



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

November 19, 2025

Mr. Wright
Wright Place LLC. –
Rogers farm
Clinton, Maine 04927

***Sent via electronic mail Delivery
confirmation requested***

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037125 Maine Waste Discharge License (WDL) Application #W009036-5S-D-R Proposed Draft MEPDES Permit Renewal.

Dear Mr. Wright:

Enclosed is a copy of your **proposed** MEPDES/WDL Renewal draft which is being made available for review and comment prior to the formal public comment. By transmittal of this letter, you are provided with an opportunity to comment on the preliminary draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). 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, Wednesday, November 19, 2025, and ends on **Friday, December 19, 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 on Friday, December 19, 2025. Failure to submit comments in a timely fashion will 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

If you have any questions regarding the matter, please feel free to call me at (207) 248-2032 or email me at grace.vierling@maine.gov

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

web site: www.maine.gov/dep

Wright Farm LLC. – Rogers Farm

November 19, 2025

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Sincerely,
Grace Vierling
Division of Water Quality Management
Bureau of Water Quality

cc:

James Knight, DEP
Bradley Kelso, DEP
Laura Crossley, DEP
Lori Mitchell, DEP
Gregg Wood, DEP
Wendy Garland, DEP
Michael Cobb, USEPA
Richard Carvalho, USEPA
Mark Hendrich, DACF
Abigail Lown, Northern Tilt



IN THE MATTER OF

THE WRIGHT PLACE LLC. – ROGERS FARM	)	MAINE POLLUTANT DISCHARGE
CLINTON, KENNEBEC COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
CONCENTRATED ANIMAL FEEDING OPERATION	)	AND
ME0037125	)	WASTE DISCHARGE LICENSE
W009036-5S-D-R	)	RENEWAL
APPROVAL		

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 [APPLICANT’S NAME], (“permittee”), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On March 14, 2025, the Department accepted as complete for processing an application from Wright Farm LLC. – Rogers Farm for renewal of combination Waste Discharge License (WDL) W009036-5S-D-R/ Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037125, which was issued by the Department on January 9, 2020, for a five-year term. The January 9, 2020, permit authorized The Wright Place LLC. – Rogers Farm to manage process wastewater and stormwater runoff that is generated by the operation of a concentrated animal feeding operation (CAFO) which discharges stormwater to Twelve Mile Brook, Class B waters, in Clinton, Maine. The permittee is required to manage the facility such that there is no discharge of process wastewater to surface waters during precipitation events including the runoff and direct precipitation less than a 24-hour, 25-year storm event.

PERMIT SUMMARY

This permitting action is carrying forward the previously established requirements to implement and maintain Best Management Practices (BMPs) to prevent discharges to water of the State of Maine, and implement and keep current, an approved Nutrient Management Plan in accordance with Maine Department of Agriculture, Conservation and Forestry (DACF) *Nutrient Management Rules*, 01-001 C.M.R. 565 §6 (last amended July 3, 2018). On April 15, 2025, the DACF issued a Livestock Operation Permit (LOP) pursuant to *Nutrient Management Act*, 7 M.R.S. §4204 and §4205 for the permittee’s facility.

PERMIT SUMMARY (Cont'd)

Additionally, this permit is modifying the following:

- a. Updating Special Condition A, *Definitions*, in accordance with 40 C.F.R. §§ 122 and 412.
- b. Updating Special Condition C, *Nutrient Management Plan*, to ensure the proper management of mortalities in accordance with DACF 01-001 C.M.R. Ch. 211.
- c. Reorganizing the Special Conditions to improve clarity of this permit.
- d. Incorporated the following Special Conditions
 - a. Special Condition D, *Additional Best Management Practices*;
 - b. Special Condition E, *Transfer of Maure or Wastewater*;
 - c. Special Condition F, *Inspections and Corrective Actions*, and;
 - d. Special Condition G, *Record Keeping*.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated **November 19, 2025**, and subject to the Conditions listed below, the DEP makes the following CONCLUSIONS:

1. Discharges, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. Discharges, 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., Section 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 water of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - c. Where the standards of classification of the receiving water body are met or not met, the discharge will not cause or contribute to the failure of the water body to meet standards of classification;
 - d. Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher quality will be maintained and protected; and
 - e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following the opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. Discharges 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).

ACTION

THEREFORE, the Department APPROVES the above noted application of Rogers Farm to discharge stormwater to Twelve Mile Brook, Class B waters and manage process wastewater generated by the operation of a CAFO located in Clinton, Maine, such that there are no discharge(s) to surface waters resulting from precipitation events up to and including a 24-hour, 25-year storm event. The permittee is 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) after that 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*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. Ch. 2 § 20(A) (effective September 15, 2024)].

DONE AND DATED AT AUGUSTA, MAINE, THIS _____ DAY OF _____, 2025,

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
MELANIE LOYZIM, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: March 10, 2025.

Date of application acceptance: March 14, 2025.

This order prepared by GRACE VIERLING, BUREAU OF WATER QUALITY

SPECIAL CONDITIONS

A. DEFINITIONS

Definitions are in accordance with definitions found in 40 Code of Federal Regulations (C.F.R.) §§ 412.2 and 412.4 and 01-001 C.M.R. 565.

1. Process-generated wastewater or wastewater means water directly or indirectly used in the operation of the CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, or bedding.
2. Production area means that part of a CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milk rooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.
3. Retention facility or retention structures or wastewater facility means all collection ditches, conduits and swales for the collection of runoff and wastewater, and all basins, ponds and lagoons used to store waste, wastewater and manure.
4. Stormwater means stormwater runoff or snow melt runoff that does not come into contact or co-mingle with process wastewater.
5. 25-year, 24-hour rainfall event means a precipitation event with a probable recurrence interval of once in twenty-five years as defined by the National Weather Service in Technical Paper No. 40, "*Rainfall Frequency Atlas of the United States*," May, 1961 pg. 54, or equivalent regional or State rainfall probability information developed from this source.

