

Lake Stormwater Phosphorus Compensation Fee Option: Procedures and Limitations

March 10, 2015 - Document # DEPLW0969A
Maine Department of Environmental Protection

This document is an update of guidance on use of the phosphorus compensation fee option that addresses policy and program changes that have occurred during the past year.

The Compensation Fee option is defined in Paragraph D.11 of the Stormwater Management Law (38 M.R.S.A. §420-D.11). It allows the Department to accept a compensation fee in lieu of meeting a portion of the parcel's phosphorus budget. Compensation fees are deposited in an account for the lake in whose watershed the development is located. Funds in the lake's account are dedicated only for stormwater compensation projects that provide long-term elimination or reduction of existing phosphorus sources in that lake watershed.

1. Limitations on use of the compensation fee option

The compensation fee option is not available to all projects. In order for an applicant to use the compensation fee option the following conditions must be met:

- The lake to which the project drains must be an eligible lake. Because of the difficulty of finding viable, long term phosphorus mitigation projects in many lake watersheds, it is not appropriate to allow use of the compensation fee option in all lake watersheds. Lists of eligible lakes are provided later in this document.
- The project must incorporate on site measures that reduce the project's phosphorus export by at least 60% before a project can be eligible to use the compensation fee option. This means that in the summary worksheet of the phosphorus export analyses that the applicant will present the Post-Treatment Project Phosphorus Export must be less than or equal to 0.4 times the Pre-Treatment Project Phosphorus Export.

2. Compensation Fee Rate

The compensation fee rate is determined based on the table below.

Compensation Fee Per Pound of Phosphorus Export	
Percentage of Project's Phosphorous Export	Additional Phosphorous Compensation Fee (dollars per pound)*
60%	\$25,000
75%	\$12,500
100%	\$0

* fees are prorated.

3. Stormwater Compensation Fee Administrator Agencies

As authorized in the Stormwater Management Law (38 M.R.S.A. §420-D.11), the Department has entered into Memoranda of Agreement with seven entities to serve as Stormwater Compensation Fee Administrators (SA) to directly receive and manage compensation fees and use the funds to implement Stormwater Compensation Projects.

Androscoggin Valley Soil & Water Conservation District
Cobbossee Watershed District
Cumberland County Soil & Water Conservation District
Lakes Environmental Association
Kennebec County Soil & Water Conservation District
Penobscot County Soil & Water Conservation District
York County Soil & Water Conservation District

For any projects located in Androscoggin, Cumberland, Kennebec, Penobscot, Sagadahoc and York Counties, or in the towns of Denmark, Sweden and Waterford in Oxford County, any compensation fees will be paid directly to the Stormwater Administrator Agency responsible for the lake watershed in which the project is located (see list of eligible lakes, below). The Department developed a standard receipt form to be used to document the payment of the fee.

4. Receipt for Stormwater Compensation Fees

When receiving stormwater compensation fees from developers Stormwater Administration Agencies are asked to support use of a standard receipt form and procedure designed by DEP to keep involved parties informed of such transactions (See attached receipt form). Involved parties for this purpose include the applicant (developer), the SA and the DEP staffer who is drafting the permit for the development for which the fee is being submitted (i.e., DEP Permit Manager or DPM). The procedure for using the receipt form is as follows:

- (a) An electronic copy of the receipt form will be provided to the DEP Permit Managers along with a copy of this written procedure;
- (b) Upon receiving notice from a developer that the developer wishes to use the compensation fee option for a project in the watershed of an eligible lake, the DPM will complete PART I of the receipt form and send the form to the Applicant, asking that they complete PART II of the form and then send it along (with a check for the appropriate fee amount) to the SA; and
- (c) Upon receiving the partially-completed receipt form from the Applicant the SA should complete PART III of the form, retain the original for the file and within 7 days of initial receipt provide a copy of the completed form to both the Applicant and

the DPM (for the DEP permit file). The receipt process is considered complete when the DPM receives their copy of the completed receipt.

