

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. §§1251 et seq.; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§ 26-53),

**City of Newburyport, Massachusetts**

is authorized to discharge from the facility located at

**Newburyport Water Pollution Control Facility  
115B Water Street  
Newburyport, MA 01950**

to receiving water named

**Merrimack River  
Merrimack Watershed**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on the first day of the calendar month immediately following 60 days after signature.

This permit expires at midnight, five years from the last day of the month preceding the effective date.

This permit supersedes the permit issued on August 15, 2012.

This permit consists of the cover page(s), **Part I, Attachment A** (Marine Acute Toxicity Test Procedure and Protocol, July 2012), **Attachment B** (Reassessment of Technically Based Industrial Discharge Limits), **Attachment C** (NPDES Permit Requirement for Industrial Pretreatment Annual Report) and **Part II** (NPDES Part II Standard Conditions, April 2018).

Signed this 10th day of April, 2020

/S/SIGNATURE ON FILE

Ken Moraff, Director  
Water Division  
Environmental Protection Agency  
Region 1  
Boston, MA

/S/SIGNATURE ON FILE

Lealdon Langley, Director  
Division of Watershed Management  
Department of Environmental Protection  
Commonwealth of Massachusetts  
Boston, MA

**PART I****A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. During the period beginning on the effective date and lasting through the expiration date, the Permittee is authorized to discharge treated effluent through Outfall Serial Number 001 to Merrimack River. The discharge shall be limited and monitored as specified below; the receiving water and the influent shall be monitored as specified below.

Effluent Characteristic	Effluent Limitation			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
Effluent Flow <sup>5</sup>	3.4 MGD Rolling Average	---	---	Continuous	Recorder
Effluent Flow <sup>5</sup>	Report MGD	---	Report MGD	Continuous	Recorder
BOD <sub>5</sub>	30 mg/L 851 lb/day	45 mg/L 1276 lb/day	Report mg/L	3/week	Composite
BOD <sub>5</sub> Removal	≥ 85 %	---	---	---	---
TSS	30 mg/L 851 lb/day	45 mg/L 1276 lb/day	Report mg/L	2/week	Composite
TSS Removal	≥ 85 %	---	---	---	---
pH Range <sup>6</sup>	6.5 - 8.5 S.U.			5/week	Grab
Total Residual Chlorine <sup>7,8</sup>	0.23 mg/L	---	0.39 mg/L	5/week	Grab
Fecal coliform <sup>8</sup>	88 organisms/100 mL	---	260 organisms/100 mL	5/week	Grab
<i>Enterococci</i> <sup>8</sup>	35 colonies/100 mL	---	104 colonies/100 mL	5/week	Grab
Ammonia Nitrogen	Report mg/L	---	Report mg/L	1/month	Composite
Total Nitrogen <sup>9</sup> (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L Report lb/day	--- ---	Report mg/L Report lb/day Report mg/L Report lb/day	1/week 1/month	Composite Composite
Total Kjeldahl Nitrogen (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L	--- ---	Report mg/L Report lb/day Report mg/L	1/week 1/month	Composite Composite

Effluent Characteristic	Effluent Limitation			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
	Report lb/day		Report lb/day		
Total Nitrate + Nitrite (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L Report lb/day	--- ---	Report mg/L Report lb/day Report mg/L Report lb/day	1/week 1/month	Composite Composite
<b>Whole Effluent Toxicity (WET) Testing<sup>10,11</sup></b>					
LC <sub>50</sub>	---	---	≥ 100 %	1/quarter	Composite
Salinity	---	---	Report ppt	1/quarter	Composite
Ammonia Nitrogen	---	---	Report mg/L	1/quarter	Composite
Total Cadmium	---	---	Report mg/L	1/quarter	Composite
Total Copper	---	---	Report mg/L	1/quarter	Composite
Total Nickel	---	---	Report mg/L	1/quarter	Composite
Total Lead	---	---	Report mg/L	1/quarter	Composite
Total Zinc	---	---	Report mg/L	1/quarter	Composite