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS

Each of the following minimum standards is designed to achieve the objective of preventing discharges of pollutants to waters of the State of Maine from CAFOs and from land application activities under the operational control of the CAFO. Minimum standards or portions of minimum standards are to be implemented on the effective date of the permit. In addition to these minimum standards, permittees are also required to comply with other applicable technology-based and water quality-based effluent limitations of this permit.

In accordance with 40 C.F.R. § 412, the permittee must achieve the following effluent limitations representing the application of best practicable control technology currently available (BPT), best conventional pollutant control technology (BCT), and best available technology economically achievable (BAT):

1. Production areas.

Discharges of process wastewater are prohibited unless the discharge is the result of a precipitation event that exceeds a 25-year, 24-hour storm event. There must be no discharge of manure, litter, or process wastewater pollutants into waters of the State from the production area, except whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged into the State waters provided the following:

- i. The production area is designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event. At a minimum, the design storage volume of the manure lagoon must be adequate to contain the following:
 - a. The volume of manure, litter and process wastewater, and other wastes accumulated during the storage period;
 - b. Normal precipitation less evaporation during the storage period;
 - c. Normal runoff during the storage period;
 - d. The direct precipitation from the 25-year, 24-hour storm event;
 - e. The runoff from the 25-year, 24-hour storm event from the production area;
 - f. Residuals solids after liquid has been removed;
 - g. Necessary freeboard to maintain structural integrity; and
 - h. A minimum treatment volume, in the case of treatment lagoons.
- ii. The production area is operated in accordance with the additional measures and records required by this permit.

2. Land application areas

- i. There must be no discharge of manure, litter, or process wastewater to waters of the State as a result of application of stated materials to land areas under the control of the permittee, except where it is agricultural storm water runoff. An agricultural stormwater discharge occurs where manure, litter or process wastewater has been

SPECIAL CONDITIONS

B. DISCHARGE LIMITATIONS (Cont'd)

applied in accordance with the terms and conditions of the NMP and there is a precipitation related discharge of these materials from land areas under the control of the permittee.

- ii. Discharges of stormwater must;
 - a. Not contain a visible oil sheen, foam or floating solids in the receiving waters at any time which would impair the usages designated for the classification of the receiving waters;
 - b. Not contain 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;
 - c. Not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated for the classification of the receiving waters; and
 - d. Notwithstanding specific conditions of this permit, discharges must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. NUTRIENT MANAGEMENT PLAN

In accordance with 40 CFR Parts 122 and 412 and Maine Department of Agriculture, Conservation and Forestry (DACF) Rule 01-001 Ch. 565, the permittee must maintain and implement a nutrient management plan that, at a minimum, contains best management practices necessary to meet the requirements of this section and applicable effluent limitations and standards, including those specified in this permit.

- 1. NMP development and maintenance
 - i. The permittee must maintain a copy of the NMP on site and be made available to the Department upon request.
 - ii. The Nutrient Management Plan must be updated at least once each year and must be approved by a certified nutrient management plan specialist at least every five years.
- 2. Best Management Practices.

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- i. Production area BMPs
 - a. Ensure proper management of mortalities (*i.e.*, dead animals) to ensure they are not disposed of in a liquid manure or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities, and must be handled in accordance with the DACF Ch. 211, *Rules for the Disposal of Animal Carcasses*, to prevent the discharge of pollutants to waters of the State;
 - b. Ensure that clean water is diverted, as appropriate, from the production area. Clean water includes, but is not limited to, rain falling on the roofs of facilities and runoff from adjacent land. Any clean water that is not diverted and comes into contact with raw materials, products or by-products including manure, litter, process wastewater, feed, milk or bedding materials is subject to effluent limitations in Special Condition B, *Discharge Limitations*, of this permit;
 - c. Prevent direct contact of confined animals with waters of the State;
 - d. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or stormwater storage or treatment system unless specifically designed to treat such chemicals and other contaminants. Examples of chemicals include, but are not limited to, pesticides, hazardous and toxic chemicals, and petroleum products and byproducts;
 - e. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
 - f. Establish protocols for land application of manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater;
 - g. Identify specific records that will be maintained to document the implementation and management of the minimum elements described in the above section;
 - h. Ensure the implementation of adequate procedures to ensure proper operation and maintenance of the storage facilities. Store dry manure in production buildings or in storage facilities or otherwise store or modify the site (e.g. berms, buffers) in such a way as to prevent polluted runoff (e.g., located on relatively flat land, away from water bodies, wetlands, and wells, and/or surrounded by a berm or buffer). Provide adequate storage capacity in the compost site for the typical quantity of manure generated over a 180-day period of time beginning December 1st of each year and maintain adequate storage for 10 days in the production area on a year-round basis;

