

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

Robert S. Duchesne, Chair

William F. Hinkel
Executive Analyst

Ruth Ann Burke
Board Clerk

January 21, 2026

SENT VIA ELECTRONIC MAIL ONLY

Co-Appellants

Natural Resources Council of Maine, Maine
Audubon, Appalachian Mountain Club, and
Trout Unlimited

Represented by:

Benjamin B. Algeo, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, Maine 04101-2480
balgeo@dwmlaw.com

Licensee

NECEC Transmission LLC

Represented by:

Lisa Gilbreath, Esq.
Pierce Atwood LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101
lgilbreath@pierceatwood.com

**Re: AMENDED BOARD ACKNOWLEDGEMENT AND UPDATED TIMELINES of Appeal
of NECEC Transmission LLC Condition Compliance Order**

Dear Mr. Algeo, Ms. Gilbreath, and Interested Persons:

On December 18, 2025, the Natural Resources Council of Maine, Maine Audubon, the Appalachian Mountain Club, and Trout Unlimited (“Co-Appellants”) jointly filed with the Board of Environmental Protection (“Board”) a timely appeal¹ of the November 18, 2025, licensing decision of the Commissioner of the Department of Environmental Protection (“Department”) issued to NECEC Transmission LLC (“Licensee”). That licensing decision approved with conditions the Licensee’s application for Condition Compliance submitted pursuant to Special Condition #39 of the Licensee’s Site Location of Development Law and Natural Resources Protection Act permit for the New England Clean Energy Connect transmission project (“Condition Compliance Order”).² The Co-Appellants did not request that the Board hold a hearing on the appeal.

¹ The appeal and all appeal exhibits are available at <https://www.maine.gov/dep/bep/featured.html>.

² By Order dated May 11, 2020, the Commissioner approved the applications of Central Maine Power Company to develop the New England Clean Energy Connect transmission project pursuant to the Site Location of Development Law and Natural Resources Protection Act. By Order dated December 4, 2020, the Commissioner approved a partial transfer of the May 2020 Order from Central Maine Power Company to NECEC Transmission LLC. By Board Order on Appeal dated July 21, 2022, the Board affirmed, with additional conditions, the May 2020 Order and the December 2020 Order.

Appeals to the Board of a Commissioner's licensing decision are governed by Chapter 2, *Processing of Applications and Other Administrative Matters*, § 23 (effective September 15, 2024). A copy of Chapter 2, § 23 is enclosed for reference.³

On January 9, 2026, Board staff issued a letter that acknowledged receipt of the appeal; informed the Licensee and Interested Persons of their right to submit to the Board proposed supplemental evidence addressing the issues raised in the appeal; circulated a draft Appeal Service List to be used in the filing of submissions in this proceeding; and identified next steps in this appeal proceeding.

Board staff subsequently became aware that the draft list of Interested Persons⁴ did not include all Interested Persons who commented on the application for the Condition Compliance Order.⁵ This correspondence serves to circulate the information contained in the Board's January 9th letter, to circulate an updated Appeal Service List, and to reset the 30-day deadline regarding the submission of proposed supplemental evidence (see Section I below).

I. Proposed supplemental evidence.

The Co-Appellants did not offer proposed supplemental evidence with their appeal. Pursuant to 38 M.R.S. § 341-D(4), which is implemented in Chapter 2, § 23(E), the Licensee and Interested Persons may, **by 5:00 p.m. on February 20, 2026**, submit to the Board proposed supplemental evidence addressing the issues raised in the appeal. If the Licensee or Interested Persons offer proposed supplemental evidence, the Board staff will notify the Co-Appellants of that proposed supplemental evidence, and the Co-Appellants may, within 15 days of the Board staff notice, comment on the admissibility of the Licensee's or Interested Person's proposed supplemental evidence.

Pursuant to Chapter 2, § 23(E)(1), for admittance to the record, any person entitled to offer proposed supplemental evidence in an appeal must demonstrate:

- a) that the proposed supplemental evidence is relevant and material to the appeal;
- b) that the evidence could not have been presented to the Commissioner during the application processing period; and
- c) that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period.

³ A complete copy of Chapter 2 is available at <https://www.maine.gov/sos/rulemaking/agency-rules/department-environmental-protection-rules>.

⁴ The term "interested person" is defined in Chapter 2, § 1(M) as "a person who submits timely written comments on an application or who requests, in writing, receipt of materials related to a particular application pending before the Department."

⁵ Attached is a list of persons who submitted similar or identical written comments via an email address with the domain name "@everyactioncustom.com" that does not accept incoming email. The Department, including the Board, does not have usable contact information for any of the persons on that list and has not included those individuals on the Appeal Service List. Any person who submitted a written comment using that email domain and who wishes to further participate in this appeal proceeding must contact the Board Executive Analyst (bill.hinkel@maine.gov) to be added to the list of Interested Persons.

The Board Chair will rule on all proposed supplemental evidence in accordance with Chapter 2, § 23(E)(2), and may reject any proposed supplemental evidence that does not comply with the above-referenced criteria.

II. Response to the merits of the appeal.

Chapter 2, § 23(F) specifies who may submit to the Board a written response to the merits of an appeal. Following the Board Chair's written ruling on all proposed supplemental evidence, the Licensee and Interested Persons will have 20 days to file with the Board a complete response to the merits of the appeal. If no proposed supplemental evidence is submitted in this proceeding, the Board Executive Analyst will inform the Licensee and Interested Persons of the filing deadline for the complete response to the merits of the appeal.