Ambient Characteristic <sup>12</sup>	Reporting Requirements			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
Salinity	---	---	Report ppt	1/quarter	Grab
Ammonia Nitrogen	---	---	Report mg/L	1/quarter	Grab
Total Cadmium	---	---	Report mg/L	1/quarter	Grab
Total Copper	---	---	Report mg/L	1/quarter	Grab
Total Nickel	---	---	Report mg/L	1/quarter	Grab
Total Lead	---	---	Report mg/L	1/quarter	Grab
Total Zinc	---	---	Report mg/L	1/quarter	Grab
pH <sup>13</sup>	---	---	Report S.U.	1/quarter	Grab
Temperature <sup>13</sup>	---	---	Report °C	1/quarter	Grab

Influent Characteristic	Reporting Requirements			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
BOD <sub>5</sub>	Report mg/L	---	---	2/month	Composite
TSS	Report mg/L	---	---	2/month	Composite

## Footnotes:

1. Effluent samples shall yield data representative of the discharge. A routine sampling program shall be developed in which samples are taken at the same location, same time and same days of the week each month. The Permittee shall report the results to the Environmental Protection Agency Region 1 (EPA) and the State of any additional testing above that required herein, if testing is in accordance with 40 C.F.R. Part 136.
2. In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the Permittee shall monitor according to sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O, for the analysis of pollutants or pollutant parameters (except WET). A method is “sufficiently sensitive” when: 1) The method minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant or pollutant parameter; or 2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The term “minimum level” refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher. Minimum levels may be obtained in several ways: They may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor.
3. When a parameter is not detected above the ML, the Permittee must report the data qualifier signifying less than the ML for that parameter (e.g., < 50 µg/L, if the ML for a parameter is 50 µg/L). For reporting an average based on a mix of values detected and not detected, assign a value of “0” for all non-detects for that reporting period and report the average of all the results.
4. Each composite sample will consist of at least twenty-four (24) grab samples taken during one consecutive 24-hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportional to flow.
5. Report annual average, monthly average, and the maximum daily flow in million gallons per day (MGD). The limit is an annual average, which shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average flow for the reporting month and the monthly average flows of the previous eleven months.
6. The pH shall be within the specified range at all times. The minimum and maximum pH sample measurement values for the month shall be reported in standard units (S.U.).

7. The Permittee shall minimize the use of chlorine while maintaining adequate bacterial control. Monitoring for total residual chlorine (TRC) is only required for discharges which have been previously chlorinated or which contain residual chlorine.

Chlorination and dechlorination systems shall include an alarm system for indicating system interruptions or malfunctions. Any interruption or malfunction of the chlorine dosing system that may have resulted in levels of chlorine that were inadequate for achieving effective disinfection, or interruptions or malfunctions of the dechlorination system that may have resulted in excessive levels of chlorine in the final effluent shall be reported with the monthly DMRs. The report shall include the date and time of the interruption or malfunction, the nature of the problem, and the estimated amount of time that the reduced levels of chlorine or dechlorination chemicals occurred.

8. *Enterococci* and Fecal Coliform monitoring shall be conducted concurrently with TRC monitoring, if TRC monitoring is required. The monthly average limit for Fecal Coliform is expressed as a geometric mean. For samples tested using the Most Probable Number (MPN) method, the units may be expressed as MPN. The units may also be expressed as colony forming units (cfu) when using the Membrane Filtration method.
9. Total Nitrogen shall be calculated as the sum of Total Kjeldahl Nitrogen and Total Nitrate + Nitrite.

