



STATE OF MAINE
Department of Environmental Protection

Paul R. Lepage
GOVERNOR

James P. Brooks
ACTING COMMISSIONER

January 31, 2011

Ms. Ellen Rossi
Jasper Wyman & Son, Inc.
P.O. Box 100
Milbridge, ME. 04658
elrossi@wymans.com

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0001953
Maine Waste Discharge License (WDL) Application #W000645-5P-H-M
Minor Revision

Dear Ms. Rossi:

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 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 call me at 287-7693.

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Clarissa Trasko, Lori Mitchell, Phil Garwood, MEDEP

Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

JASPER WYMAN & SON, INC.)	MAINE POLLUTANT DISCHARGE
MILBRIDGE AND CHERRYFIELD,)	ELIMINATION SYSTEM PERMIT
WASHINGTON COUNTY, MAINE)	
SURFACE WASTEWATER DISPOSAL SYSTEM)	AND
SURFACE WATER DISCHARGE)	
ME0001953)	WASTE DISCHARGE LICENSE
W000645-5P-H-M)	MINOR REVISION
APPROVAL)	

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Maine Department of Environmental Protection (Department hereinafter) has considered a request by JASPER WYMAN & SON, INC. (Wyman/permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

MODIFICATIONS REQUESTED

Wyman has requested the Department modify the biochemical oxygen demand (BOD) and total suspended solids (TSS) limitations in Special Condition A, *Effluent Limitations and Monitoring Requirements*, §1, *Treated Blueberry Process Wastewater* (Outfall #001B) in Maine Pollutant Discharge Elimination System (MEPDES) #ME0001953/Maine Waste Discharge License (WDL) #W00645-5P-F-R, issued by the Department on December 28, 2009. Wyman asserts the Department incorrectly made the determination the Wyman processing facility in Cherryfield was not subject to National Effluent Guidelines (NEGs) promulgated at 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*.

MODIFICATIONS GRANTED

The Department concurs with Wyman's assertion that the Department erred regarding the applicability of NEGs as the processing of blueberries is included in the definition of cranberries as defined in 40 CFR §407.61(c) of the applicable NEG. Therefore, the BOD and TSS limits in the 12/28/09 permit are being modified to be consistent with the derivation of technology based limits pursuant to 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 28, 2011, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding 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 water body 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 water 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 as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the request by JASPER WYMAN & SON INC., to modify the BOD and TSS limits in MEPDES permit ME0001953/Maine WDL W00645-5P-F-R, issued by the Department on December 28, 2009. The discharges shall be 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 MEPDES permit ME0001953/Maine WDL W00645-5P-F-R, issued by the Department on December 28, 2009.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit ME0001953/Maine WDL W00645-5P-F-R, issued by the Department on December 28, 2009, not modified by this permitting action remain in effect and enforceable.
4. This minor revision becomes effective upon signature and expires on December 28, 2014, concurrent with MEPDES permit ME0001953/Maine WDL W00645-5P-F-R, issued by the Department on December 28, 2009.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application January 26, 2011.
Date of application acceptance January 26, 2011.

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY
ME0001953 MR 2011 1/31/11

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittee is authorized to discharge **TREATED BLUEBERRY PROCESS WASTEWATER** via **Outfall #001B** to the Narraguagus River in Cherryfield, Maine. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
	as specified	as specified	as specified	as specified	as specified	as specified
Flow [50050]	---	0.10 MGD [03]	---	---	Daily When Discharging [DL/DS]	Measured [MS]
BOD ₅ [00310]	130 lbs./day [26]	218 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	2/Month [02/30]	Grab [GR]
TSS [00530]	269 lbs./day [26]	390 lbs./day [26]	Report mg/L [19]	Report mg/L [19]	2/Month [02/30]	Grab [GR]
pH [00400]	---	---	---	6.0 – 9.0 SU [12]	2/Month [02/30]	Grab [GR]

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

FACT SHEET

DATE: **January 28, 2011**

MEPDES PERMIT: **ME0001953**
WASTE DISCHARGE LICENSE: **W000645-5P-H-M**

NAME AND MAILING ADDRESS OF APPLICANT:

**JASPER WYMAN & SON, INC.
P.O. Box 100
Milbridge, Maine 04658**

COUNTY: **Washington County**

NAME AND ADDRESS OF FACILITY:

**JASPER WYMAN & SON, INC.
Route 193
Cherryfield, Maine**

RECEIVING WATER/CLASSIFICATION: **Narraguagus River / Class B
Ground water / Class GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Ms. Ellen Rossi
(207) 546-3381
elrossi@wymans.com**

1. MODIFICATIONS REQUESTED

Jasper Wyman & Son Inc. (Wyman/permittee hereinafter) has requested the Department modify the biochemical oxygen demand (BOD) and total suspended solids (TSS) limitations in Special Condition A, *Effluent Limitations and Monitoring Requirements*, §1, *Treated Blueberry Process Wastewater* (Outfall #001B) in Maine Pollutant Discharge Elimination System (MEPDES) ME0001953/Maine Waste Discharge License (WDL) #W00645-5P-F-R, issued by the Department on December 28, 2009. Wyman asserts the Department incorrectly made the determination the Wyman processing facility in Cherryfield was not subject to National Effluent Guidelines (NEGs) promulgated at 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*.

2. MODIFICATIONS GRANTED

The Department concurs with Wyman's assertion that the Department erred regarding the applicability of NEG's as the processing of blueberries is included in the definition of canberries as defined in 40 CFR §407.61(c) of the applicable NEG. Therefore, the BOD and TSS limits in the 12/28/09 permit are being modified to be consistent with the derivation of technology based limits pursuant to 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require 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.A. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), 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. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation, (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance or 3) the Administrator determines that technical mistakes or mistaken interpretations of laws were made in issuing the permit.

The Department (Administrator) has determined the previous permitting action incorrectly made the determination the Wyman processing facility in Cherryfield was not subject to National Effluent Guidelines (NEG's) promulgated at 40 CFR Part 407 Subpart F, *Canned and Preserved Fruits Subcategory*. Therefore, this minor revision is necessary to correct the mistake.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Narraguagus River Discharges: The 12/28/09 permitting action authorized the discharge of treated blueberry processing wastewater and non-contact cooling water to the Narraguagus River at Cherryfield. Wyman conveys as much of its wastewater and non-contact cooling waters to the storage lagoon as possible, but discharges these waste waters to the river to avoid exceeding the storage capacity of the lagoon. This section discusses monitoring requirements for process wastewater (Outfall #001B) discharges to the Narraguagus River.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

- a. Biochemical Oxygen Demand (BOD₅): In the 12/28/09 permitting action stated in part;

The administrative record suggests that certain BOD₅ limits, including the annual average, may have been derived in consideration of the effluent guideline limitations promulgated at 40 CFR Part 407 Subpart F, Canned and Preserved Fruits Subcategory. The applicability of this subpart does not include discharges from blueberry processing facilities.

As a result, the Department performed a statistical evaluation of calendar years 2006-2009 effluent data to determine appropriate performance-based effluent thresholds to ensure that the wastewater receives best practicable treatment. Based on the 95th and 99th percentiles¹ for the data set, effluent limit thresholds for BOD were determined to be and established in the 12/28/09 permit as follows:

Monthly average:	19 lbs./day	Daily maximum:	36 lbs./day
46	mg/L	200	mg/L

The Department has reconsidered the statement. “*The applicability of this subpart does not include discharges from blueberry processing facilities.*” Federal regulation found at 40 CFR §407.61(c) of the applicable NEG states that “*The term caneberries shall include the processing of the following berries: canned and frozen blackberries, blueberries, boysenberries...*” Therefore BOD limits should have been established utilizing the NEGs found at 40 CFR §407.62. This minor revision establishes technology based BOD mass limits as follows:

Wyman’s mean production in the month of August = 283,000 lbs/day which is based on a monthly average production of 8,500,000 pounds.

National Effluent Guidelines – technology based limits expressed in lbs/1,000 lbs of production

<u>Product</u>	<u>Daily Max.</u>	<u>Mon. Avg.</u>	<u>Annual Avg.</u>
Blueberries	0.77	0.46	0.32

Daily maximum mass limit: (0.77 lbs/1,000 lbs)(283) = 218 lbs/day

Monthly average mass limit: (0.46 lbs/1,000 lbs)(283) = 130 lbs/day

Annual average mass limit: (0.32 lbs/1,000 lbs)(283) = 90 lbs/day

The previous permitting action also established monthly average and daily maximum concentration limitations based on the same statistical evaluation methodology as was conducted for establishing the mass limitations for BOD. The Department has reconsidered its position on establishing concentration limits in permits that are based on NEGs. The mass limits derived

¹ 95th percentile = (Std. Dev.)(1.960) 99th percentile = (Std. Dev.)(2.576)

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

from the NEG's are by themselves, limits that are representative of the degree of effluent reduction attainable by the application of the best practicable control technology currently available. Therefore, this permitting action is eliminating the monthly average and daily maximum concentration limits for BOD.