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- i. Ensure the presence and maintenance of buffer strips or other equivalent practices near feedlots, manure storage areas, and land application areas that are sufficient to minimize discharge of pollutants to surface waters of the State of Maine (e.g., soil erosion and manure and wastewater). These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, forested riparian buffers, terracing, and diversion; and
 - j. Depth marker. All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event.
- ii. Land application BMPs
- a. Determination of application rates. Application rates for manure, litter, and other process wastewater applied to land under the ownership or operational control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the technical standards for nutrient management established by DACF in 01-001 C.M.R. ch. 565. Such technical standards for nutrient management shall:
 - 1. **Linear approach.** An approach that expresses rates of application as pounds of nitrogen and phosphorus, according to the following specifications:
 - I. The terms include maximum application rates from manure, litter, and process wastewater for each year of permit coverage, for each crop identified in the nutrient management plan, in chemical forms in pounds per acre, per year, for each field to be used for land application, and certain factors necessary to determine such rates. At a minimum, the factors that are terms must include: The outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses of a field such as pasture or fallow fields; the realistic yield goal for each crop or use identified for each field; the nitrogen and phosphorus recommendations for each crop or use identified for each field; credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; and accounting for all other additions of plant available nitrogen and phosphorus to the field. In addition, the terms include the form and source of manure, litter, and process wastewater to be land-applied; the timing and method of land application; and the methodology by which the nutrient management plan accounts for the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

II. Large CAFOs that use this approach must calculate the maximum amount of manure, litter, and process wastewater to be land applied at least once each year using the results of the most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application; or

2. **Narrative rate approach.** An approach that expresses rates of application as a narrative rate of application that results in the amount, in tons or gallons, of manure, litter, and process wastewater to be land applied, according to the following specifications:

I. The terms include maximum amounts of nitrogen and phosphorus derived from all sources of nutrients, for each crop identified in the nutrient management plan, in chemical forms in pounds per acre, for each field, and certain factors necessary to determine such amounts. At a minimum, the factors that are terms must include: the outcome of the field-specific assessment of the potential for nitrogen and phosphorus transport from each field; the crops to be planted in each field or any other uses such as pasture or fallow fields, the realistic yield goal for each crop or use identified for each field; and the nitrogen and phosphorus recommendations for each crop or use identified for each field. In addition, the terms include the methodology by which the nutrient management plan accounts for the following factors when calculating the amounts of manure, litter, and process wastewater to be land applied: results of soil tests conducted in accordance with protocols identified in the nutrient management plan; credits for all nitrogen in the field that will be plant available; the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; the form and source of manure, litter, and process wastewater; the timing and method of land application; and volatilization of nitrogen and mineralization of organic nitrogen.

II. The terms of the nutrient management plan include alternative crops identified in the CAFO's nutrient management plan that are not in the planned crop rotation. Where a CAFO includes alternative crops in its nutrient management plan, the crops must be listed by field, in addition to the crops identified in the planned crop rotation for that field, and the nutrient management plan must include realistic crop yield goals and the nitrogen and phosphorus recommendations for each crop. Maximum amounts of nitrogen and phosphorus from all sources of nutrients and the amounts of manure, litter, and process wastewater to be applied must be determined in accordance with the methodology described in paragraph C(1)(b)(1) of this section.

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

III. For CAFOs using this approach, the following projections must be included in the nutrient management plan submitted to the Department and DACF, but are not terms of the nutrient management plan: The CAFO's planned crop rotations for each field for the period of permit coverage; the projected amount of manure, litter, or process wastewater to be applied; projected credits for all nitrogen in the field that will be plant available; consideration of multi-year phosphorus application; accounting for all other additions of plant available nitrogen and phosphorus to the field; and the predicted form, source, and method of application of manure, litter, and process wastewater for each crop. Timing of application for each field, insofar as it concerns the calculation of rates of application, is not a term of the nutrient management plan.

IV. CAFOs that use this approach must calculate maximum amounts of manure, litter, and process wastewater to be land applied at least once each year using the methodology required in paragraph C(1)(b)(1) of this section before land applying manure, litter, and process wastewater and must rely on the following data:

- A. A field-specific determination of soil levels of nitrogen and phosphorus, including, for nitrogen, a concurrent determination of nitrogen that will be plant available consistent with the methodology required by paragraph C(1)(b)(1) of this section, and for phosphorus, the results of the most recent soil test conducted in accordance with soil testing requirements; and
- B. The results of most recent representative manure, litter, and process wastewater tests for nitrogen and phosphorus taken within 12 months of the date of land application, in order to determine the amount of nitrogen and phosphorus in the manure, litter, and process wastewater to be applied.

b. Manure and soil sampling according to 40 CFR Part 412.4.

- 1. Manure must be analyzed a minimum of once annually for nitrogen and phosphorus content.
- 2. Soil must be analyzed a minimum of once every five years for phosphorus content.
- 3. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater.
- 4. Upon request by the Department and or the DACF, the permittee may be required to conduct, collect, and analyze samples including but not limited to soils, surface water, ground water, and/or stored waste in a manner and frequency specified by the Department and or DACF.

SPECIAL CONDITIONS

C. NUTRIENT MANAGEMENT PLAN (cont'd)

- c. **Setback requirements.** In accordance with 40 C.F.R. § 412.4(c)(5), the permittee must provide and maintain buffer strips or other equivalent practices near feedlots, manure storage, and land application areas that are sufficient to minimize discharge of pollutants to surface waters of the State of Maine (e.g., soil erosion and manure and wastewater). These practices may include, but are not limited to, residue management, conservation crop rotation, grassed waterways, strip cropping, vegetative buffers, forested riparian buffers, terracing, and diversion.
4. **Changes to the NMP.** Any changes to the NMP made after the date of signature of this permit must be submitted to the Department and DACF contacts in Special Condition H, *Annual Reporting* of this permit for review to determine whether the changes are subsequential and the changes are necessitate revisions to terms and/or conditions of this permit. If revisions to the permit are necessary, this permit will be re-opened pursuant to Special Condition G, *Reopening of Permit for Modifications*, to incorporate applicable terms and conditions.

