



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

September 30, 2013

Casey Cote
Town Manager, Town of Frenchville
285 U.S. Route 1, P.O. Box 97
Frenchville, ME. 04745

RE: Maine Waste Discharge License (WDL) Application #W007676-6B-F-M
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0101982
Final Permit Modification

Dear Casey:

Enclosed, please find a copy of your **final** MEPDES permit and Maine WDL **modification** 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: Sean Bernard, DEP/NMRO
Sandy Mojica, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
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
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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

TOWN OF FRENCHVILLE)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS)	ELIMINATION SYSTEM PERMIT
FRENCHVILLE, AROOSTOOK COUNTY, MAINE)	AND
ME0101982)	WASTE DISCHARGE LICENSE
W007676-6B-F-M)	MODIFICATION
APPROVAL)	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and *Conditions of Licenses*, 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department" hereinafter) has considered the application of THE TOWN OF FRENCHVILLE (Town/permittee hereinafter), with its supportive data, agency review comments, and other related material on file and finds the following facts:

APPLICATION SUMMARY

The Town has submitted an application to the Department to modify combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101982/ Waste Discharge License (WDL) #W007676-6B-D-R, (permit hereinafter) which was issued by the Department on August 5, 2010, for a five-year term. The permit authorized the discharge of up to a monthly average flow of 0.06 million gallons per day (MGD) of secondary treated waste water from a municipal wastewater treatment facility to the St. John River, Class B, in Frenchville, Maine. The permittee is requesting the Department increase the monthly average flow to 0.084 MGD to accommodate flows from the Town of St. Agatha. The St. Agatha waste water treatment facility was recently decommissioned and all flow in St. Agatha is now being conveyed to the Town of Frenchville for secondary treatment and discharge to the St. John River.

PERMIT MODIFICATIONS GRANTED

The Department is granting the permittee's request to increase the monthly average flow limit to 0.084 MGD.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 27, 2013, 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 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) Where 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.

ACTION

THEREFORE, the Department APPROVES the above noted application of the TOWN OF FRENCHVILLE to discharge a monthly average flow of up to 0.084 million gallons per day (MGD) of secondary treated sanitary wastewater to the St. John River, Class B, in Frenchville, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

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 #ME0101982/WDL #W007676-6B-D-R, which was issued on August 5, 2010, for a five-year term.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0101982/WDL #W007676-6B-D-R, which was issued on August 5, 2010, not modified by this permitting action remain in effect and enforceable.
4. This minor revision becomes effective upon signature and expires on August 5, 2015, concurrent with MEPDES permit #ME0101982/WDL #W007676-6B-D-R, which was issued on August 5, 2010. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the 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.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

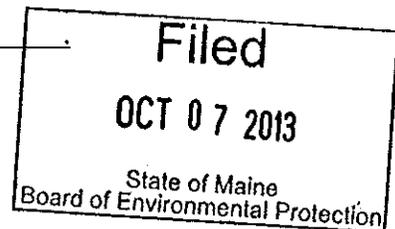
PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 4th DAY OF October, 2013.
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
For Patricia W. Aho, Commissioner

Date of initial receipt of application August 15, 2013

Date of application acceptance August 18, 2013



Date filed with Board of Environmental Protection _____

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning the effective date of this permit modification, the permittee is authorized to discharge secondary treated sanitary waste water from Outfall #001A to the St. John River. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements			
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	as specified 0.084 MGD [03]	--	as specified Report MGD [03]	--	--	--	as specified Continuous [99/99]	as specified Recorder [RC]
BOD ₅ [00310]	21 lbs/day [26]	32 lbs/day [26]	35 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	Composite [24]
BOD ₅ Percent Removal ⁽¹⁾ [81010]	--	--	--	85% [23]	--	--	1/Month [01/30]	Calculate [CA]
TSS [00530]	21 lbs/day [26]	32 lbs/day [26]	35 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	Composite [24]
TSS Percent Removal ⁽¹⁾ [81011]	--	--	--	85% [23]	--	--	1/Month [01/30]	Calculate [CA]
<i>E. coli</i> Bacteria (May 15 – September 30) [31633]	--	--	--	64/100 mL ⁽²⁾ [13]	--	427/100 mL [13]	1/Week [01/07]	Grab [GR]
Total Residual Chlorine ⁽³⁾ [50060]	--	--	--	--	--	1.0 mg/L [19]	5/Week [05/07]	Grab [GR]
pH ⁽⁴⁾ [00400]	--	--	--	--	--	6.0 – 9.0 SU _T ⁽⁵⁾ [12]	5/Week [05/07]	Grab [GR]

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

FOOTNOTES: See Pages 5-6 of the August 5, 2010, permit for applicable footnotes.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: August 27, 2013

MEPDES PERMIT: #ME0101982
WASTE DISCHARGE LICENSE: #W007676-6B-F-M

NAME AND ADDRESS OF APPLICANT:

TOWN OF FRENCHVILLE
285 US Route 1
Frenchville, Maine 04745

COUNTY: Aroostook

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

FRENCHVILLE WASTEWATER TREATMENT FACILITY
368A US Route 1
Frenchville, Maine 04745