This procedure documents for all parties that the required fee has been paid and provides the DEP Permit Manager with a ‘trigger’ for finalizing the permit process. Once the permit manager receives the completed receipt, the Department issues the permit.

5. Eligible Lake Watersheds

The seven Stormwater Administrative Agencies have identified lake watersheds within their jurisdictions in which they are confident there will be opportunities for appropriate phosphorus mitigation projects. The compensation fee option is potentially available to appropriate Stormwater Law or Site Law proposals located within any of these lake watersheds. Lists of these lakes, by Stormwater Administrative Agency, are presented below. If a lake is *not* on any of these lists and is located within Androscoggin, Cumberland, Kennebec, Penobscot, Sagadahoc and York Counties, or in the towns of Denmark, Sweden or Waterford in Oxford County, proposals for projects in its watershed are *not* eligible for a compensation fee option. If a project proposal is located in a lake watershed in other locations, the project is probably not eligible for the compensation fee option, although there may be some exceptions to this on a case by case basis. In these instances DEP Permit Managers should check with Division of Environmental Assessment’s Watershed Management Unit staff at the time of the pre-application meeting to determine if the lake watershed is eligible.

6. Stormwater Compensation Projects

Stormwater Compensation Fee Administrators receive and manage compensation fees and use the funds to develop and implement Stormwater Compensation Projects that provide long-term elimination or reduction of existing phosphorus sources. DEP document, Lake Stormwater Compensation Fee Program: General Guidance (May 2010), describes how Stormwater Administrators manage and use the funds to implement Stormwater Compensation Projects.

York County

Stormwater Administration Agency – York County Soil and Water Conservation District

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
ADAMS P (ROCK HAVEN)	3890	NEWFIELD
BALCH & STUMP PONDS	3898	NEWFIELD
BAUNEAG BEG L	3992	NORTH BERWICK
BUNGANUT P	3980	LYMAN
CURTIS P	3850	SANFORD
DEER P	5016	HOLLIS
ELL (L) P	119	SANFORD
ESTES L	7	SANFORD
GRANNY KENT P	3908	SHAPLEIGH
GREAT EAST L	3922	ACTON
HOLLAND (SOKOSIS) P	3942	LIMERICK
HORNE (PEQUAWKET) P	3408	LIMINGTON
KENNEBUNK P	3998	LYMAN
KNIGHTS P	3884	SOUTH BERWICK
LEIGH'S MILL P	117	SOUTH BERWICK
LONG P	9701	PARSONSFIELD
LOON P	9695	ACTON
MILL P	6793	SANFORD
MILLIKEN MILLS P	6859	OLD ORCHARD BEACH
MOUSAM L	3838	ACTON
NORTHEAST P	3876	LEBANON
NUMBER ONE P	3848	SANFORD
OLD FISHING P	3852	SANFORD
OSSIPEE FLOWAGE(LIT)	9715	WATERBORO
OSSIPEE L (LITTLE)	5024	WATERBORO
POVERTY P (BIG)	157	NEWFIELD
PROVINCE L	9887	PARSONSFIELD
ROBERTS & WADLEY PDS	5034	LYMAN
SHAKER P	3976	ALFRED
SQUARE P	3916	ACTON
WEST P	3186	PARSONSFIELD
WILSON L	3920	ACTON

Cumberland County (except Bridgton, Naples, Harrison)

**Stormwater Administration Agency – Cumberland County Soil and Water
Conservation District**

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
BONNY EAGLE L	5042	STANDISH
COFFEE P	3390	CASCO
COLLINS P	3728	WINDHAM
CRESCENT L	3696	RAYMOND
CRYSTAL L (DRY P)	3708	GRAY
DUCK P (LITTLE)	3730	WINDHAM
DUNDEE P	3732	WINDHAM
FOREST L	3712	WINDHAM
GORHAM P (NORTH)	9705	WINDHAM
HIGHLAND (DUCK) L	3734	FALMOUTH
PANTHER P	3694	RAYMOND
PARKER P	3388	CASCO
PETTINGILL P	3716	WINDHAM
PLEASANT POND	3446	CASCO
RAYMOND P	3690	RAYMOND
SABBATHDAY L	3700	NEW GLOUCESTER
SEBAGO L	5786	SEBAGO
SEBAGO L (LITTLE)	3714	WINDHAM
TARKILL P	3724	WINDHAM
THOMAS P	3392	CASCO
WATCHIC P	5040	STANDISH