III. Filing of documents and service list.


All filings in this matter must be copied to all government agency staff, the Co-Appellants, the Licensee, and Interested Persons on the Appeal Service List. All correspondence to and from the Board in this appeal proceeding will be directed through the designated appeal participant's representative. It is the responsibility of each appeal participant's representative to circulate appeal filings to their clients or members of its organization as it sees fit. Any revisions to the draft Appeal Service List made by the Board will be circulated to all persons on the Appeal Service List.

Any member of the public who is not an Interested Person (i.e., persons who did not submit written comment on the application or draft license or who did not previously request, in writing, receipt of materials related to the application, "Members of the Public") may request that the Board provide them with direct notice of Board meetings and Board decisions in this matter. Any such requests should be made to the Board Executive Analyst (contact information provided on Appeal Service List). Chapter 2 does not require service of appeal filings upon Members of the Public. However, pursuant to the Freedom of Access Act, 1 M.R.S. § 400, *et seq.*, all appeal filings (including all information contained therein) are public records and may be obtained through inquiry to the Board staff. Persons are cautioned against including in any submission to the Board information they do not want made publicly available.

The filing of any submission or the service of any document or communication is deemed complete when the document or communication is sent to the required appeal participants or the appeal participant's designated representative by electronic mail, U.S. mail, in-hand delivery, or telefax. Electronic mail with attachments clearly labeled and saved in pdf format is preferred; however, the Board reserves the right to require paper copies of all filings in this matter. All correspondence from the Board in this matter will be provided in electronic format only unless a specific request for correspondence in paper form is made to the Board Executive Analyst.

Filings with the Board must be directed to the Board Chair in care of Board Clerk Ruth Ann Burke. Questions regarding the appeal proceeding may be directed to Board Executive Analyst William F. Hinkel at bill.hinkel@maine.gov or 207-314-1458 or Assistant Attorney General Mark Bower at mark.bower@maine.gov or 207-626-8578.

Sincerely,



William F. Hinkel
Executive Analyst
Board of Environmental Protection

cc (via email only): Appeal Service List (January 21, 2026)

Enclosures (3): Appeal Service List (January 21, 2026)
List of persons using “@everyactioncustom” email domain
Chapter 2, § 23 excerpt

Enclosure(s)

Board of Environmental Protection
Appeal by Natural Resources Council of Maine, Maine Audubon, the Appalachian
Mountain Club, and Trout Unlimited of
NECEC Transmission LLC's Condition Compliance Order
Appeal Service List (January 21, 2026)

Board of Environmental Protection

Filings with the Board must be directed to Ruth Ann Burke and, unless otherwise specified, are due by 5:00 p.m. on the filing date. Untimely filings may be rejected.

Board Chair

Board of Environmental Protection
c/o Board Clerk Ruth Ann Burke
17 State House Station
Augusta, ME 04333-0017
(207) 592-0271
ruth.a.burke@maine.gov

William F. Hinkel

Executive Analyst
Board of Environmental Protection
17 State House Station
Augusta, ME 04333
(207) 314-1458
bill.hinkel@maine.gov

Office of the Maine Attorney General

Mark Bower

Assistant Attorney General
6 State House Station
Augusta, ME 04333
(207) 626-8578
mark.bower@maine.gov

Kelsey Gagnon

Assistant Attorney General
6 State House Station
Augusta, ME 04333
(207) 557-2497
kelsey.gagnon@maine.gov

Department of Environmental Protection

Rob Wood

Director, Bureau of Land Resources
17 State House Station
Augusta, ME 04333
(207) 855-8361
robert.wood@maine.gov

Dawn Hallowell

Licensing and Compliance Manager
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017
(207) 557-2624
dawn.hallowell@maine.gov

Kevin Martin

Director, Policy Development and Implementation
Department of Environmental Protection
17 State House Station
Augusta, ME 04333
(207) 480-0175
kevin.martin@maine.gov

Licensee

NECEC Transmission LLC

Represented by:
Lisa Gilbreath, Esq.
Pierce Atwood LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101
(207) 791-1397
lgilbreath@pierceatwood.com

Co-appellants

**Natural Resources Council of Maine,
Maine Audubon, Appalachian Mountain
Club, and Trout Unlimited**

Represented by:
Benjamin B. Algeo, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, Maine 04101-2480
(207) 771-9218
balgeo@dwmlaw.com

Board of Environmental Protection
Appeal by Natural Resources Council of Maine, Maine Audubon, the Appalachian
Mountain Club, and Trout Unlimited of
NECEC Transmission LLC's Condition Compliance Order
Appeal Service List (January 21, 2026)