RECEIVING WATER / CLASSIFICATION: St. John River/Class B

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Casey Cote, Town Manager
(207) 543-7301
townmanager@frenchville.com

1. APPLICATION SUMMARY

- a. Application - The Town of Frenchville (Town/permittee hereinafter) has submitted an application to the Maine Department of Environmental Protection (Department hereinafter) to modify combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0101982/ Waste Discharge License (WDL) #W007676-6B-D-R, (permit hereinafter) which was issued by the Department on August 5, 2010, for a five-year term. The permit authorized the discharge of up to a monthly average flow of 0.06 million gallons per day (MGD) of secondary treated waste water from a municipal wastewater treatment facility to the St. John River, Class B, in Frenchville, Maine. The permittee is requesting the Department increase the monthly average flow to 0.084 MGD to accommodate flows from the Town of St. Agatha. The St. Agatha waste water treatment facility was recently decommissioned and all flow in St. Agatha is now being conveyed to the Town of Frenchville for secondary treatment and discharge to the St. John River.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description: The Town of Frenchville's waste water treatment facility currently receives residential and commercial sanitary waste water from 175 sewer customers in the Town of Frenchville. There are no significant industrial users or combined sewer overflow points associated with the collection system. The facility is not authorized to receive or treat septage. Septage generated within town limits is disposed of via a landspreading site authorized under a different Department license.

Beginning in September 2013, the Frenchville waste water treatment facility will begin treating an additional 0.024 MGD from residential and commercial entities in the Town of St. Agatha given the recent decommissioning of the St. Agatha waste water treatment facility.

- c. Wastewater Treatment: Sanitary wastewater generated in the town is conveyed through a pressurized sewer collection system to the treatment plant headworks building. The wastewater is directed to a comminutor for grinding larger sized solids. From the headworks building, wastewater is pumped to a deep aerated primary lagoon with a capacity of 2.1 million gallons (MG). Wastewater is then directed by gravity to an aerated secondary lagoon with a capacity of 2.4 MG. The final effluent is chlorinated and discharges through a single port, 6-inch diameter PVC pipe at a depth of five (5) feet below mean low water in the St. John River.

With the additional flows from St. Agatha, the Town of Frenchville found it necessary to upgrade certain conveyance and treatment components of the treatment facility. According to the August 15, 2013, application, upgrades included a new influent pumping system with new submersible centrifugal chopper pumps, a new in-line magnetic flow meter for influent flow measurement, a new mechanical floating aspirating aerators in Lagoon #1, a new mechanical mixer for disinfection in the existing chlorine contact chamber and a new adjustable weir gate at the effluent end of the chlorine contact chamber for process flow control.

2. PERMIT MODIFICATIONS GRANTED

The Department is granting the permittee's request to increase the monthly average flow limit to 0.084 MGD.

3. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the August 5, 2010, permitting action except this permit modification is;
1. Increasing the monthly average discharge flow limit from 0.06 MGD to 0.084 MGD based on the new waste stream being conveyed from the former St. Agatha waste water treatment facility.
 2. Increasing the monthly average, weekly average and daily maximum technology-based mass limitations for biochemical oxygen demand (BOD₅) and total suspended solids (TSS) based on the increased flow limitation;
 3. Revising the permittee's acute, chronic and harmonic mean dilution factors based on the increased flow limitation.
- b. Facility History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee:

April 12, 1991 – The U.S. Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0101982 with a term of 5 years.

January 2, 1997 – The Department issued a new WDL for the Town's waste water treatment facility with a license number of W007676-59-A-N with a term of four years.

May 23, 2000 -- Pursuant to 38 M.R.S.A. §420 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W007676-59-A-N by establishing interim monthly average and daily maximum effluent concentration limits of 5.0 parts per trillion (ppt) and 7.4 ppt, respectively, and a minimum monitoring frequency requirement of 2 tests per year for mercury.

December 21, 2000 – The Department issued a renewal of the 1997 WDL authorizing the continued discharge of treated wastewater from the Town of Frenchville's Wastewater Treatment Facility. The 2000 WDL was issued with a term of five years and is scheduled to expire on December 21, 2005. The EPA also issued ME0101982 renewing the authorization to discharge under the NPDES program.

June 17, 2005 – The Department issued MEPDES Permit #ME0101982/WDL W007676-5L-C-R for a five-year term.

3. PERMIT SUMMARY (cont'd)

August 5, 2010 – The Department issued MEPDES Permit #ME0101982/WDL W007676-6B-D-R for a five-year term.

February 6, 2012 - The Department issued a modification of MEPDES permit #ME0101982/WDL W007676-6B-D-R for reduction of mercury testing frequency from 4/Year to 1/Year based on *Certain deposits and discharges prohibited*, 38 M.R.S.A., § 420 sub-§1-B(F).

August 15, 2013 – The Town of Frenchville submitted an application to the Department to modify the August 5, 2010 MEPDES permit/WDL to increase the permitted flow from 0.06 MGD to 0.84 MGD. The application was accepted for processing by the Department on August 19, 2013.

4. CONDITIONS OF PERMITS

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 06-096 CMR 530 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.

