commissioner; or (2) a Clean-up and Response Fund decision, an aggrieved person may appeal to the Board for review of that decision.

"Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision or a Clean-up and Response Fund decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30<sup>th</sup> calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

An appeal to the Board may be submitted via postal mail or electronic mail (e-mail) and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov)

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee, if the appellant is not the licensee; and (3) if a hearing was held on the application, any intervenors in that hearing proceeding. For appeals of Clean-up and Response Fund decisions made by the State Fire Marshal, the appellant must also send a copy of the appeal to the State Fire Marshal. **Please contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license or Clean-up and Response Fund decision.**

#### **REQUIRED APPEAL CONTENTS**

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at <https://www.maine.gov/sos/cec/rules/06/chaps06.htm>, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A person who seeks to appeal a decision to the Board is encouraged to contact the DEP (or State Fire Marshal for Clean-up and Response Fund decisions made by that agency) to inspect the record before filing an appeal.
2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (see Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.
4. *Alternative dispute resolution.* If the appeal participants agree to use mediation or another form of alternative dispute resolution (“ADR”) to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.*

## WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair.

Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage <https://www.maine.gov/dep/bep/index.html>. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See Chapter 2, Section 23(I).* The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

## II. JUDICIAL APPEALS

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see 38 M.R.S. § 346(1); Chapter 2; 5 M.R.S. § 11001*; and M.R. Civ. P. 80C). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other aggrieved person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. *See 38 M.R.S. § 346(4), the Maine Administrative Procedure Act, statutes governing a particular license decision, and the Maine Rules of Civil Procedure for substantive and procedural details applicable to judicial appeals.*

## ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal procedure, for administrative appeals contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or 207-287-2811 or the Board Executive Analyst at [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov) or 207-314-1458, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

**Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.**