Interested Persons – Persons who submitted written comment on the application or draft license decision	Interested Persons – Persons who submitted written comment on the application or draft license decision
Maine State Legislators Senator Stacy Brenner Stacy.Brenner@legislature.maine.gov Senator Henry Ingwersen Henry.Ingwersen@legislature.maine.gov Senator Nicole Grohoski Nicole.Grohoski@legislature.maine.gov Senator Anne Carney Anne.Carney@legislature.maine.gov Representative Lori Gramlich Lori.Gramlich@legislature.maine.gov Senator Rick Bennett Richard.Bennett@legislature.maine.gov	EDP Renewables North America LLC Chris Glynn chris.glynn@edp.com Industrial Energy Consumer Group Anthony Buxton, Esq. abuxton@preti.com Jeffrey Thaler, Esq. jthaler@preti.com International Brotherhood of Electrical Workers Tim Burgess Burgess@ibew104.org Sportsman's Alliance of Maine David Trahan david@samofmaine.org The Nature Conservancy in Maine Kaitlyn Nuzzo kaitlyn.nuzzo@tnc.org Conservation Law Foundation Sean Mahoney smahoney@clf.org Maine Renewable Energy Association Eliza Donoghue, Esq. eliza@renewablemaine.org Lloyd C. Irland Lcirland@gmail.com Paul B. Frederic frederic@myfairpoint.net Robert S. Seymour rseymour@maine.edu Nancy Artz artz@maine.edu Robert R. Bryan rrbryan.54@gmail.com John Hagen jhagan@ourclimatecommon.org
Maine Department of Inland Fisheries and Wildlife Nathan Webb, Wildlife Division Director nathan.webb@maine.gov Maine Department of Agriculture, Conservation and Forestry – Bureau of Parks and Lands Andy Cutko, Director andy.cutko@maine.gov Maine State Chamber of Commerce Patrick Woodcock pwoodcock@mainechamber.org Ashley Luszczyki aluszczyki@mainechamber.org Sierra Club Maine Chapter Philip Mathieu philip.eng.mathieu@gmail.com	

**Board of Environmental Protection
Appeal by Natural Resources Council of Maine, Maine Audubon, the Appalachian
Mountain Club, and Trout Unlimited of
NECEC Transmission LLC's Condition Compliance Order
Appeal Service List (January 21, 2026)**

**Interested Persons – Persons who
submitted written comment on the
application or draft license decision**

Paul Sheridan
sheridanpa@earthlink.net

Richard Anderson
randerson19@maine.rr.com

Ronald Joseph
ronald.a.joseph@gmail.com

Sherwin Start
sstart2019@gmail.com

Steve Robe
steve.robe@hotmail.com

Adam Stetson
adam.stetson00@aol.com

Cathy Johnson
cjohnsonnrcm@gmail.com

**Members of the Public – Persons who
requested direct notice of Board
meetings and decisions regarding the
appeal**

Enclosure(s)

NECEC Condition Compliance Interested Persons - Every Action Custom email

Alan Liska	lekarowl@everyactioncustom.com
Alan MacDonald	alan.mcd@everyactioncustom.com
Albert Manville	amanville634@everyactioncustom.com
Amy Soper	Amy.Soper@everyactioncustom.com
Andrea Lani	andraelani@everyactioncustom.com
Andrew Blanchard	76parkst@everyactioncustom.com
Andrew McCrum	andymccru@everyactioncustom.com
Andy Burt	annedburt145@everyactioncustom.com
Ania Wright	awright@everyactioncustom.com
Ann Pedreschi	arpedreschi@everyactioncustom.com
Ann Schaer	arschaer49@everyactioncustom.com
Antonio Russo	arusso1245@everyactioncustom.com
April Lavery	camracrazy36@everyactioncustom.com
Arilda Densch	arildensch@everyactioncustom.com
Averill Huff	a22222@everyactioncustom.com
Barbara O'Reilly	spotsfarm@everyactioncustom.com
Barbara Perkins	abperkins3@everyactioncustom.com
Barry Smith	43strvdm@everyactioncustom.com
Becky Hagen	anonz1985@everyactioncustom.com
Bets Brown	bbrown6548@everyactioncustom.com
Bill Grabin	grabin@everyactioncustom.com
Bill Gruener	bill.gruener@everyactioncustom.com
Bill Hammond	ubhammond@everyactioncustom.com
Bill Meserve	william.meserve@everyactioncustom.com
Bob Runes	runes@everyactioncustom.com
Bonnie Ginger	bginger@everyactioncustom.com
Brent Miller	miller4380@everyactioncustom.com
Brett Ludden	gotobrett@everyactioncustom.com
Brie Costello	briemarielcostello@everyactioncustom.com
Bruce Gagnon	globalnet@everyactioncustom.com
Camille Parrish	cparrish27@everyactioncustom.com
Carol Southall	onawaycamp@everyactioncustom.com
Carole Jean	msleesiamese@everyactioncustom.com
Carolyn Colpitts	ccolpitts177@everyactioncustom.com
Casey Kaemerer	casekaem@everyactioncustom.com
Catherine Knowles	vikingbrew@everyactioncustom.com
Cathy Johnson	cjohnsonnrcm@everyactioncustom.com
Chris Harkness	harkness.c@everyactioncustom.com
Christopher Johnson	chris@everyactioncustom.com
Christopher Sewall	sewallcs@everyactioncustom.com
Cindy Campbell	bestfriendsarewe3@everyactioncustom.com
Cindy Curran	cindcurran@everyactioncustom.com
Cindy Lang	cindy78lang@everyactioncustom.com