The total nitrogen loading values reported each quarter shall be calculated as follows:

Total Nitrogen (lbs/day) = [(average monthly total nitrogen concentration (mg/L) \* total monthly effluent flow (Millions of Gallons (MG)) / # of days in the month] \* 8.34

10. The Permittee shall conduct acute toxicity tests (LC<sub>50</sub>) in accordance with test procedures and protocols specified in **Attachment A** of this permit. LC<sub>50</sub> is defined in Part II.E. of this permit. The Permittee shall test the Mysis Shrimp (*Americamysis bahia*) and the Inland Silverside (*Menidia beryllina*). Toxicity test samples shall be collected and tests completed during the same weeks each time of calendar quarters ending March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>. The complete report for each toxicity test shall be submitted as an attachment to the monthly DMR submittal immediately following the completion of the test.
11. For Part I.A.1., Whole Effluent Toxicity Testing, the Permittee shall conduct the analyses specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS

for the effluent sample. If toxicity test(s) using the receiving water as diluent show the receiving water to be toxic or unreliable, the Permittee shall follow procedures outlined in **Attachment A**, Section IV., DILUTION WATER. Minimum levels and test methods are specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS.

12. For Part I.A.1., Ambient Characteristic, the Permittee shall conduct the analyses specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS for the receiving water sample collected as part of the WET testing requirements. Such samples shall be taken from the receiving water at a point immediately outside of the permitted discharge's zone of influence at a reasonably accessible location, as specified in **Attachment A**. Minimum levels and test methods are specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS.
13. A pH and temperature measurement shall be taken of each receiving water sample at the time of collection and the results reported on the appropriate DMR. These pH and temperature measurements are independent from any pH and temperature measurements required by the WET testing protocols.

**Part I.A. continued.**

2. The discharge shall not cause a violation of the water quality standards of the receiving water.
3. The discharge shall be free from pollutants in concentrations or combinations that, in the receiving water, settle to form objectionable deposits; float as debris, scum or other matter to form nuisances; produce objectionable odor, color, taste or turbidity; or produce undesirable or nuisance species of aquatic life.
4. The discharge shall be free from pollutants in concentrations or combinations that adversely affect the physical, chemical, or biological nature of the bottom.
5. The discharge shall not result in pollutants in concentrations or combinations in the receiving water that are toxic to humans, aquatic life or wildlife.
6. The discharge shall be free from floating, suspended and settleable solids in concentrations or combinations that would impair any use assigned to the receiving water.
7. The discharge shall be free from oil, grease and petrochemicals that produce a visible film on the surface of the water, impart an oily taste to the water or an oily or other undesirable taste to the edible portions of aquatic life, coat the banks or bottom of the water course, or are deleterious or become toxic to aquatic life.
8. The Permittee must provide adequate notice to EPA-Region 1 and the State of the following:
  - a. Any new introduction of pollutants into the Publicly-Owned Treatment Works (POTW) from an indirect discharger which would be subject to Part 301 or Part 306 of the Clean Water Act if it were directly discharging those pollutants or in a primary industry category (see 40 C.F.R. Part 122 Appendix A as amended) discharging process water; and
  - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - c. For purposes of this paragraph, adequate notice shall include information on:
    - (1) The quantity and quality of effluent introduced into the POTW; and
    - (2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
9. Pollutants introduced into the POTW by a non-domestic source (user) shall not pass through the POTW or interfere with the operation or performance of the works.



**B. UNAUTHORIZED DISCHARGES**

1. This permit authorizes discharges only from the outfall listed in Part I.A.1, in accordance with the terms and conditions of this permit. Discharges of wastewater from any other point sources, including sanitary sewer overflows (SSOs), are not authorized by this permit in accordance with Part II.D.1.e.(1) (24-hour reporting). See Part I.H below for reporting requirements.
2. Starting December 21, 2020, the Permittee must provide notification to the public within 24 hours of becoming aware of any unauthorized discharge, except SSOs that do not impact a surface water or the public, on a publicly available website, and it shall remain on the website for a minimum of 12 months. Such notification shall include the location and description of the discharge; estimated volume; the period of noncompliance, including exact dates and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue.
3. Notification of SSOs to MassDEP shall be made on its SSO Reporting Form (which includes MassDEP Regional Office telephone numbers). The reporting form and instruction for its completion may be found on-line at <https://www.mass.gov/how-to/sanitary-sewer-overflowbypassbackup-notification>.

