



STATE OF MAINE  
Department of Environmental Protection

JOHN ELIAS BALDACCI  
GOVERNOR

David P. Littell  
COMMISSIONER

July 20, 2009

Mr. Greg Lambert  
Atlantic Salmon of Maine LLC  
P.O. Box 380  
Oquossoc, Maine 04964

RE: Atlantic Salmon of Maine LLC Rangeley (Oquossoc) Fish Hatchery  
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0110116  
Maine Waste Discharge License (WDL) #W-004701-5Q-D-M  
**Minor Revision – Effluent BOD<sub>5</sub>, TSS Monitoring Frequency Requirements**

Dear Greg:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL Minor Revision which was approved by the Department of Environmental Protection. Please read the revision, permit/license, and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to contact me at (207) 287-6114 or [Robert.D.Stratton@maine.gov](mailto:Robert.D.Stratton@maine.gov) or contact your compliance inspector, Beth DeHaas, at [Beth.DeHaas@maine.gov](mailto:Beth.DeHaas@maine.gov) or (207) 287-4860.

Sincerely,

Robert D. Stratton  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

pc: Beth DeHaas, Lori Mitchell (MEDEP); Sandy Mojica (USEPA);

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 624-6550 FAX: (207) 624-6024  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD  
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 04769-2094  
(207) 764-6477 FAX: (207) 764-1507



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

DEPARTMENT ORDER

IN THE MATTER OF

ATLANTIC SALMON OF MAINE LLC	)	MAINE POLLUTANT DISCHARGE
RANGLEY, FRANKLIN COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
FISH HATCHERY	)	AND
#ME0110116	)	WASTE DISCHARGE LICENSE
#W-004701-5Q-D-M	)	<b>MINOR REVISION</b>
<b>APPROVAL</b>	)	

Pursuant to the provisions of Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department, MEDEP) has considered the minor revision request by ATLANTIC SALMON OF MAINE LLC (hereinafter ASM Rangeley), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**MINOR REVISION REQUESTED**

Based on the review of effluent monitoring conducted to date, the Department has revised its best professional judgement (BPJ) determination of the minimum required monitoring frequencies necessary to accurately characterize facility biochemical oxygen demand (BOD<sub>5</sub>) and total suspended solids (TSS) effluent conditions. Accordingly, the Department is revising the minimum monitoring frequency requirements established for these parameters in Permit Special Condition A.1, *Effluent Limitations and Monitoring Requirements*, of MEPDES Permit #ME0110116 / Maine WDL #W004701-5Q-B-R, issued by the Department on December 30, 2005. The Department is also providing guidance for reporting analytical results below detection and/or reporting limits that was developed after issuance of the facility permit. This action is being taken pursuant to Permit Special Condition P, which follows.

**P. REOPENING OF PERMIT FOR MODIFICATIONS**

*Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, new water quality monitoring data or modeling information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to; 1) include effluent limits 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.*

## MINOR REVISION SUMMARY

This minor revision modifies the effluent limitations and monitoring requirements as follows:

1. revising minimum monitoring frequency requirements for effluent BOD<sub>5</sub> and TSS based on revised Department BPJ.
2. providing guidance for reporting analytical results below detection and/or reporting limits.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated July 1, 2009 and revised July 16, 2009, and subject to the Conditions listed below, the Department makes the following conclusions:

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

## **ACTION**

THEREFORE, the Department APPROVES the minor revision of MEPDES Permit #ME0110116 / Maine WDL #W004701-5Q-B-R, issued by the Department on December 30, 2005 (subsequently revised), to ATLANTIC SALMON OF MAINE LLC to discharge fish hatchery wastewater consisting of a monthly average flow of 12 MGD to the Rangeley River, Class A, 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 to the 12/30/05 MEPDES Permit / Maine WDL cited above.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All other terms and conditions in the 12/30/05 MEPDES Permit / Maine WDL and subsequent revisions not modified by this minor revision remain in effect and enforceable.
4. This minor revision **expires on December 30, 2010**, concurrent with the 12/30/05 MEPDES Permit / Maine WDL.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

