Maine Forest Products Council

The voice of Maine's forest economy

October 22, 2025

VIA EMAIL ONLY

Maine Board of Environmental Protection
17 State House Station
Augusta, ME 04333
TRComments.DEP@maine.gov

Re: Comments of the Maine Forest Products Council on the Department's Recommendations for the 2025 Triennial Review of Water Quality Standards

Dear Chair and Distinguished Members of the Board:

On behalf of the Maine Forest Products Council ("MFPC"), we appreciate the opportunity to provide comments on the Maine Department of Environmental Protection's ("Department" or "DEP") recommendations for the 2025 Triennial Review of Water Quality Standards ("Triennial Review"). MFPC represents Maine's forest products community, including pulp and paper manufacturers with significant operations on the Androscoggin, Kennebec, Penobscot, Presumpscot, and St. Croix Rivers. Our members are deeply committed to maintaining high water quality standards that balance ecological protection with the practical realities of industrial operations that support Maine's economy and communities.

We commend DEP for its thoughtful and balanced approach in this Triennial Review process and offer the following comments:

I. Dissolved Oxygen Criteria for Class B and C Waters

MFPC supports the Department's recommendation to adopt a daily average dissolved oxygen (DO) criterion for Class B and C waters. The shift to a daily average recognizes natural diurnal fluctuations in DO and provides a more realistic and scientifically defensible framework for assessing water quality.

Equally important, incorporating a daily average provides critical flexibility in regulatory implementation. Without this flexibility, isolated short-term DO fluctuations — even those caused by natural conditions — could result in findings that a waterbody is impaired. Such impairment determinations can in turn trigger costly and time-consuming processes such as the development of total maximum daily loads ("TMDLs") or necessitate drastic permit modifications for dischargers. For MFPC members, this would create significant compliance risks and unnecessary economic burdens without corresponding environmental improvements. Adopting a daily average approach will help ensure that water quality standards remain protective of aquatic life while buffering against unwarranted impairment findings and the disruptive regulatory measures that can follow.

At the same time, MFPC cautions against using this new daily average as the sole basis for reclassifying Class C waters to Class B, and Class B waters to Class A, in the absence of long-term, comprehensive data demonstrating attainment under critical conditions. Premature reclassification could subject facilities not only to more stringent permit limits that are neither technologically nor economically feasible, but also to costly facility upgrades in an effort to comply with standards that the receiving water may not be able to support naturally. Such outcomes would threaten the competitiveness of Maine's forest products industry and, by extension, the livelihoods of thousands of Maine workers and the economic health of entire communities that depend on these employers.

II. Proposals Not Recommended by DEP

MFPC strongly supports DEP's decision not to recommend certain proposals that would have introduced

significant regulatory burdens with little or no demonstrated environmental benefit, including:

1. Prohibiting discharges that impart odor;
2. Creating a new water quality class for Class B waters;
3. Revisiting the seasonal applicability of recreational bacteria criteria for Class B and C waters; and
4. Developing numeric water quality standards for turbidity.

If advanced, these proposals could have resulted in sweeping changes to permitting requirements and substantial compliance costs for facilities along Maine's major rivers. For example, numeric turbidity standards would be extremely difficult to implement given natural variability, while a prohibition on discharges that impart odor could expose facilities to enforcement actions based on inherently subjective criteria.

Our members are committed to continued investment in environmental stewardship. However, unnecessary regulatory uncertainty threatens both operational planning and the long-term competitiveness of Maine's mills. More importantly, these mills are anchor employers in many rural communities, supporting high-paying jobs, local tax bases, and critical infrastructure. Regulatory changes that lack a sound scientific foundation risk undermining those broader community benefits.

III. Deferred Rulemaking on Toxic Pollutant Criteria

MFPC supports DEP's decision to defer rulemaking on revised aquatic life criteria for toxic pollutants, including criteria for aluminum, copper, and selenium. These criteria are highly complex, site-specific, and cannot responsibly be applied statewide without a much more robust dataset.