Claudia Hatch	crhatch1972@everyactioncustom.com
Cletis Boyer	ontictracker@everyactioncustom.com
Colin Vettier	colin.vettier@everyactioncustom.com
Colleen Donohoe	Colleenkelk@everyactioncustom.com
Colleen McKenna	cmckenna@everyactioncustom.com
Cooper Morrow	coopmorrow@everyactioncustom.com
Craig Snapp	mepapasnapp@everyactioncustom.com
Cristina Ferla	cmferla@everyactioncustom.com
Dale McCormick	dmccormick11@everyactioncustom.com
Daniel Iannello	iannello.dan@everyactioncustom.com
Daniel Oppenheim	daniel.oppenheim@everyactioncustom.com
Daniel Tandy	dftandy@everyactioncustom.com
Danielle Woerner	dw@everyactioncustom.com
Darrah Wagner	wagner.darrah1@everyactioncustom.com
David Butler	davidb@everyactioncustom.com
David Manyan	blueflag36@everyactioncustom.com
Deb Denbow	ddenb@everyactioncustom.com
Deborah Avalone-King	djaking@everyactioncustom.com
Denise Benedict	11dbenedict@everyactioncustom.com
Derek Lovitch	lovitch.derek@everyactioncustom.com
Diana Bowen	diana.bowen2@everyactioncustom.com
Diana Dunn	dddunn1895@everyactioncustom.com
Diane Oltarzewski	dianeolta@everyactioncustom.com
Diane Shaw	diane.shaw88@everyactioncustom.com
Dianne Wilkins	dianne.wilkins@everyactioncustom.com
Dick Jarrett	DickJ@everyactioncustom.com
Dixie Frei	dfrei148@everyactioncustom.com
Donna Wheeler	donna.wheeler71@everyactioncustom.com
Doreen Thompson	perley@everyactioncustom.com
Doris Luther	dsluther1049@everyactioncustom.com
Dot Kelly	dot@everyactioncustom.com
Douglas Wood	dwood005@everyactioncustom.com
Edward Kaynor	edkaynor@everyactioncustom.com
Elaine Davidson	elaine.y.davidson@everyactioncustom.com
Elaine Tucker	est@everyactioncustom.com
Eleanor Weisman	eleanor.weisman@everyactioncustom.com
Elizabeth Hagens	bethehagens@everyactioncustom.com
Elizabeth Hill	elizahill8@everyactioncustom.com
Elizabeth Jackson	lszat_2000@everyactioncustom.com
Emily Gerencer	gerencer.emily@everyactioncustom.com
Emily Swan	eswan@everyactioncustom.com
Emmie Theberge	emmie@everyactioncustom.com
Eowyn Levene	iameowyn@everyactioncustom.com
Eve Sawyer	neweve53@everyactioncustom.com

Fawn King	fawnpking@everyactioncustom.com
Fran Hoef-Bouchard	carmelx44@everyactioncustom.com
Francis Collins	fcollins1938@everyactioncustom.com
Frank Engert	engert01@everyactioncustom.com
Frazier Meade	fsmeade@everyactioncustom.com
Frederick Farquhar	fritz.farquhar@everyactioncustom.com
Gabriel Cole	gabe@everyactioncustom.com
Gail Presley	gailpresley@everyactioncustom.com
Gene McKenna	gmckenna26@everyactioncustom.com
Georganne Bendall	privet.veal-08@everyactioncustom.com
George Shaler	gshaler@everyactioncustom.com
Glenn Morazzini	gmoraz4@everyactioncustom.com
Gola Wolf Richards	wolf@everyactioncustom.com
Gordon Smith	mbsgrs@everyactioncustom.com
Grace Little	gracel@everyactioncustom.com
Greg Kimber	gkimber33@everyactioncustom.com
Gregg Raymond	greggraymond@everyactioncustom.com
Gregory Hausmann	gehaus@everyactioncustom.com
Hannah Osborne	hannahco207@everyactioncustom.com
Harriet Plehn	hplehn@everyactioncustom.com
Heather Carr	hrc2354@everyactioncustom.com
Heather Keast	heather5k@everyactioncustom.com
Helen Boucher	fleuby@everyactioncustom.com
Henry Washburn	washburnhank@everyactioncustom.com
Holly Hughes	terramia56@everyactioncustom.com
Iris Parker	iparker80@everyactioncustom.com
Jack Shapiro	jshapiro@everyactioncustom.com
James Peary	jimpeary50@everyactioncustom.com
James Rodrigue	jnr58dlc60@everyactioncustom.com
James Sitrick, Jr.	jbsitrickjr@everyactioncustom.com
Jane Hersey	jhersey1@everyactioncustom.com
Janet Heroux	heroux.janet@everyactioncustom.com
Janet Williams	williajanet@everyactioncustom.com
Janine Moore	janmarmoore@everyactioncustom.com
Jeff Reynolds	wutsup1@everyactioncustom.com
Jennifer Angelone	jengelone@everyactioncustom.com
Jerry Robock	robocks@everyactioncustom.com
Jill Martel	mainewoodsandwaters@everyactioncustom.com
Jim Kennedy	jcellokeneddy@everyactioncustom.com
Jo Hayward-Haines	easterly@everyactioncustom.com
Joan Bromage	joan@everyactioncustom.com
Joan Smaldone	meanderinginmaine@everyactioncustom.com
Joanna Nadeau	jb.nadeau@everyactioncustom.com
Joanie Zavez	ZAZ35793@everyactioncustom.com