**C. OPERATION AND MAINTENANCE OF THE SEWER SYSTEM**

Operation and maintenance (O&M) of the sewer system shall be in compliance with the Standard Conditions of Part II and the following terms and conditions. The Permittee shall complete the following activities for the collection system which it owns:

1. Maintenance Staff

The Permittee shall provide an adequate staff to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this permit. Provisions to meet this requirement shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

2. Preventive Maintenance Program

The Permittee shall maintain an ongoing preventive maintenance program to prevent overflows and bypasses caused by malfunctions or failures of the sewer system infrastructure. The program shall include an inspection program designed to identify all potential and actual unauthorized discharges. Plans and programs to meet this requirement shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

### 3. Infiltration/Inflow

The Permittee shall control infiltration and inflow (I/I) into the sewer system as necessary to prevent high flow related unauthorized discharges from their collection systems and high flow related violations of the wastewater treatment plant's effluent limitations. Plans and programs to control I/I shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

### 4. Collection System Mapping

The Permittee shall prepare or update a map of the sewer collection system it owns. The map shall be on a street map of the community, with sufficient detail and at a scale to allow easy interpretation. The collection system information shown on the map shall be based on current conditions and shall be kept up-to-date and available for review by federal, state, or local agencies. Such map(s) shall include, but not be limited to the following:

- a. All sanitary sewer lines and related manholes;
- b. All combined sewer lines, related manholes, and catch basins;
- c. All combined sewer regulators and any known or suspected connections between the sanitary sewer and storm drain systems (e.g. combination manholes);
- d. All outfalls, including the treatment plant outfall(s), CSOs, and any known or suspected SSOs, including stormwater outfalls that are connected to combination manholes;
- e. All pump stations and force mains;
- f. The wastewater treatment facility(ies);
- g. All surface waters (labeled);
- h. Other major appurtenances such as inverted siphons and air release valves;
- i. A numbering system which uniquely identifies manholes, catch basins, overflow points, regulators and outfalls;
- j. The scale and a north arrow; and
- k. The pipe diameter, date of installation, type of material, distance between manholes, and the direction of flow.

### 5. Collection System O&M Plan

The Permittee shall update and implement the Collection System O&M Plan it has previously submitted to EPA and the State. The Plan shall include:

- a. A description of the collection system management goals, staffing, information management, and legal authorities;
- b. A description of the collection system and the overall condition of the collection system including a list of all pump stations and a description of recent studies and construction activities;
- c. A preventive maintenance and monitoring program for the collection system;
- d. Description of sufficient staffing necessary to properly operate and maintain the sanitary sewer collection system and how the operation and maintenance program is staffed;
- e. Description of funding, the source(s) of funding and provisions for funding sufficient for implementing the plan;
- f. Identification of known and suspected overflows and back-ups, including manholes. A description of the cause of the identified overflows and back-ups, corrective actions taken, and a plan for addressing the overflows and back-ups consistent with the requirements of this permit;
- g. A description of the Permittee's programs for preventing I/I related effluent violations and all unauthorized discharges of wastewater, including overflows and by-passes and the ongoing program to identify and remove sources of I/I. The program shall include an inflow identification and control program that focuses on the disconnection and redirection of illegal sump pumps and roof down spouts;
- h. An educational public outreach program for all aspects of I/I control, particularly private inflow; and
- i. An Overflow Emergency Response Plan to protect public health from overflows and unanticipated bypasses or upsets that exceed any effluent limitation in the permit.