D. ADDITIONAL BEST MANAGEMENT PRACTICES

Employee Training: Where employees are responsible for work activities that relate to permit compliance, those employees must be regularly trained or informed of any information regarding the proper operation and maintenance of the facility and waste disposal. Training must include topics as appropriate such as land application of wastes, proper operation and maintenance of the facility, good housekeeping and material management practices, necessary record keeping requirements, and spill response and clean up. The permittee is responsible for determining and providing the appropriate training frequency for different levels of personnel and maintaining records of the training provided.

E. TRANSFER OF MANURE OR WASTEWATER

In accordance with 40 CFR 412 and 01-001 C.M.R. ch. 565, prior to transferring manure, litter or process wastewater to other persons, the permittee must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis conducted. The permittee must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person.

F. INSPECTIONS AND CORRECTIVE ACTIONS

1. Visual inspections. In accordance with 40 C.F.R. § 412.37, there must be routine visual inspections of the CAFO production area. At a minimum, the following must be visually inspected:
 - i. Daily inspections and inspections subsequent to any rain event of equipment and facility areas;
 - ii. Daily inspection of water lines, including drinking water or cooling water lines;

SPECIAL CONDITIONS

F. INSPECTIONS AND CORRECTIVE ACTIONS (cont'd)

- iii. Weekly inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in Special Condition C(2)(i)(j);
 - iv. Once every two weeks visually inspect all dry manure storage and manure handling and distribution equipment and systems, food storage operations, and all manure runoff management devices; and
 - v. Periodic inspections of leaks on equipment used for land application of manure, litter, or process wastewater.
2. Corrective actions. Any deficiencies found as a result of these inspections must be corrected within 90 days.

G. RECORD KEEPING

In accordance with 40 C.F.R. § 122.21(h), 122.42(e), and 412, the permittee must maintain on-site for a period of five years from the date they are created a complete copy of records specified in this section. The permittee must make these records available to the Department for review upon request.

- 1. Record keeping requirements for the production area
- 1. Record keeping requirements for the production area
 - i. Records documenting inspections outlined in Special Condition F, *Inspections and Corrective Actions*;
 - ii. Records documenting the current design of any manure, process wastewater, or litter storage structures, including volume for solids accumulation, type of containment and storage, design treatment volume, total design volume, and approximate number of days of storage capacity in tons or gallons;
 - iii. Records of the date, time, and estimated volume of any spill or overflow;
 - iv. The permittee must maintain a precipitation gauge at the facility and record the rainfall for each 24-hour period between April 1 and May 30 and October 1 through October 30 of each year.
- 2. Record keeping requirements for the land application area
 - i. Complete on-site records including the site specific NMP requirements must be maintained to document implementation of all required land application practices. Such documentation must include the records specified for Soil and Manure/Wastewater Nutrient Analyses and Land Application.

SPECIAL CONDITIONS

H. ANNUAL REPORTING

In accordance with 40 C.F.R. §122.42(e)(4), the permittee must submit **on or before December 31st of each year (ICIS code PR003)** an annual report to the Department and DACF at the addresses below that at a minimum, includes the following information:

1. The number and type of animals, whether in open confinement or housed under roof;
2. Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
3. Estimated amount of total manure, litter and process wastewater transferred to other persons by the CAFO in the previous 12 months (tons/gallons);
4. Total number of acres of land application covered by the NMP;
5. Total number of acres under the control of the permittee that were used for land application of manure, litter and process wastewater in the previous 12 months;
6. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months including date, time, and approximate volume;
7. A statement indicating whether the current version of the CAFO NMP was developed by a certified nutrient management planning specialist;
8. Actual crops planted and actual yields of each field for the preceding 12 months;
9. Results of all samples of manure, litter and process wastewater for nitrogen and phosphorus content for manure, litter and process wastewater that was land applied;
10. Results of calculations conducted in accordance with Linear Approach or Narrative Rate Approach;
11. Amount of manure, litter and process wastewater applied to each field during the preceding 12 months; and
12. Amount of any supplemental fertilizer applied during the previous 12 months.

SPECIAL CONDITIONS

H. ANNUAL REPORTING (Cont'd)

Contact information:

Maine Department of Agriculture,
Conservation and Forestry
Attn: Nutrient Management Program Manager
Division of Animal and Plant Health
28 State House Station
Augusta, Maine 04333-0028
Telephone: (207)-287-7608

Maine Department of Environmental Protection
Attn: Compliance Inspector
Bureau of Water Quality
17 State House Station
Augusta, Maine 04333
Telephone: (207) 287-7826

I. DISCHARGES

If, for any reason, there is a discharge of process wastewater from the facility to surface water, non-compliance with this permit, any other discharge from storage tanks, storage bunkers, other wastewater storage structures, or feed storage operations, or a discharge that may endanger human health or the environment, the permittee is required to 1) sample and analyze the discharge and 2) notify the Department and DACF.

1. Sampling and analysis

- i. Sampling and analysis of all discharges must be completed. Samples must, at minimum, be analyzed for the following parameters:
 - a. Fecal coliform bacteria
 - b. Total suspended solids (TSS)
 - c. Ortho-phosphorus
 - d. Total kieldahl nitrogen (TKN) as nitrogen
 - e. pH
 - f. Five-day biochemical oxygen demand (*BOD*₅)
 - g. Total phosphorus as phosphorus
 - h. Ammonia-nitrogen as nitrogen
 - i. Nitrate and Nitrite as nitrogen
- ii. Samples must consist of grab samples collected from the overflow or discharges from the retention structure. A minimum of one sample must be collected from the initial discharge (within 30 minutes or upon discovery). The sample must be collected and analyzed in accordance with USEPA approved methods for water analysis listed in 40 CFR 136. Samples collected for the purpose of monitoring must be representative of the monitored discharge. If more than one sample is collected during the discharge, the samples may be composited (with the exception of pH and fecal coliform

SPECIAL CONDITIONS

I. DISCHARGES (cont'd)

bacteria) when analyzed for the parameters above. Monitoring results must be submitted to the DACF and Department at the addresses listed in this permit within 30 days of the discharge event.