Joel Brownstein	jbrownstein34@everyactioncustom.com
John Brower	johnbrower1940@everyactioncustom.com
John Doucette	jwdoucette@everyactioncustom.com
John Minor	jminor@everyactioncustom.com
John Morey	jmorey901@everyactioncustom.com
John Neal	jandrneal@everyactioncustom.com
Jordan Doherty	jordanldoherty@everyactioncustom.com
Joseph Seger	josephpseger@everyactioncustom.com
Josephine Vaughan	joy@everyactioncustom.com
Judith Muller	mullerjudith153@everyactioncustom.com
Judy Guggenheim	Gugginc@everyactioncustom.com
Judy Holder	jholderfineart@everyactioncustom.com
Judy Welch	nashvillecats2day@everyactioncustom.com
Julie Allen	julieallenma@everyactioncustom.com
Julie Carter	juliecar28@everyactioncustom.com
Juliette Dzija	dzija274@everyactioncustom.com
Karen Brozek	lomasianoki@everyactioncustom.com
Karen-Jo Young	kjoyoung@everyactioncustom.com
Kassie Stanley	kassie@everyactioncustom.com
Kathleen Conrad	kbondconrad@everyactioncustom.com
Kathleen Silva	sterlingsilva@everyactioncustom.com
Kathryn Flannery	wifeofbath@everyactioncustom.com
Kathy Missal	ekmissal@everyactioncustom.com
Ken Converse	kenconverse53@everyactioncustom.com
Kenneth Porter	kenporter32@everyactioncustom.com
Kerry Weinrich	kmweinrich@everyactioncustom.com
Kevin Macdonald	kevinmac2@everyactioncustom.com
Kevin O'Carroll	ksocarroll@everyactioncustom.com
Kristen Jackson	knjackson91@everyactioncustom.com
Kyle Bloomstein	kylebloomstein@everyactioncustom.com
Lane Sturtevant	lmsturtev@everyactioncustom.com
Laura Juraska	laurajuraska@everyactioncustom.com
Lea Casperson	leacasperson@everyactioncustom.com
Lenore Sivulich	msivulic@everyactioncustom.com
Leslie Kaynor	leslie.kaynor@everyactioncustom.com
Lev Camara	alightwater@everyactioncustom.com
Linda Dupre	ldupre2000@everyactioncustom.com
Linda Healy	lhealy@everyactioncustom.com
Linda Shafer	lshaffer9095@everyactioncustom.com
Linda Woods	linda350centralmaine@everyactioncustom.com
Lindsey Walker	mainenonnie@everyactioncustom.com
Lindy Moceus	Lindy@everyactioncustom.com
Lisa Munderback	lisamunderback@everyactioncustom.com
Lydia Landesberg	lydland@everyactioncustom.com

Lynda Hinds	lhinds333@everyactioncustom.com
Lynn Miller	lsmiller18@everyactioncustom.com
Lynne Gilbert	cg.and.le.gilbert@everyactioncustom.com
Marcia Sewall	sewallmarcia@everyactioncustom.com
Margaret Hubert	hubermargaret7@everyactioncustom.com
Mark Follansbee	follansb@everyactioncustom.com
Mark Lazzari	medoublez@everyactioncustom.com
Mark Simonds	mark.simonds007@everyactioncustom.com
Martha Baldwin	marthabaldwin207@everyactioncustom.com
Martha Beals	mmbeals@everyactioncustom.com
Martha Briggs	marthafbriiggs@everyactioncustom.com
Martha Goodale	goodwight@everyactioncustom.com
Martin Fox	Martythyle@everyactioncustom.com
Maxine Collins	mbcoll33@everyactioncustom.com
Maxine Sclar	msclar1@everyactioncustom.com
Meryl Pinque	merylpinque@everyactioncustom.com
Michael Angelone	mikejangelone@everyactioncustom.com
Michael Carnes	mjcarnes@everyactioncustom.com
Michael D'Arcangelo	mdarcangelo@everyactioncustom.com
Michael Herz	mjherz@everyactioncustom.com
Michael Levy	magooloop@everyactioncustom.com
Michele Bouchard	zackntay02@everyactioncustom.com
Nancy Artz	artz@everyactioncustom.com
Nancy Earle	crowmother123@everyactioncustom.com
Nancy Hasenfus	nancyhasenfus5@everyactioncustom.com
Naomi Kronlokken	nkronlokken@everyactioncustom.com
Niki Haynes	nhaynes917@everyactioncustom.com
Patricia Judd	cherry pitfall@everyactioncustom.com
Paul Kane	pakane@everyactioncustom.com
Paul Van Steenberghe	pvsmaine@everyactioncustom.com
Paula Pietrowski	pkpski@everyactioncustom.com
Penelope Andrews	pzandrews@everyactioncustom.com
Pete Adams	pe77050@everyactioncustom.com
Rachael Pappano	shamrock.magic@everyactioncustom.com
Regina Amadei	ramadei78@everyactioncustom.com
Renee McGrath	rjmcgrathusa@everyactioncustom.com
Richard Fecteau	rfecte@everyactioncustom.com
Richard Flanagan	rflanagan510@everyactioncustom.com
Richard Fox	rickf61@everyactioncustom.com
Richard Osann	rickosann@everyactioncustom.com
Rita Ellis	elli1409@everyactioncustom.com
Robert Bialka	ajaxrfb@everyactioncustom.com
Robert Chaplin	chaplin9523@everyactioncustom.com
Robert O'Reilly	roreilly53@everyactioncustom.com