#### 6. Annual Reporting Requirement

The Permittee shall submit a summary report of activities related to the implementation of its Collection System O&M Plan during the previous calendar year. The report shall be submitted to EPA and the State annually by March 31. The summary report shall, at a minimum, include:

- a. A description of the staffing levels maintained during the year;
- b. A map and a description of inspection and maintenance activities conducted and corrective actions taken during the previous year;
- c. Expenditures for any collection system maintenance activities and corrective actions taken during the previous year;
- d. A map with areas identified for investigation/action in the coming year;

- e. A summary of unauthorized discharges during the past year and their causes and a report of any corrective actions taken as a result of the unauthorized discharges reported pursuant to the Unauthorized Discharges section of this permit; and
- f. If the average annual flow in the previous calendar year exceeded 80 percent of the facility's 3.4 MGD design flow (2.7 MGD), or there have been capacity related overflows, the report shall include:
  - (1) Plans for further potential flow increases describing how the Permittee will maintain compliance with the flow limit and all other effluent limitations and conditions; and
  - (2) A calculation of the maximum daily, weekly, and monthly infiltration and the maximum daily, weekly, and monthly inflow for the reporting year.

#### **D. ALTERNATE POWER SOURCE**

In order to maintain compliance with the terms and conditions of this permit, the Permittee shall provide an alternative power source(s) sufficient to operate the portion of the publicly owned treatment works it owns and operates, as defined in Part II.E.1 of this permit.

#### **E. INDUSTRIAL USERS AND PRETREATMENT PROGRAM**

1. The Permittee shall develop and enforce specific effluent limits (local limits) for Industrial User(s), and all other users, as appropriate, which together with appropriate changes in the POTW Treatment Plant's Facilities or operation, are necessary to ensure continued compliance with the POTW's NPDES permit or sludge use or disposal practices. Specific local limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond. Within 90 days of the effective date of this permit, the Permittee shall prepare and submit a written technical evaluation to the EPA analyzing the need to revise local limits. As part of this evaluation, the Permittee shall assess how the POTW performs with respect to influent and effluent of pollutants, water quality concerns, sludge quality, sludge processing concerns/inhibition, biomonitoring results, activated sludge inhibition, worker health and safety and collection system concerns. In preparing this evaluation, the Permittee shall complete and submit the attached form (see **Attachment B – Reassessment of Technically Based Industrial Discharge Limits**) with the technical evaluation to assist in determining whether existing local limits need to be revised. Justifications and conclusions should be based on actual plant data if available and should be included in the report. Should the evaluation reveal the need to revise local limits, the Permittee shall complete the revisions within 120 days of notification by EPA and submit the revisions to EPA for approval. The Permittee shall carry out the local limits revisions in accordance with EPA's Local Limit Development Guidance (July 2004).
2. The Permittee shall implement the Industrial Pretreatment Program in accordance with the legal authorities, policies, procedures, and financial provisions described in the Permittee's approved Pretreatment Program, and the General Pretreatment Regulations, 40 C.F.R. Part

403. At a minimum, the Permittee must perform the following duties to properly implement the Industrial Pretreatment Program (IPP):