In particular, we share DEP's reluctance to advance EPA's suggested approach of adopting the Biotic Ligand Model for copper and the multilinear model for aluminum. While these models may have value in some contexts, they cannot substitute for the substantial site-specific data that has already been developed for many of the state's waterbodies. Permittees and municipalities along the Androscoggin, Little Androscoggin, and St. Croix Rivers have invested significant resources — funding hundreds of aquatic toxicity tests across multiple seasons and flow conditions — to develop water effect ratios that describe the actual bioavailability of metals in these waters. DEP has relied on those water effect ratios to establish site-specific criteria that more accurately reflect present conditions in these rivers and, importantly, provide a more protective basis for safeguarding the waterway than generalized model outputs.

EPA's suggestion that DEP abandon this investment in favor of default computer-based models is not only inconsistent with sound science but also unfair to the regulated community. The hierarchy of water quality standards development — which prioritizes site-specific data over default modeling approaches — is well established and fully supported by federal law and EPA's own regulations. To disregard site-specific studies in favor of generalized models would devalue years of collaborative work, squander capital investments already made, and risk imposing overly conservative criteria that are not reflective of actual environmental conditions in Maine's rivers.

For MFPC members, this issue is not academic. Discarding site-specific criteria in favor of generic models could result in the imposition of unattainable permit limits, forcing costly facility upgrades that yield no measurable environmental benefit. It also stands to undermine confidence in the regulatory process by signaling that collaborative, science-based studies may simply be disregarded at EPA's, and by virtue DEP's, discretion.

DEP's decision to defer rulemaking on these toxic pollutant criteria is therefore prudent and appropriate. We strongly encourage the Department to continue resisting efforts to replace scientifically robust, site-specific data with model-based default criteria until such time as a statewide dataset exists that can justify and support such an approach.

IV. Mixing Zone Policy

MFPC commends DEP for not moving forward with revisions to its existing mixing zone policy as part of this Triennial Review. We also urge the Board to exercise caution before initiating such rulemaking in the future.

There are only a limited number of facilities statewide that operate under mixing zones. DEP's case-by-case permitting approach has proven effective in balancing protection of water quality with the practical needs of regulated entities. Developing a new rule would not only create unnecessary compliance challenges for these few facilities, but also divert DEP's limited resources away from higher-priority initiatives.

For mills and other industrial facilities that anchor Maine's rural economies, maintaining flexibility in how mixing zones are evaluated is essential. An inflexible statewide rule could force costly and unnecessary investments that provide no additional environmental protection, again placing good-paying jobs at risk in communities where alternatives are limited to non-existent.

V. Water Quality Classification Upgrades

MFPC strongly agrees with DEP's decisions not to recommend upgrades to water quality classifications for portions of the Androscoggin River Basin and the Presumpscot River Basin at this time. We agree with DEP's analysis that the available data do not conclusively demonstrate attainment of higher classifications under all conditions. Incomplete and inconsistent monitoring results, combined with observed exceedances under critical conditions such as low flows and warm temperatures, do not provide a sufficient scientific basis to justify upgrades. Making such changes without robust and comprehensive datasets risk undermining the credibility of Maine's classification system and exposing regulated entities to unattainable standards.

Just as importantly, DEP has an obligation under the Clean Water Act and Maine law to weigh not only the environmental criteria but also the practical implications for existing dischargers**.** Reclassification can carry significant consequences, including more stringent permit limits, additional monitoring obligations, and in many cases costly treatment upgrades. For the pulp and paper mills and other large employers that anchor Maine's rural economies, such outcomes would have ripple effects well beyond facility operations — jeopardizing jobs, tax revenues, and the economic stability of communities that depend on these facilities. It is therefore essential that classification decisions be grounded in conclusive data and a clear demonstration that the receiving waters can sustain higher standards under natural conditions.

There is a significant difference between monitoring the river conditions and modeling the water quality under critical conditions for temperature, low flow, and loading. DEP is obligated to conduct water quality modeling to assess attainment under critical conditions, which is likely to identify river segments that are not attaining the standards of the higher classification, contrary to the monitoring results. Premature upgrades also create the very real risk that upgraded waterbodies may subsequently fail to meet the new, more stringent standards. In that scenario, the waters would be listed as impaired in Maine's Integrated Report, triggering the requirement for the development of TMDLs. This process is not only resource-intensive for DEP, but it also carries cascading consequences for regulated entities, including tighter permit limits and compliance schedules. Moreover, the "impaired" designation itself carries a stigma that undermines public perception of both the waterbody and the industries that discharge into it, even when those industries are in full compliance with their permits. Such outcomes benefit no one — not the regulators, not the regulated community, and not the local communities whose economies rely on both healthy waterways and stable employers.