Robin Brooks	rbsbrooks@everyactioncustom.com
Robyn Shaw	robynshaw13@everyactioncustom.com
Roger Zimmerman	zimozimmy@everyactioncustom.com
Rona Fried	rona@everyactioncustom.com
Ronald Barry	barryronald47@everyactioncustom.com
Rosalind Ivens	ros100@everyactioncustom.com
Roy Driver	rwd240@everyactioncustom.com
Ruth Lantigua	gebung06@everyactioncustom.com
Ruth Provost	rascalprovost@everyactioncustom.com
Sally Chappell	beepbeep207@everyactioncustom.com
Samuel Dahlin	dahlinism@everyactioncustom.com
Sandy Scholar	sandys2pups@everyactioncustom.com
Sean Hoskins	sdhoski@everyactioncustom.com
Sharon Cunningham	maineac@everyactioncustom.com
Sharon Martin	martinsharondezzani@everyactioncustom.com
Shirley and Ronald Davis	sldavis@everyactioncustom.com
Shonna Davis	chesterrat@everyactioncustom.com
Stanley and Michelle Moody	nrcm@everyactioncustom.com
Stephen Perkins	seperkins@everyactioncustom.com
Sue Stableford	sues9404@everyactioncustom.com
Susan Hillman Bourne	easterly@everyactioncustom.com
Susan Swain	seswain211@everyactioncustom.com
Susan Weems	susanfsweems@everyactioncustom.com
Susanne Meidel	meidelsubs@everyactioncustom.com
Sydney Cromwell	sydneycromwell@everyactioncustom.com
Tatyana Eckstrand	tx22@everyactioncustom.com
Thomas Armbrecht	tom@everyactioncustom.com
Tim Atwater	timatwater@everyactioncustom.com
Timothy D'Angelo	timdangelo1@everyactioncustom.com
Tom Jezek	oogliobop@everyactioncustom.com
Tom Trott	trott.tom@everyactioncustom.com
Trish Stevens	777aquila@everyactioncustom.com
Vinnedge Lawrence	vlawrence1@everyactioncustom.com
Wendy Andresen	wendyandrayzer@everyactioncustom.com
Will Blake	willblake@everyactioncustom.com
William McCullough	wtmccull47@everyactioncustom.com

Enclosure(s)

within 30 days of receipt of such request. The filing of a petition under this section does not serve to stay the deadlines for any appeal of a Commissioner or Board license decision, and the effective date of any corrected license will be the same as the original license. A corrected license is not a final agency action and is not appealable to the Board. The date of the original license decision determines the appeal deadlines.

22. Petition for Recission or Surrender of License.

- A. **Recission of Storm Water Management Law and Site Location of Development Law Permits.** The Commissioner will rescind a license upon petition of the licensee, provided the conditions set forth in 38 M.R.S. § 420-D(14) (Storm Water Management Law) or 38 M.R.S. § 489-C (Site Location of Development Law) are met. If a recission is approved for a permit previously recorded in the registry of deeds, the petition and the written approval must be recorded in the registry of deeds by the licensee.
- B. **Surrender.** Any licensee may petition the Commissioner to surrender its license. At the Commissioner's discretion, the petition may be granted provided no outstanding license violation exists. The petition must state that the licensee waives notice and the opportunity for a hearing. In addition, an agronomic utilization license may be surrendered at any time in accordance with 38 M.R.S. § 1310-N(6-D).

23. Appeals to the Board of Commissioner License Decisions. Final license decisions of the Commissioner may be appealed to the Board by an aggrieved person. Notwithstanding section 2(B) of this rule, license decisions that may be appealed to the Board include approvals of permit by rule notifications, licensing decisions on applications for new licenses, renewals of licenses, amendments of licenses, transfers of licenses, minor revisions of licenses, condition compliance decisions, waste transporter licenses, and public benefit determinations.

- A. **Filing an Appeal.** Within 30 days of the date of a final license decision of the Commissioner, an aggrieved person may appeal to the Board for review of the Commissioner's decision.

- (1) An appeal must be submitted via U.S. mail or electronic mail and must be addressed to:

Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
Clerk.BEP@maine.gov

The Board may require the submission of the original signed appeal documents in paper format when the appeal is filed electronically.

- (2) The appellant must provide a copy of the appeal to the Commissioner, the licensee if the appellant is not the licensee and, if a hearing was held on the application, any intervenor. An appellant may contact the Board Clerk for U.S. mail and electronic mail addresses for those to whom a copy of the appeal must be sent. The Board staff will provide notice of the receipt of an appeal to all persons who have requested to be notified of the license decision.

B. Content of Appeal. The written appeal must include the following:

- (1) The signatures of all appellants in accordance with section 3(C) of this rule;
- (2) Information demonstrating that the appellant(s) has standing as an aggrieved person to file the appeal;
- (3) Identification of the licensing criterion or standard the appellant believes was not satisfied in the Commissioner's final license decision, the bases of the objections or challenges, and the remedy sought;
- (4) A request that the Board hold an evidentiary hearing on the appeal if a hearing is being requested. If a hearing is requested, the appellant must provide an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any expert or technical witnesses would testify.
- (5) The identification of, and a copy of, any proposed supplemental evidence that the appellant requests be admitted to the record. The appellant must explain how the proposed supplemental evidence meets the criteria for the inclusion of supplemental evidence as provided in section 23(F) of this rule. Any exhibits attached to an appeal must be clearly labeled stating the date and source, and stating whether the exhibit is in the existing record or is proposed supplemental evidence. Appeal exhibits not labeled in accordance with this section may be rejected by the Chair. In the case of lengthy documents, the appellant must specify the relevant portions.
- (6) Electronic links may be used to provide access to materials submitted with an appeal but may not be used as a substitute for the submission of those materials. Electronic links to materials not provided with the appeal will be rejected.

An appellant who does not request a hearing or propose supplemental evidence in the written appeal is considered to have waived the opportunity for a hearing or inclusion in the record of supplemental evidence. The decision whether to hold a hearing is discretionary with the Board.