This Order prepared by Robert D. Stratton, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- The permittee is authorized to discharge **fish hatchery wastewater from Outfall #004A** to the Rangeley River. Such discharges shall be limited and monitored by the permittee as specified below<sup>1</sup>. **Note, the following table is an excerpt from the facility MEPDES Permit / Maine WDL.**

**Monitoring Parameter**

	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow <i>[50050]</i>	12 MGD <i>[03]</i>	---	---	---	Daily <i>[01/01]</i>	Measured <i>[MS]</i>
BOD <sup>2</sup> <i>[00310]</i>	379 lbs/day <i>[26]</i>	415 lbs/day <i>[26]</i>	6 mg/L <i>[19]</i>	10 mg/L <i>[19]</i>	2 / month <i>[02/30]</i>	Composite <sup>3</sup> <i>[CP]</i>
TSS <sup>2</sup> <i>[00530]</i>	249 lbs/day <i>[26]</i>	285 lbs/day <i>[26]</i>	6 mg/L <i>[19]</i>	10 mg/L <i>[19]</i>	2 / month <i>[02/30]</i>	Composite <sup>3</sup> <i>[CP]</i>
Total Phosphorus <sup>4</sup> Effective until August 31, 2008 <i>[00665]</i>	Report total lbs/month <i>[76]</i>	Maximum 1,682 lbs/year <i>[50]</i>	report mg/L <i>[19]</i>	report mg/L <i>[19]</i>	1/week <i>[01/07]</i>	Composite <sup>3</sup> <i>[CP]</i>
Total Phosphorus <sup>4</sup> Beginning September 1, 2008 <i>[00665]</i>	Report total lbs/month <i>[76]</i>	Maximum 660 lbs/year <i>[50]</i>	0.1 mg/L <i>[19]</i>	report mg/L <i>[19]</i>	1/week <i>[01/07]</i>	Composite <sup>3</sup> <i>[CP]</i>
Orthophosphate (as P) <sup>4</sup> June 1 -Sept 30, 2006 <i>[04175]</i>	report lbs/day <i>[26]</i>	report lbs/day <i>[26]</i>	report mg/L <i>[19]</i>	report mg/L <i>[19]</i>	1/week <i>[01/07]</i>	Composite <sup>3</sup> <i>[CP]</i>
Fish on Hand <i>[45604]</i>	report lbs/day <i>[26]</i>	report lbs/day <i>[26]</i>	---	---	1/week <i>[01/07]</i>	Calculated <i>[CA]</i>
Formalin <sup>5</sup> 1-Hour Treatment Maximum <i>[51064]</i>	report lbs/day <i>[26]</i>	49 lbs/day <i>[26]</i>	report mg/L <i>[19]</i>	66 mg/L <i>[19]</i>	1/week <i>[01/07]</i>	Calculated <i>[CA]</i>
Formalin <sup>5</sup> 24-Hour Treatment Maximum <i>[51064]</i>	report lbs/day <i>[26]</i>	49 lbs/day <i>[26]</i>	report mg/L <i>[19]</i>	37 mg/L <i>[19]</i>	1/week <i>[01/07]</i>	Calculated <i>[CA]</i>
pH <i>[00400]</i>	---	---	---	6.0-8.5 S.U. <i>[12]</i>	1/week <i>[01/07]</i>	Grab <i>[GR]</i>

The italicized numeric values bracketed in the table above and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs). Footnotes are found on Page 6 of the 12/30/05 MEPDES Permit / Maine WDL and in the 10/10/08 Minor Revision.

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS, Footnotes**

(supplement to first paragraph of section)

All detectable analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

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

**MINOR REVISION FACT SHEET**

Date: July 1, 2009  
Revised: July 16, 2009

MEPDES PERMIT NUMBER: # ME0110116  
WASTE DISCHARGE LICENSE: # W-004701-5Q-D-M

NAME AND ADDRESS OF APPLICANT:

**ATLANTIC SALMON OF MAINE LLC  
P.O. Box 380  
Oquossoc, Maine 04964**

COUNTY: FRANKLIN

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**ATLANTIC SALMON OF MAINE LLC  
RANGELEY (OQUOSSOC) HATCHERY  
P.O. Box 380  
Oquossoc, Maine 04964**