- a. Carry out inspection, surveillance, and monitoring procedures which will determine independent of information supplied by the industrial user, whether the industrial user is in compliance with the Pretreatment Standards. At a minimum, all significant industrial users shall be sampled and inspected at the frequency established in the approved IPP but in no case less than once per year and maintain adequate records.
  - b. Issue or renew all necessary industrial user control mechanisms within 90 days of their expiration date or within 180 days after the industry has been determined to be a significant industrial user.
  - c. Obtain appropriate remedies for noncompliance by any industrial user with any pretreatment standard and/or requirement.
  - d. Maintain an adequate revenue structure for continued implementation of the Pretreatment Program.
3. The Permittee shall provide the EPA and the State with an annual report describing the Permittee's pretreatment program activities for the twelve (12) month period ending 60 days prior to the due date in accordance with 403.12(i). The annual report shall be consistent with the format described in **Attachment C** (NPDES Permit Requirement for Industrial Pretreatment Annual Report) of this permit and shall be submitted no later than **March 1** of each year.
  4. The Permittee must obtain approval from EPA prior to making any significant changes to the industrial pretreatment program in accordance with 40 C.F.R. 403.18(c).
  5. The Permittee must assure that applicable National Categorical Pretreatment Standards are met by all categorical industrial users of the POTW. These standards are published in the Federal Regulations at 40 C.F.R. Part 405 et seq.
  6. The Permittee must modify its pretreatment program, if necessary, to conform to all changes in the Federal Regulations that pertain to the implementation and enforcement of the industrial pretreatment program. The Permittee must provide EPA, in writing, within 180 days of this permit's effective date proposed changes, if applicable, to the Permittee's pretreatment program deemed necessary to assure conformity with current Federal Regulations. At a minimum, the Permittee must address in its written submission the following areas: (1) Enforcement response plan; (2) revised sewer use ordinances; and (3) slug control evaluations. The Permittee will implement these proposed changes pending EPA Region I's approval under 40 C.F.R. § 403.18. This submission is separate and distinct from any local limits analysis submission described in Part I.E.1.

**F. SLUDGE CONDITIONS**

1. The Permittee shall comply with all existing federal and state laws and regulations that apply to sewage sludge use and disposal practices, including EPA regulations promulgated at 40 C.F.R. Part 503, which prescribe “Standards for the Use or Disposal of Sewage Sludge” pursuant to § 405(d) of the CWA, 33 U.S.C. § 1345(d).
2. If both state and federal requirements apply to the Permittee’s sludge use and/or disposal practices, the Permittee shall comply with the more stringent of the applicable requirements.
3. The requirements and technical standards of 40 C.F.R. Part 503 apply to the following sludge use or disposal practices:
  - a. Land application - the use of sewage sludge to condition or fertilize the soil
  - b. Surface disposal - the placement of sewage sludge in a sludge only landfill
  - c. Sewage sludge incineration in a sludge only incinerator
4. The requirements of 40 C.F.R. Part 503 do not apply to facilities which dispose of sludge in a municipal solid waste landfill. 40 C.F.R. § 503.4. These requirements also do not apply to facilities which do not use or dispose of sewage sludge during the life of the permit but rather treat the sludge (e.g., lagoons, reed beds), or are otherwise excluded under 40 C.F.R. § 503.6.
5. The 40 C.F.R. Part 503 requirements include the following elements:
  - General requirements
  - Pollutant limitations
  - Operational Standards (pathogen reduction requirements and vector attraction reduction requirements)
  - Management practices
  - Record keeping
  - Monitoring
  - Reporting

Which of the 40 C.F.R. Part 503 requirements apply to the Permittee will depend upon the use or disposal practice followed and upon the quality of material produced by a facility. The EPA Region 1 Guidance document, “EPA Region 1 - NPDES Permit Sludge Compliance Guidance” (November 4, 1999), may be used by the Permittee to assist it in determining the applicable requirements.<sup>1</sup>

6. The sludge shall be monitored for pollutant concentrations (all Part 503 methods) and pathogen reduction and vector attraction reduction (land application and surface disposal) at

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<sup>1</sup> This guidance document is available upon request from EPA Region 1 and may also be found at:  
<http://www.epa.gov/region1/npdes/permits/generic/sludgeguidance.pdf>

the following frequency. This frequency is based upon the volume of sewage sludge generated at the facility in dry metric tons per year, as follows:

less than 290	1/ year
290 to less than 1,500	1 /quarter
1,500 to less than 15,000	6 /year
15,000 +	1 /month

Sampling of the sewage sludge shall use the procedures detailed in 40 C.F.R. § 503.8.