C. Dismissal of an Appeal. The Chair may dismiss an appeal for the following reasons.

- (1) **Untimely Appeal.** An untimely appeal will be summarily dismissed by the Chair, unless notice of the Commissioner's license decision was required to be given to the person filing the appeal and the notice was not given as required. The Chair's dismissal of an appeal for untimeliness is not subject to appeal to the full Board and is a final agency action.
 - (2) **Lack of Standing as an Aggrieved Person.** The Chair may dismiss an appeal if, based on the information presented in the appeal, the Chair decides the appellant has not satisfactorily demonstrated that it is an aggrieved person. The Chair's ruling to dismiss an appeal for lack of standing as an aggrieved person is appealable by the appellant to the full Board. Any such appeal must be received by the Board Clerk within 14 days of the date of the Chair ruling and must include a statement articulating the objections or challenges to the Chair ruling. The appeal of a Chair ruling to dismiss an appeal of a Commissioner licensing decision on this basis may not contain new argument or evidence that was not included in the dismissed appeal or underlying administrative record. The Chair may allow the licensee to respond to such an appeal. The appellant and the licensee will each have an opportunity to orally address the Board regarding their arguments. The Board may affirm the Chair's dismissal or reverse the Chair's ruling. A Board vote to reverse the Chair's decision has the effect of reinstating the appeal.
 - (3) **Failure to Comply with Appeal Content Requirements.** The Chair may dismiss an appeal that fails to comply with the requirements of this section. The dismissal of an appeal for failure to comply with the appeal content requirements is appealable by the affected appellant to the Board. An appeal to the Board of a dismissal for failure to comply with the requirements for an appeal must be submitted to the Board Clerk within 14 days of the dismissal. On appeal, the Board will review the original appeal filing and the Chair's ruling to dismiss the appeal. The appellant and the licensee, if the appellant is not the licensee, will be permitted to make a brief oral argument limited to the Chair's basis for dismissing the original appeal. The Board may affirm the Chair's dismissal or reverse the Chair's decision. A Board vote to reverse the Chair's decision has the effect of reinstating the appeal.
- D. **Service.** Once established, all filings of appeal participants in the appeal proceeding must be copied to the current service list of appeal participants and others as directed by the Board.
- E. **Supplemental Evidence.** Within 30 days of the issuance of the written notice of the filing of an appeal by the Board staff, the licensee, if the licensee is not the appellant, and any interested person identified by the Commissioner pursuant to 38 M.R.S. § 344(4-A), may comment on the admissibility of the appellant's proposed supplemental evidence and may submit to the Board proposed supplemental evidence addressing the issues raised in the appeal. If a person other than the appellant offers supplemental evidence in accordance with this section, the Board staff will notify the appellant of that

proposed supplemental evidence, and the appellant may, within 15 days of the written notice, comment on the admissibility of that proposed supplemental evidence. The appellant, or the licensee if the licensee is not the appellant, may request that the Board hold a hearing regarding any supplemental evidence that is admitted to the record. Such a request must be included with the requestor's comments on the admissibility of that proposed supplemental evidence pursuant to this section and must include an offer of proof consistent with that required by section 24(B)(4).

- (1) Whenever proposed supplemental evidence is offered in accordance with this rule, the person offering supplemental evidence must provide a copy of the proposed evidence and demonstrate:
 - a) how the proposed supplemental evidence is relevant and material to the appeal;
 - b) that the evidence could not have been presented to the Commissioner during the application processing period; and
 - c) that the person offering supplemental evidence exercised due diligence in bringing the evidence to the Department's attention at the earliest possible time, or that the evidence is newly discovered and could not, by the exercise of diligence, have been discovered in time to be presented during the application processing period.
 - (2) The Chair will rule on the admissibility of all proposed supplemental evidence within 30 days of receipt of all timely comments regarding admissibility of the proposed supplemental evidence. Chair rulings on proposed supplemental evidence are not appealable to the full Board.
 - (3) The Chair may accept into the record additional evidence and analysis submitted by Department staff in response to issues raised on appeal or in supplemental evidence admitted by the Chair.
 - (4) In accordance with 5 M.R.S. § 9058, the Board, acting through the Chair, may take official notice of any facts of which judicial notice could be taken, and in addition may take official notice of general, technical or scientific matters within the Department's specialized knowledge, and of statutes, regulations and nonconfidential agency records. Appeal participants must be notified of all materials of which the Board has taken official notice, and of the opportunity to contest the substance or materiality of the facts noticed.
- F. **Response to Appeal.** A written response to the merits of an appeal may be filed by the licensee, when the licensee is not the appellant; any interested person who submitted written comment on the application; and, in instances of multiple separate appeals of a single license decision, each appellant may submit a response to the merits of any of the other appeals. Persons who are entitled to submit a response to the merits of the appeal and wish to do so must file the response with the Board as follows.

- (1) If no supplemental evidence is offered by the appellant, the licensee, or an interested person, a complete response to the appeal must be filed not later than 60 days following the date of the Board's written acknowledgement of receipt of the appeal.
 - (2) If supplemental evidence is offered by the appellant, the licensee, or an interested person, a complete response to the appeal must be filed not later than 20 days following the Chair's ruling on the admissibility of all proposed supplemental evidence.
 - (3) Following the Chair's written decision on the admissibility of all proposed supplemental evidence, or the filing of a response to the merits of the appeal, no further argument or evidence may be submitted to the Board by any person for consideration in deciding the appeal.
 - (4) The Chair may extend the procedural deadlines set forth in this section for good cause.
- G. **Record on Appeal.** The record for appeals decided by the Board is the administrative record and evidence relied upon by Department staff in its review of the application, any supplemental evidence admitted by the Chair, and additional evidence obtained from a hearing of the appeal, if such a hearing is held. Citations to legal materials such as public laws, statutes, and legislative history are generally allowed and may be considered by the Board regardless of whether they are included in the appeal filings. Further evidence may not be provided directly to Board members or distributed at Board meetings or hearings without specific permission of the Chair.
- H. **Alternative Dispute Resolution.** If an appellant and licensee agree to use mediation or another form of alternative dispute resolution 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. The Board may accept or reject any mediated or negotiated settlement that does not include withdrawal of the appeal. The Chair may notify appeal participants that the Board will resume processing of the appeal for lack of satisfactory progress in resolving the issues in an appeal.
- I. **Procedure.** The procedure for hearings on appeals is governed by section 7 of this rule and further governed by Chapter 3, *Rules Governing the Conduct of Licensing Hearings*.
- (1) Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board as follows:
 - a) the Board Executive Analyst introduces the appeal, summarizing the subject matter, the appellant's basis for appeal and the relevant statutes and rules;