2. Notification.

The permittee is required to perform verbal notification (within 24 hours) and written notification (within 5 days) to the addresses listed for the Department and DACF. In addition, the permittee must keep a copy of the notification submitted to the Maine Department and DACF together with the Nutrient Management Plan required by Special Condition C of this permit.

i. The discharge notification must contain the following information:

- a. Description of the discharge: A description and cause of the discharge, including a description of the flow path to the receiving water body and an estimation of the flow and volume discharged;
- b. Time of the discharge: The period of discharge, including exact dates and times, and the anticipated time the discharge is expected to continue;
- c. Cause of the discharge: If caused by precipitation event(s), information from the onsite rain gauge required by Special Condition G of this permit concerning the size of the precipitation event must be provided; and
- d. Remediation: Steps being taken to reduce, eliminate and prevent the recurrence of the non-complying circumstances or discharges.

ii. Verbal notification must be made to the Department and DACF within 24-hours of the facility discharge. Written notification including the information required above must be received by the Department and DACF within five (5) calendar days of the discharge.

iii. Contact information:

Maine Department of Agriculture, Conservation and Forestry
Attn: Nutrient Management Program Manager
Division of Animal and Plant Health
28 State House Station
Augusta, Maine 04333-0028 Telephone: (207)-287-7608

Maine Department of Environmental Protection
Attn: Compliance Inspector
Bureau of Water Quality
Division of Water Quality Management

SPECIAL CONDITIONS

I. DISCHARGES (cont'd)

17 State House Station
Augusta, Maine 04333

Telephone: (207) 287-7826

J. FACILITY CLOSURE

According to Department Rule 06-096 Ch. 550 (effective May 4, 1996), the following conditions must apply to the closure of lagoons and other earthen or synthetic lined basins and manure, litter and process wastewater storage and handling structures:

1. Definitions

- i. Permanent Discontinuance means the cessation of depositing wastewater into lagoons for more than ninety (90) days.
- ii. Temporary Discontinuance means the cessation of depositing wastewater into lagoons for ninety (90) or less days.

2. Operations of Lagoons and Other Surface Impoundments

- i. Lagoons and other earthen or synthetic lined basins must be maintained at all times until closed in compliance with this section
- ii. All lagoons or other earthen or synthetic lined basins must be properly closed if the permittee ceases operation.

3. Discontinuances of Lagoons and Other Surface Impoundments

- i. All closure of lagoons and other earthen or synthetic basins must be consistent with *Discontinuance of Wastewater Treatment Lagoons*, 06-096 C.M.R. Ch. 550. Consistent with that standard, the permittee must remove all waste materials to the maximum extent practicable and dispose of them in accordance with the permittee's NMP, unless otherwise authorized by the Department and DACF.
- ii. Temporary Discontinuance
 - a. No later than fifteen (15) days after wastewaters have ceased to enter the lagoon, any person who discontinues the use of a lagoon shall give notice to the Commissioner, in writing.
 - b. Notices of discontinuance shall be accompanied by a reclamation plan and/or maintenance plan satisfactory to the Commissioner. The method of waste disposal and the selection of a waste disposal area shall be in accordance with applicable State laws and regulations.
- iii. Permanent Discontinuance
 - a. Any lagoon or other earthen or synthetic lined basin that is not in use for a period of 90 consecutive days must be properly closed unless:

SPECIAL CONDITIONS

J. FACILITY CLOSURE (Cont'd)

1. The facility is financially viable, intends to resume use of the structure at a later date, and either
 - I. Maintains the structure as though it were actively in use, to prevent compromise of structural integrity; or
 - II. Removes manure and wastewater to a depth of one foot or less and refills the structure with clean water to preserve the integrity of the synthetic or earthen liner.
 - b. In either case, the permittee must notify the Department and DACF of the action taken and must conduct routine inspections, maintenance and record keeping as though the structure were in use.
 - c. Before restoration or use of the structure, the permittee must notify the Department and DACF and provide the opportunity for inspection.
 - d. Unless otherwise authorized by the Department or USEPA, completion of the closure of the lagoon(s) and other earthen or synthetic lined basins must occur as promptly as practicable after the permittee ceases to operate or, if the permittee has not ceased operations, 12 months from the date on which the use of the structure ceased, unless the lagoons or basins are being maintained for possible future use in accordance with the requirements above.
4. Closure Procedures for Other Manure, Litter or Process Wastewater Storage and Handling Structures.
- i. No other manure, litter or process wastewater storage and handling structure must be abandoned without following proper closure procedures.
 - ii. Closure of all such structures must occur as promptly as practicable after the permittee has ceased to operate, or, if, the permittee has not ceased to operate, within 12 months after the date on which the use of the structure ceased.
 - iii. To close a manure, litter or process wastewater storage and handling structure, the permittee must remove all manure, litter, or process wastewater and dispose of it in accordance with the permittee's NMP, or document its transfer from the permittee's facility in accordance with off-site transfer requirements of manure or process wastewater as specified in this permit, unless otherwise authorized by the Department and DACF.

K. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the test results required by 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

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **November 19, 2025**

PERMIT NUMBER: **ME0037125**
LICENSE NUMBER: **W009036-5S-D-R**

NAME AND ADDRESS OF APPLICANT:

**Rogers Farm
C/O The Wright Place
77 Wright Road
Clinton, Maine 04927**

COUNTY: **Kennebec County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Rogers Farm
22 Rogers Road
Clinton, Maine 04927**

RECEIVING WATER/CLASSIFICATION: **Twelve Mile Brook/Class B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Brian Wright**
barneywright2019@gmail.com
(207)-692-3172

1. APPLICATION SUMMARY

- a. Application: On March 14, 2025, the Department accepted as complete for processing and application from Wright Farm LLC. - Rogers Farm for renewal of combination Waste Discharge License (WDL) W009036-5S-D-R/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0037125, which was issued by the Department on January 9, 2020, for a five-year term. The January 9, 2020, permit authorized The Wright Place LLC. – Rogers Farm to manage process wastewater and stormwater runoff that is generated by the operation of a concentrated animal feeding operation (CAFO) which discharges stormwater to Twelve Mile Brook, Class B waters, in Clinton, Maine. The permittee is required to manage the facility such that there is no discharge of process wastewater to surface waters during precipitation events including the runoff and direct precipitation less than a 24-hour, 25-year storm event.

1. APPLICATION SUMMARY (cont'd)

- b. Source description: The Rogers Farm/Heifer Haven has been identified as a medium CAFO. Rogers Farm custom raises heifers for the dairy operation at The Wright Place. Animals housed at Rogers Farm include 120 dry cows, 130 bred heifers, 130 short bred heifers, 130 transitioning heifers, and 140 6–12-month-old calves.

Rogers Farm has a manure pit which is located southwest of the barns. This was originally designed to store liquid, however, is only storing solid bedded manure currently. The manure pit has 10-foot walls and a ramp on the west side. Free stall barns are bedded with sawdust for bred heifers, dry cows, short bred heifers and transitioning cows. The barns that house 6–12-month-old calves is bedded with sawdust. Manure is scraped out of the west side of the barns where it will be temporarily stacked then either used for land application or moved to the manure pit and later applied to land. Corn and grass silage are stored in bunks on the west side of the production area. Runoff from the bunkers flow to two surface drains located to the south of the feed storage area. A map of this location is found in Attachment A of this fact sheet.

Inspections by DACF, DEP and the USEPA indicates storm water runoff is conveyed to Twelve Mile Brook via a drainage swale that meanders through a pasture between the storage pit and heifer barn. Twelve Mile Brook is located approximately 200 feet east of the heifer barn. The DACF has made a determination that the manure storage facility is designed and capable of capturing a 25 year, 24-hour rainfall event. Manure is spread on various fields owned and or leased by The Wright Place or the Rogers Farm as permitted by the Nutrient Management Law.

2. PERMIT SUMMARY

- a. Terms & conditions: This permitting action is different from the January 9, 2019, permit. This permitting action is carrying forward the previously established requirements to implement and maintain Best Management Practices (BMPs) to prevent discharges to water of the State of Maine, and implement and keep current, an approved Nutrient Management Plan in accordance with Maine Department of Agriculture, Conservation and Forestry (DACF) *Nutrient Management Rules*, 01-001 C.M.R. 565 §6 (last amended July 3, 2018). On April 15, 2025, the DACF issued a Livestock Operation Permit (LOP) pursuant to *Nutrient Management Act*, 7 M.R.S. §4204 and §4205 for the permittee's facility.

Additionally, this permit is modifying the following:

- a. Updating Special Condition A, *Definitions*, in accordance with 40 C.F.R. §§ 122 and 412.
- b. Updating Special Condition C, *Nutrient Management Plan*, to ensure the proper management of mortalities in accordance with DCF 01-001 C.M.R. Ch. 211.
- c. Reorganizing the Special Conditions to improve clarity of this permit.
- d. Incorporated the following Special Conditions

2. PERMIT SUMMARY (Cont'd)

- a. Special Condition D, *Additional Best Management Practices*;
 - b. Special Condition E, *Transfer of Maure or Wastewater*;
 - c. Special Condition F, *Inspections and Corrective Actions*, and;
 - d. Special Condition G, *Record Keeping*.
- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the District's facility.

April 1997 – Nutrient Management Act, 7 M.R.S., chapter 747 was enacted.

December 1998 – The Maine DACF adopted regulation 01-001 Chapter 565, *Nutrient Management Rules*. It is noted the regulation was last amended on July 3, 2018.

June 8, 2000 – The Maine DEP and DACF entered into a Memorandum of Agreement entitled, *Coordination of the Maine Livestock Operating Permit Program and the Maine Pollutant Discharge Elimination System Permit Program in Regards to Concentrated Animal Feeding Operations*. The purpose of the agreement is intended to 1) establish a collaborative process between the DEP and DACF so as to better coordinate review of CAFOs, and 2) clarify the roles and responsibilities of the two agencies in regard to the permitting of CAFOs under DACF Livestock Operations Permit (LOP) program and DEP's MEPDES permit program.

January 12, 2001 – The State of Maine received authorization from the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) permitting program in Maine. From that date forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) permitting program.

November 25, 2005 – Personnel from Maine DACF, Maine DEP and the EPA conducted an on-site inspection at the Wright Place. The primary objective of the site inspection was to determine whether the farm is considered a CAFO pursuant to Department rule Chapter 521, *Applications For Waste Discharge Licenses*, §6. The inspection determined that the farm was a large CAFO that required a MEPDES permit.

February 2, 2009 – The Rogers Farm submitted an application to the DEP and DACF for a new MEPDES permit and LOP. The application materials contained a Nutrient Management Plan "NMP" prepared by a certified planner. The NMP is being reviewed by the DACF for approval.

May 8, 2009-The Department issued MEPDES permit #ME0037125/WDL W009036-5S-A-N for a five-year term.

2. PERMIT SUMMARY (Cont'd)

July 21, 2014 – The Department issued MEPDES permit ME0037125 and Maine WDL W009036-5S-B-R for a five-year term.