- b. Total Suspended Solids – The 12/28/09 permit contained the following italicized text;

The previous licensing action established a daily maximum concentration limit of 80 mg/L, a daily maximum mass limit of 65 lbs./day (back-calculated from the concentration limit and discharge flow limit of 0.10 MGD), a monthly average mass limit of 45 lbs./day and an annual average mass limit of 30 lbs./day for TSS. The basis for these limits is identical to that described above for BOD₅.

A summary of the effluent TSS data for Outfall #001B as reported on the DMRs submitted to the Department for the period January 2006 through May 2009 is as follows:

TSS	Minimum	Maximum	Arithmetic Mean	# DMRs
<i>Monthly Average</i>	<i>0.16 lbs./day</i>	<i>3.1 lbs./day</i>	<i>1.4 lbs./day</i>	<i>22</i>
<i>Daily Maximum</i>	<i>0.16 lbs./day</i>	<i>7 lbs./day</i>	<i>2.3 lbs./day</i>	<i>22</i>
	<i>4 mg/L</i>	<i>70 mg/L</i>	<i>19.2 mg/L</i>	<i>22</i>

The Department is carrying forward the daily maximum concentration limit of 80 mg/L and the monthly average mass limit of 45 lbs./day based on best professional judgment of best practicable treatment. This permitting action is revising the daily maximum mass limit to 66 lbs./day² based on a reduction in the discharge flow limit, and is establishing a monthly average concentration limit of 54 mg/L³. The Department is making a best professional judgment that an annual average mass limitation is not necessary to demonstrate BPT or to ensure that the water quality standards ascribed to Class B waters are met, and is therefore eliminating the previously established limit.

As with BOD, limits should have been established utilizing the NEG's found at 40 CFR §407.62. This minor revision establishes technology based TSS mass limits as follows:

Wyman's mean production in the month of August = 283,000 lbs/day

² (80 mg/L)(8.34 lbs./gal)(0.10 MGD) = 66 lbs./day

³ (45 lbs./day)/[(8.34 lbs./gal)(0.10 MGD)] = 54 mg/L

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

National Effluent Guidelines – technology based limits expressed in lbs/1,000 lbs of production

<u>Product</u>	<u>Daily Max.</u>	<u>Mon. Avg.</u>	<u>Annual Avg.</u>
Blueberries	1.38	0.95	0.58

Daily maximum mass limit: $(1.38 \text{ lbs}/1,000 \text{ lbs})(283) = 390 \text{ lbs/day}$

Monthly average mass limit: $(0.95 \text{ lbs}/1,000 \text{ lbs})(283) = 269 \text{ lbs/day}$

Annual average mass limit: $(0.58 \text{ lbs}/1,000 \text{ lbs})(283) = 164 \text{ lbs/day}$

As with BOD, the monthly average and daily maximum concentration limits for TSS are being eliminated in this permitting action. See the discussion in the last paragraph of Section 3(a) of this minor revision.

6. RECEIVING WATER QUALITY STANDARDS

Classification of major river basins, 38 M.R.S.A. § 467(6-A)(2) classifies the Narraguagus River from the confluence with the West Branch of the Narraguagus River in Cherryfield to tidewater as a Class B waterbody. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(3) describes the standards for Class B waters as follows;

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.

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 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 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of Escherichia coli bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.

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.

7. ANTI-DEGRADATION - RECEIVING WATER QUALITY IMPACTS

Maine's anti-degradation policy is included in 38 M.R.S.A., Section 464(4)(F) and addressed in the *Conclusions* section of this permit. Pursuant to the policy, where a new or increased discharge is proposed, the Department shall determine whether the discharge will result in a significant lowering of existing water quality. Increased discharge means a discharge that would add one or more new pollutants to an existing effluent, increase existing levels of pollutants in an effluent, or cause an effluent to exceed one or more of its current licensed discharge flow or effluent limits, after the application of applicable best practicable treatment technology.

This permitting action revises previously established effluent limitations and monitoring requirements for BOD and TSS. The rationale for these actions is contained in Section 5 of this Fact Sheet. Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the Narraguagus River to meet standards for Class B classification.

8. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7693 Fax: (207) 287-3435
e-mail: gregg.wood@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.

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.