5. RECEIVING WATER QUALITY STANDARDS

38 M.R.S.A. 467 (15)(A)(3) classifies the St. John River as a Class B waterway at the point of discharge. 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

5. RECEIVING WATER QUALITY STANDARDS (cont'd)

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.

6. RECEIVING WATER QUALITY CONDITIONS

*The State of Maine 2010 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 a 21.8-mile segment of the St. John River (Hydrologic Unit Code ME0101000116_116R) as, "Category 2: Rivers and Streams Attaining Some Designated Uses, Insufficient Information for Other Uses." The Department has no information at this time that the discharge from the permittee's facility causes or contributes to non-attainment of the Class B standards of this segment of the St. John River. In addition, all freshwaters in Maine are listed as only partially attaining the designated use of recreational fishing due to a fish consumption advisory (Category 4A). The advisory was established in response to elevated levels of mercury in some fish caused by atmospheric deposition. The Department has no information at this time that the discharge from permittee causes or contributes to non-attainment of the standards of classification for the St. John River at the point of discharge. If future water quality sampling or modeling runs determine that, at full permitted discharge limits, the permittee's discharge is causing or contributing to nonattainment, this permit will be reopened per Special Condition L, *Reopening of Permit For Modifications*, of the August 5, 2010 permit to impose more stringent limitations to meet water quality standards.*

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: This permitting action is establishing a new monthly average discharge flow limitation of 0.084 MGD based on a request from the permittee given the facility is now accepting and treating waste water from the Town of St. Agatha.
- b. Dilution Factors: In May 2010, the Department's Division of Environmental Assessment (DEA) reassessed the 1Q10 (the lowest 1-day average flow that occurs once every 10 years) and 7Q10 (the lowest 7-day average flow that occurs once every 10 years) for permittees on the St. John River. As a result, the Department revised the permittee's applicable dilution factors in the August 5, 2010 permitting action in accordance with freshwater protocols established in *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005). These revisions result in a 10.4% reduction of the permittee's chronic dilution factor of 8370:1 and an 8.27% reduction of the permittee's acute dilution factor of 8029:1. With a monthly average flow limit of 0.084 MGD, new dilution factors associated with the discharge from the permittee may be calculated as follows:

7. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

$$\text{Acute: } 1Q10 = 683.5 \text{ cfs} \Rightarrow \frac{(683.5 \text{ cfs})(0.6464) + 0.084 \text{ MGD}}{0.084 \text{ MGD}} = 5,261:1$$

$$\text{Mod. Acute}^{(1)}: \frac{1}{4} 1Q10 = 170.9 \text{ cfs} \Rightarrow \frac{(170.9 \text{ cfs})(0.6464) + 0.084 \text{ MGD}}{0.084 \text{ MGD}} = 1,316:1$$

$$\text{Chronic: } 7Q10 = 696.3 \text{ cfs} \Rightarrow \frac{(696.3 \text{ cfs})(0.6464) + 0.084 \text{ MGD}}{0.084 \text{ MGD}} = 5,359:1$$

$$\text{Harmonic Mean} = 3579.5 \text{ cfs}^{(2)} \Rightarrow \frac{(3579.5 \text{ cfs})(0.6464) + 0.084 \text{ MGD}}{0.084 \text{ MGD}} = 27,546:1$$

Footnote:

(1) 06-096 CMR 530(4)(B)(1) states,

Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.

The DEA has not determined that mixing of the effluent with the receiving water is complete and rapid and recommends that acute evaluations be based on the default stream design flow of 1/4 of the 1Q10 in accordance with 06-096 CMR 530(4)(B)(1).

(2) Information provided by DEA, June, 2010.

- c. Biochemical Oxygen Demand (BOD5) & Total Suspended Solids (TSS); - This permitting action is increasing the monthly average, weekly average and daily maximum technology-based mass limits based on the revised flow limitation of 0.084 MGD. The mass limitations are being derived as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs/gal})(0.084 \text{ MGD}) = 21 \text{ lbs/day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs/gal})(0.084 \text{ MGD}) = 32 \text{ lbs/day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs/gal})(0.084 \text{ MGD}) = 35 \text{ lbs/day}$

8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

a. 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 and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance.

This permitting action is establishing less stringent mass limitations for BOD and TSS based on new information that was not available at the time of the previous permitting action. The Department has made the determination the increase in the mass limits for BOD and TSS will not cause or contribute to failure of the receiving water to meet its classification standards.

b. ANTI-DEGRADATION - IMPACT ON RECEIVING WATER QUALITY

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 1 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 modification 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 St. John River to meet standards for Class B classification.

9. PUBLIC COMMENTS

Public notice of this application was made in the *St. John Valley Times* newspaper on or about July 10, 2010. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 §8.

10. 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

11. RESPONSE TO COMMENTS

During the period of August 27, 2013, through the issuance date of the permit/license modification, the Department solicited comments on the proposed draft permit/license modification to be issued for the discharge(s) from the Frenville facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

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. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board 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 the Board's 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 a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of 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

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of 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 on the appeal 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, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that 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 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.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, 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.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder 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 receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the 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 or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal 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 person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

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.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

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.