RECEIVING WATER / CLASSIFICATION: Rangeley River  
Class A, Tributary to Mooselookmeguntic Lake

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Mr. Greg Lambert (207) 864-3664

**1. MINOR REVISION REQUESTED**

Based on the review of effluent monitoring conducted to date, the Department has revised its best professional judgement (BPJ) determination of the minimum required monitoring frequencies necessary to accurately characterize facility biochemical oxygen demand (BOD<sub>5</sub>) and total suspended solids (TSS) effluent conditions. Accordingly, the Department is revising the minimum monitoring frequency requirements established for these parameters in Permit Special Condition A.1, *Effluent Limitations and Monitoring Requirements*, of MEPDES Permit #ME0110116 / Maine WDL #W004701-5Q-B-R, issued by the Department on December 30, 2005. The Department is also providing guidance for reporting analytical results below detection and/or reporting limits that was developed after issuance of the facility permit. This action is being taken pursuant to Permit Special Condition P, which follows.

**1. MINOR REVISION REQUESTED (cont'd)**  
**P. REOPENING OF PERMIT FOR MODIFICATIONS**

*Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, new water quality monitoring data or modeling information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to; 1) include effluent limits 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.*

**2. MINOR REVISION SUMMARY**

This minor revision modifies the effluent limitations and monitoring requirements as follows:

- a. revising minimum monitoring frequency requirements for effluent BOD<sub>5</sub> and TSS based on revised Department BPJ.
- b. providing guidance for reporting analytical results below detection and/or reporting limits.

**3. BASIS FOR THE MINOR REVISION**

The MEDEP's efforts to revise its fish hatchery and rearing facility wastewater discharge permitting program in years 2003 – 2006 included establishment of revised effluent limitations, monitoring and operational requirements in MEPDES Permits / Maine WDLs for all state, federal, and commercial facilities in Maine. These requirements were established based on site specific water quality concerns, available toxicity information, and the Department's BPJ of best practicable treatment for the industry. The Department's revised program established scientifically based and consistently applied requirements for all facilities, as well as site specific requirements where necessitated by specific concerns and information. The Department envisioned revisiting facility requirements and limitations in the future based on review of collected data and following demonstrated performance of consistently and properly utilized treatment technology. The ASM Rangeley MEPDES Permit / Maine WDL established "*once per week effluent BOD and TSS monitoring on a year round basis based on the Department's BPJ of monitoring frequencies necessary to more accurately characterize facility effluent conditions.*" The Department has reviewed DMR data from fish hatchery and rearing facilities in Maine and has determined based on the consistency of effluent BOD<sub>5</sub> and TSS data observed that the required minimum monitoring frequencies for these parameters can be reduced and still provide sufficient and appropriate information on wastewater treatment processes and effluent quality. Therefore, the Department is revising the minimum monitoring requirements for BOD<sub>5</sub> and TSS for this facility to a frequency of twice per month. If determined necessary in the future based on ambient or effluent conditions or data quality, this permitting action may be reopened pursuant to Permit Special Condition P, and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements revised as appropriate. The Department is also updating reporting guidance.

**4. REVISED FACT SHEET SECTIONS**

**a. (§ 6.c) EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS**

BOD and TSS: (excerpt of final paragraph of section)

This permitting action establishes twice per month effluent BOD and TSS monitoring on a year basis based on the Department's BPJ of monitoring frequencies necessary to more accurately characterize facility effluent conditions.

**5. DEPARTMENT CONTACTS**

Additional information concerning this minor revision may be obtained from and written comments should be sent to:

Robert D. Stratton  
Division of Water Quality Management  
Bureau of Land and Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

Telephone: (207) 287-6114  
Fax: (207) 287-3435  
email: Robert.D.Stratton@maine.gov



# DEP INFORMATION SHEET

## Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

### SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

### I. ADMINISTRATIVE APPEALS TO THE BOARD

#### LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

#### HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

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

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

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

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

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

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

#### **II. APPEALS TO MAINE SUPERIOR COURT**

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

#### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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**Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.**

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