- b) the appellant makes a presentation discussing objections or challenges to the Commissioner's decision on the application;
 - c) when the appellant is a person other than the licensee, the licensee is then provided an opportunity to address the issues raised by the appellant;
 - d) at the Chair's discretion, interested persons may comment on the appeal, provided any comments rely on materials in the record; and
 - e) staff makes an oral presentation of a proposed Board Order that addresses the objections and challenges raised in the appeal and includes a recommendation for disposition of the appeal.
- (2) At the Chair's discretion, the appellant and the licensee, if the licensee is not the appellant, may be provided an opportunity for rebuttal. The Chair may also allow or request that staff address questions raised by the appellant, the licensee, or the Board.
- (3) The Chair may provide for additional procedural steps in considering an appeal to assist the Board in understanding the record evidence and arguments on appeal. The Board, its Executive Analyst, and counsel to the Board may at any time address questions to any person participating in the appeal.
- (4) At the Chair's discretion, the appellant, the licensee and staff may utilize visual aids in support of oral arguments. Permission to use visual aids must be obtained from the Chair prior to the Board meeting at which the appeal will be considered and must consist of materials within the administrative record.
- J. **Decision on Appeal.** The Board will decide the appeal as expeditiously as possible. The Board may affirm all or part of the decision of the Commissioner, affirm all or part of the decision of the Commissioner with modifications, or new or additional conditions, order a hearing to be held as expeditiously as possible, reverse the decision of the Commissioner, or remand the decision to the Commissioner for further proceedings. The Board's review is *de novo* and is not bound by the Commissioner's findings of fact or conclusions of law made in the license decision under appeal. An evenly divided vote of the Board has the effect of affirming the Commissioner's decision unless a majority of Board members subsequently vote at that meeting for another action on the appeal or to table the matter until another meeting. In the case of an evenly divided vote, the findings and reasoning of the Board members voting in favor of the Commissioner's decision constitute the Board's reasoning in the affirmation.

In accordance with 38 M.R.S. § 341-D(4)(A), if the Board modifies or reverses a final license or permit decision of the Commissioner, the licensee or permittee must implement any changes to the project necessary to comply with the decision of the Board.

K. Chair Authority. The Chair has the authority to:

- (1) dismiss an appeal for the reasons set forth in section 23(B) of this rule;
- (2) regulate the course of the proceeding, set the time and place for meetings and hearings, and fix the time for the filing of written submissions including argument, exhibits, evidence, briefs, and reply briefs;
- (3) rule on issues of procedure;
- (4) rule on the admissibility of evidence;
- (5) administer oaths and affirmations;
- (6) rule on requests for reconsideration of prior rulings of the Chair;
- (7) vary from any procedure prescribed by this rule or the Maine Administrative Procedure Act, chapter 375, subchapter IV, if the parties and the Chair agree to such variation, or if the variance will achieve greater fairness or economy and no prejudice to any party will result; and
- (8) take such other action that is necessary for the efficient and orderly conduct of Board proceedings.

L. Requests for Reconsideration. Any request or motion for reconsideration of a prior Chair ruling must be submitted in writing to the Chair within five working days of the underlying ruling and must identify the basis for the request. The decision to act on the request for reconsideration is in the sole discretion of the Chair. A request that is not acted on by the Chair within 30 days is deemed denied. The Chair may allow other appeal participants to respond to a request for reconsideration. The Chair's disposition of a request for reconsideration is not a final agency action and is not appealable to the full Board.

M. Application for a Stay. The filing of an appeal of a Commissioner licensing decision to the Board does not stay the license decision. An application for a stay of a Commissioner licensing decision must be made to the Commissioner. An application for a stay of a licensing decision rendered by the Board must be made to the Board through the Chair. An application for a stay of a Commissioner licensing decision submitted to the Board in the first instance or simultaneously to the Board and the Commissioner will be referred by the Board to the Commissioner for a decision. In the case of a Commissioner decision on a stay request, no action of the Board is necessary to exhaust the administrative remedies for purposes of the Maine Administrative Procedure Act and 5 M.R.S. § 11004.

N. Court Remands to Board for Further Proceedings. Except as otherwise directed by court order or prescribed by statute or other applicable Department rule, the Board and Chair will utilize the authorities and procedures set forth in this rule to establish the process and scope of Board proceedings following judicial orders of remand.

24. Appeals to the Board of Insurance Claim-Related Decisions of the Commissioner or the State Fire Marshal. A person who is aggrieved by an insurance claim-related decision made pursuant to 38 M.R.S. § 568-A may appeal that decision to the Board. Unless otherwise established in this section, the Board and Chair will utilize the