October 31, 2019 – The permittee submitted a complete application to renew ME0037125/W009036-5S-B-R.

January 9, 2020 – The Department issued MEPDES permit ME0037125 and Maine WDL W009036-5S-C-R for a five-year term.

March 10, 2025 – The permittee submitted a complete application to renew ME0037125/W009036-5S-C-R.

April 15, 2025 - The DACF issued a Livestock Operation Permit (LOP)

3. CONDITIONS OF PERMITS

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 major river basins, 38 M.R.S. § 467(4)(H)(2) classifies Twelve Mile Brook as Class B waters. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465(3) describes the standards for Class B waters as follows:

- A. *Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.*
- B. *Class B waters must be of sufficient quality to support all aquatic species indigenous to those waters without detrimental changes in the resident biological community. The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from*

4. RECEIVING WATER QUALITY STANDARDS (Cont'd)

- C. *October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the one-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between April 15th and October 31st, the number of Escherichia coli bacteria in these waters may not exceed a geometric mean of 64 CFU or MPN per 100 milliliters over a 90-day interval or 236 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval.*
- D. *Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.*
- a. *For the purpose of allowing the discharge of aquatic pesticides or chemicals approved by the department and conducted by the department, the Department of Inland Fisheries and Wildlife or an agent of either agency to restore resident biological communities affected by an invasive species, the department may find that the discharged effluent will not cause adverse impact to aquatic life as long as the materials and methods used do not cause a significant loss of any nontarget species and allow restoration of nontarget species. The department may find that an unavoidable, temporary loss of non-target species does not constitute a significant loss of non-target species.*
- b. *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 aquatic 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 subparagraph, 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.*

This permitting action does not authorize the permittee to discharge process wastewater directly to Twelve Mile Brook under any circumstances. Special Condition B(1) of this permit prohibits any discharge of process waters unless the discharge is associated with a precipitation event that exceeds a 25-year, 24-hour storm event.

5. 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 Twelve Mile Brook, at Clinton, (Integrated Report Assessment Unit ID ME0103000309_329R02) as, "Category 3: Rivers and Streams with Insufficient Data or Information to Determine if Designated Uses are Attained (One or More Uses may be Impaired).

5. RECEIVING WATER QUALITY CONDITIONS

The Report lists all of Maine's fresh waters as, "Category 4-A: Rivers and Streams Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4-A (TMDL Completed) due to US EPA approval of a Regional Mercury TMDL in December 2007. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory recommending limits on consumption for all freshwater fish. Maine has instituted statewide programs for removal and reduction of mercury sources."

The nearest biological monitoring station to this site is 1.6 miles downstream on Twelve Mile Brook (Station 605) and was last sampled for algae (periphyton) in 2007. The algae community met biological criteria for class C, but not the assigned statutory class of B. Total phosphorus in a grab sample from the same sample event in 2007 was 82 µg/l. The algae community metrics indicated nutrient enrichment, and the total phosphorus sample was high relative to the normal observed range in stream samples. However, this data is outdated and may not reflect current conditions. The Department will conduct additional monitoring as resources allow to determine attainment with Class B narrative and numeric aquatic life standards described in 38 M.R.S. § 465(2)(B) and Chapter 579 Department rules (Classification Attainment Evaluation Using Biological Criteria for Rivers and Streams).

6. 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).

7. NUTRIENT MANAGEMENT PLAN

1. If the Department determines that the changes to the terms of the nutrient management plan are not substantial, the Department must make the revised nutrient management plan publicly available and include it in the permit record, revise the terms of the nutrient management plan incorporated into the permit, and notify the owner or operator and inform the public of any changes to the terms of the nutrient management plan that are incorporated into the permit.

8. CAFO REQUIREMENTS

- a. Pursuant to Section 502(14) of the federal Water Pollution Control Act (Clean Water Act), CAFO's are defined as point source dischargers.
- b. *Waste discharge licenses* 38 M.R.S. §413 states that "No person may directly or indirectly discharge or have cause to be discharged any pollutant without first obtaining a license therefor from the department."
- c. *Applications For Waste Discharge Licenses*, 06-096 C.M.R. Ch. 521 §6(a) states "Permit requirement. Concentrated animal feeding operations are point sources subject to the NPDES permit program. The Department will consult with the Department of Agriculture and all applications for concentrated animal feeding operations in order to consolidate permitting requirements where feasible." It is noted the rule references federal regulations found at 40 CFR Part 122.23 requiring CAFO's to obtain a federal NPDES permit. However, given that the USEPA has authorized the State of Maine to administer the NPDES permit program in Maine, MEPDES permits will be issued to CAFO's.

06-096 C.M.R. 521§6(b)(3)-Appendix B(b)(10) establishes the criteria for determining a medium CAFO. The Wright Way is categorically considered a CAFO as the facility that has at least 500 heifers and 70 mature dry cows.

- d. *Concentrated Animal Feeding Operations (CAFO) Feedlots Point Source Category* 40 CFR Part 412.12 and 412.13, establish effluent limitations and guidelines representing best practicable control technology currently available (BPT) and best available technology economically achievable (BAT). BPT and BAT for CAFO's is no discharge of process wastewater pollutants to navigable water where process wastewater are defined as any process generated waste and any precipitation (rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).
- e. 7 M.R.S. §4204(2) and 01-001 C.M.R. 565 establish the criteria for who must develop and implement a Nutrient Management Plan (NMP). CAFOs meet applicable criteria under this section. NMPs must be prepared and approved by a certified nutrient management plan specialist at least every five years and updated at least once every year.