Cumberland County (Bridgton, Naples, Harrison) and Oxford County (Denmark, Sweden, Waterford)

Stormwater Administration Agency – Lakes Environmental Association

Lakes Eligible for Stormwater Compensation Fee Program

LAKE NAME	MIDAS #	TOWN
BEAR POND	3420	WATERFORD
BEAVER POND	5582	BRIDGTON
BRANDY POND	9685	NAPLES
CRYSTAL LAKE	3452	HARRISON
FOSTER (INGALLS) POND	3188	BRIDGTON
GRANGER POND	3126	DENMARK
HANCOCK POND	3132	DENMARK
HIGHLAND LAKE	3454	BRIDGTON
HOLT POND	3370	BRIDGTON
ISLAND POND	3448	HARRISON
KEOKA LAKE	3416	WATERFORD
KEYES POND	3232	SWEDEN
LONG LAKE	5780	BRIDGTON
MCWAIN POND	3418	WATERFORD
MOOSE POND NORTH BASIN	3134-1	SWEDEN
MOOSE POND MIDDLE BASIN	3134-2	BRIDGTON
MOOSE POND SOUTH BASIN	3134-3	DENMARK
MUD POND	3422	WATERFORD
OTTER POND	3458	BRIDGTON
PAPOOSE POND	3414	WATERFORD
PEABODY POND	3374	BRIDGTON
SAND POND	3130	DENMARK
STEARNS POND	3234	SWEDEN
TRICKEY POND	3382	NAPLES
WOODS POND	3456	BRIDGTON

Androscoggin County

Stormwater Administration Agency – Androscoggin County Soil and Water Conservation District

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
LAKE AUBURN	3748	AUBURN
ALLEN POND	3788	GREENE
BRETTUNS POND	3608	LIVERMORE
CRYSTAL POND	3626	TURNER
PLEASANT POND	3822	TURNER
LITTLE WILSON POND	3784	TURNER
NO NAME POND	3802	LEWISTON
LOON POND	3806	SABATTUS
LOWER RANGE POND	3760	SABATTUS
NEQUASSET POND	5222	WOOLWICH
THOMPSON LAKE	3444	POLAND
SEWALL POND	9943	ARROWSIC
SABATTUS POND	3796	GREENE
TAYLOR POND	3750	MINOT
TRIPP POND	3758	POLAND
WORTHLEY POND	3764	POLAND
MIDDLE RANGE POND	3762	POLAND
UPPER RANGE POND	3688	POLAND

Kennebec County (Cobbossee Stream Watershed Only)

Stormwater Administration Agency – Cobbossee Watershed District

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
ANNABESSACOOK LAKE	9961	WINTHROP
CARLTON POND	5310	WINTHROP
COBBOSSEECONTEE LAKE	5236	WINTHROP
COCHNEWAGON LAKE	3814	MONMOUTH
JIMMY POND	5244	LITCHFIELD
LITTLE COBBOSSEE LAKE	8065	WINTHROP
MARANACOOK LAKE, NORTH	5312-1	WINTHROP
MARANACOOK LAKE, SOUTH	5312-2	WINTHROP
PLEASANT POND, UPPER	5254-2	RICHMOND
PLEASANT POND, LOWER	5254-1	RICHMOND
UPPER NARROWS POND	0098	WINTHROP
WILSON POND	3832	WAYNE
WOODBURY POND	5240	MONMOUTH

Kennebec County (other than Cobbossee Stream Watershed)