MFPC is particularly concerned about the prospect of upgrading the Androscoggin River. Notably, the reach between the confluence with the Ellis River at Rumford Point and the Worumbo Dam is heavily influenced by non-point sources as well as the artificial oxygenation system in Gulf Island Pond, which is impounded by Gulf Island Dam. This system must operate during critical summer periods to maintain compliance with current Class C standards. The need for such a system arises in large part due to the river's morphology—specifically, the impounded and slow-moving character of Gulf Island Pond—which, combined with seasonal high temperatures, legacy sediment oxygen demand, thermal stratification, and organic loading (including nutrient loading derived from agriculture and other nonpoint sources), results in naturally low dissolved oxygen levels. Without operation of the oxygenation system, this reach of the river could not continuously attain even Class C DO thresholds, much less those of Class B. Further, an upgrade to Class B may result in the designation of additional river segments as impaired due to the impounded water behind multiple dams on this stretch of river. In our view, any suggestion of reclassifying this stretch of river to Class B disregards the

reality that compliance is only achieved through sustained mechanical intervention designed to offset these complicated physical conditions. MFPC does not support upgrades for waterbodies such as the Androscoggin where the requisite water quality criteria cannot be obtained absent artificial conditions.

Moving forward, we urge DEP and the Board to exercise extreme caution in considering future upgrades to the Androscoggin or other rivers with similar challenges. Artificial oxygenation is not evidence of natural assimilative capacity, and reliance on such systems should be seen as a limiting factor that precludes higher classification. Moreover, upgrading river segments based on monitoring alone can result in unintended consequences since the practical implementation requires water quality modeling to determine attainment and permit limitations. Upgrading waters under these circumstances would not advance the goals of the Clean Water Act and at the added cost of imposing unattainable obligations on dischargers, leading to significant economic and community harm with little to no environmental gain.

VI. Proposed Numeric Criteria for Freshwater pH

MFPC respectfully disagrees with and opposes DEP's recommendation to adopt a numeric pH criterion of 6.5 to 9.0 for freshwater waterbodies.

First, this proposal appears inconsistent with existing federal discharge limitations set forth under 40 CFR Part 430.22, Subpart B, which establish effluent limitation guidelines for the pulp, paper, and paperboard industry. Under EPA's own regulations, a pH range of 5.0 to 9.0 is deemed the degree of effluent reduction attainable through the application of best practicable control technology currently available ("BPT"). DEP has not provided sufficient technical justification as to why Maine's water quality requires a narrower range than EPA has already determined to be protective under federal standards.

Moreover, the broader implications of adopting a 6.5 to 9.0 criterion are not fully understood and thus warrant further evaluation. Facilities and dischargers subject to these criteria could face significant new compliance challenges without clear evidence that such a change is necessary for water quality protection. Before proceeding, DEP should more fully assess whether the proposed criterion is even needed, whether it is achievable under actual operating conditions in Maine, and what impacts it might have on regulated entities and their host communities.

For these reasons, MFPC does not support the adoption of this new numeric pH criterion at this time and urges DEP to conduct additional technical evaluation before moving forward.

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In summary, MFPC supports DEP's balanced approach to the 2025 Triennial Review. We agree with DEP's incorporation of a daily average DO criterion for Class B and C waters, provided it is not prematurely used for reclassification. We support the Department's decisions to reject or defer proposals lacking scientific or technical justification, and commend DEP's decision not to advance revisions to the state's mixing zone policy. At the same time, MFPC disagrees with DEP's recommendation to adopt a numeric freshwater pH criterion of 6.5 to 9.0, as such a standard appears inconsistent with federal effluent limitation guidelines and has not been shown to be technically necessary to protect Maine's waters.

Maine's forest products industry is committed to maintaining and improving water quality, as demonstrated by decades of investments in wastewater treatment and watershed stewardship. However, Maine's regulatory framework must also recognize the realities faced by regulated entities and the communities that depend on them. Imposing more stringent criteria without a sound scientific foundation, risks undermining both economic and environmental sustainability.

We respectfully urge the Board to adopt the Department's recommendations consistent with the comments provided above.

Thank you for your consideration.

Sincerely,

Krysta West
Executive Director
Maine Forest Products Council