8. CAFO REQUIREMENTS (Cont'd)

- f. 7 M.R.S., §4205(A) requires CAFO's to obtain a Livestock Operating Permit (LOP). 01-001 CMR 565, §8(1)(a) requires the owner or operator of a CAFO to obtain a LOP or provisional LOP from the DACF.

9. GENERAL FACILITY INSPECTIONS AND MONITORING

The inspections, monitoring and recordkeeping required by this permitting action were developed based on guidance provided by the USEPA to promote consistency with nationwide permitting of CAFOs. In addition, the Department consulted with the Maine DACF to develop inspections, monitoring and recordkeeping that would serve both agencies program requirements.

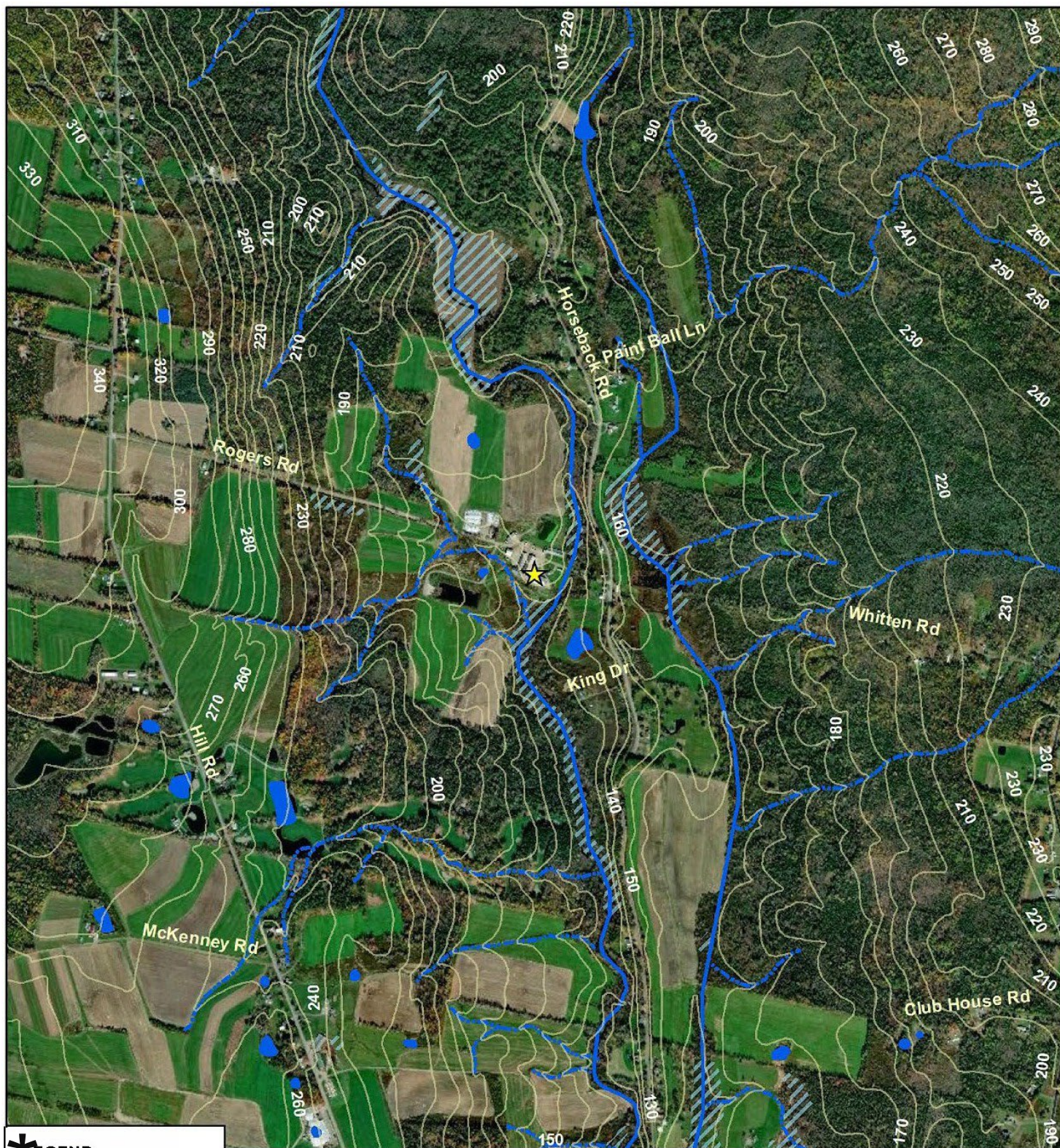
10. ANTI-DEGRADATION

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 the waterbody to meet standards for Class B waters.

11. DEPARTMENT CONTACTS

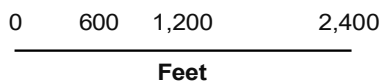
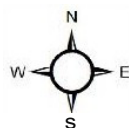
Grace Vierling
Division of Water Quality Management
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
Telephone: (207) 248-2032
e-mail: grace.vierling@maine.gov

ATTACHMENT A



LEGEND

- Headquarters
- 10 ft Contour
- Intermittent Stream
- River/Stream
- Surface Water
- Wetland



Latitude: 44.6784, Longitude: -69.5174
 Coordinate System: NAD 1983 UTM Zone 19N
 Projection: Transverse Mercator
 Service Layer Credits: Source: Esri, DigitalGlobe, GeoEye, Earthstar
 Geographics, CNES/Airbus OS, USDA, USGS, AeroGRID, IGN, and the
 GIS User Community

Rogers Farm

**Heifer Haven
Contour Map**

Date: 2/14/2019

Northern Tilth

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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 of 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 MAINTENANCE 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

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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 contaminants 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 or
(207) 314-1458

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 30th 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

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 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 or 207-287-2811 or the Board Executive Analyst at 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.