**Stormwater Administration Agency – Kennebec County Soil and Water
Conservation District**

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
GREAT POND	5274	BELGRADE
THREEMILE POND	5416	CHINA
WEBBER POND	5408	VASSALBORO
CHINA LAKE	5448	CHINA
EAST POND	5349	SMITHFIELD
ECHO LAKE	5814	FAYETTE
FLYING POND	5182	VIENNA
LONG POND NORTH	5272-1	BELGRADE
LONG POND SOUTH	5272-2	BELGRADE
LOVEJOY POND	5664	FAYETTE
MCGRATH POND	5348	OAKLAND
MESSALONSKEE LAKE	5280	SIDNEY
PARKER POND	5186	MT. VERNON
PATTEE POND	5458	WINSLOW
SALMON LAKE	5352	OAKLAND
TOGUS POND	9931	AUGUSTA
NORTH POND	5344	SMITHFIELD
THREECORNERED POND	5424	AUGUSTA
ANDROSCOGGIN LAKE	3836	WAYNE

Penobscot County

**Stormwater Administration Agency – Penobscot County Soil and Water
Conservation District**

Lakes Eligible for Stormwater Compensation Fee Program

LAKE	MIDAS #	LOCATION
Sebasticook Lake	2264	Newport
Hermon Pond	2286	Hermon
Davis Pond	2196	Holden
Etna Pond	2274	Stetson
Garland Pond	4128	Garland
Holbrook Pond	4274	Holden
Patten Pond	2292	Hampden
Swetts Pond	5544	Orrington
Lake Wassookeag	0227	Dexter
Pushaw Lake	0080	Orono
Mattanawcook Lake	2226	Lincoln
Cold Stream Pond	2146	Lincoln
Chemo Pond	4278	Bradley
Brewer Lake	4284	Orrington
Pleasant Lake	2270	Stetson

RECEIPT FOR STORMWATER PHOSPHORUS COMPENSATION FEES

Performed pursuant to the Maine Stormwater Management Law 38 M.R.S.A. §420-D.11 and the Maine DEP Stormwater Compensation Fund Program

PART I. TO BE COMPLETED BY DEP PERMIT MANAGER (DPM) for DEP permit application #: _____

Lake name: _____ Title of Development/Project: _____ Town: _____

Applicant name: _____, Mailing address: _____

DEP Permit Mgr. (DPM): _____, Mailing address: _____

The SCF fee amount due for this development is \$_____ and is payable to Stormwater Administrator (SA) _____ who has SCF jurisdiction for this lake watershed and is located at (address) _____, phone # _____.

DPM signature: _____ Date: __/__/__ **Date this form forwarded from DPM to Applicant: __/__/__**

PART II. TO BE COMPLETED BY APPLICANT

This receipt certifies that (name of Applicant's agent) _____ received this form from DEP on __/__/__ for the development/project named in PART I above and as authorized agent for (name of Applicant) _____ agrees to pay on behalf of Applicant the amount of \$_____ via check # _____ (attached), to the Stormwater Administrator named in PART I above for unmitigated stormwater phosphorus export anticipated from the development named in PART I above. Applicant agrees that any refund of this fee is limited to Applicant submitting a written dated request to SA within 2 months of SA having initially received the fee. Fees in SA's possession for longer than 2 months are nonrefundable.

Signature of Applicant's authorized agent: _____ Date: __/__/__ **Date this form forwarded from Applicant to SA: __/__/__**

PART III. TO BE COMPLETED BY STORMWATER ADMINISTRATOR (SA)

This receipt certifies that I, _____, representative for (name of SA agency) _____ received a stormwater phosphorus compensation fee payment in the amount of \$_____ from (Applicant name) _____ on __/__/__ as compensation for unmitigated stormwater phosphorus export anticipated from the development named in PART I above. These funds shall be used for phosphorus mitigation in the watershed of (lake name) _____ according to the term of SA's SCF Agreement with the DEP.

Signature of SA rep: _____ Date: __/__/__ **Date copies of this completed form sent from SA to DPM and Applicant __/__/__**

(Note: the original of this receipt to be retained by the SA and available for DEP review upon request)

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143