7. Under 40 C.F.R. § 503.9(r), the Permittee is a “person who prepares sewage sludge” because it “is ... the person who generates sewage sludge during the treatment of domestic sewage in a treatment works ...” If the Permittee contracts with *another* “person who prepares sewage sludge” under 40 C.F.R. § 503.9(r) – i.e., with “a person who derives a material from sewage sludge” – for use or disposal of the sludge, then compliance with Part 503 requirements is the responsibility of the contractor engaged for that purpose. If the Permittee does not engage a “person who prepares sewage sludge,” as defined in 40 C.F.R. § 503.9(r), for use or disposal, then the Permittee remains responsible to ensure that the applicable requirements in Part 503 are met. 40 C.F.R. § 503.7. If the ultimate use or disposal method is land application, the Permittee is responsible for providing the person receiving the sludge with notice and necessary information to comply with the requirements of 40 C.F.R. § 503 Subpart B.
8. The Permittee shall submit an annual report containing the information specified in the 40 C.F.R. Part 503 requirements (§ 503.18 (land application), § 503.28 (surface disposal), or § 503.48 (incineration)) by **February 19** (*see also* “EPA Region 1 - NPDES Permit Sludge Compliance Guidance”). Reports shall be submitted electronically using EPA’s Electronic Reporting tool (“NeT”) (*see* “Reporting Requirements” section below).

## G. SPECIAL CONDITIONS

1. The permittee shall operate the effluent diffuser according to the best management practices below:
  - a. The effluent diffuser shall be maintained to ensure proper operation. Proper operation means that the outfall pipe be intact, operating as designed, and have unobstructed flow. Maintenance may include dredging in the vicinity of the diffuser, removal of solids/debris in the diffuser header pipe, and repair/replacement.
  - b. To determine if maintenance will be required, the Permittee shall inspect and videotape the operation of the diffuser either remotely or using a qualified diver or marine contractor. The inspections and videotaping shall be performed every five years with the first inspection occurring within twelve (12) months of the effective date of the permit. EPA and MassDEP shall be contacted at least seven days prior to a dive inspection.

- c. Any necessary maintenance dredging must be performed only during the marine construction season authorized by the Massachusetts Department of Marine Fisheries and only after receiving all necessary permits from the Massachusetts Department of Environmental Protection, U.S. Coast Guard, U.S. Army Corps of Engineers, and other appropriate agencies.
  - d. Copies of reports summarizing the results of each diffuser inspection shall be submitted to EPA and MassDEP within 60 days of each inspection. Where it is determined that maintenance will be necessary, the Permittee shall provide the proposed schedule for the maintenance.
2. The Permittee shall verbally notify the Massachusetts Division of Marine Fisheries within 4 hours of any emergency condition, plant upset, bypass, SSO discharges or other system failure which has the potential to violate bacteria permit limits. Within 24 hours a written notification of a permit excursion or plant failure shall be sent to the following address:

Division of Marine Fisheries  
Shellfish Management Program  
30 Emerson Avenue  
Gloucester, MA 01930  
(978) 282-0308

## H. REPORTING REQUIREMENTS

Unless otherwise specified in this permit, the Permittee shall submit reports, requests, and information and provide notices in the manner described in this section.

### 1. Submittal of DMRs Using NetDMR

The Permittee shall continue to submit its monthly monitoring data in discharge monitoring reports (DMRs) to EPA and the State no later than the 15th day of the month electronically using NetDMR. When the Permittee submits DMRs using NetDMR, it is not required to submit hard copies of DMRs to EPA or the State. NetDMR is accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.

### 2. Submittal of Reports as NetDMR Attachments

Unless otherwise specified in this permit, the Permittee shall electronically submit all reports to EPA as NetDMR attachments rather than as hard copies. *See Part I.H.7. for more information on State reporting.* Because the due dates for reports described in this permit may not coincide with the due date for submitting DMRs (which is no later than the 15th day of the month), a report submitted electronically as a NetDMR attachment shall be considered timely if it is electronically submitted to EPA using NetDMR with the next DMR due following the report due date specified in this permit.



## 3. Submittal of Industrial User and Pretreatment Related Reports

- a. Prior to December 21, 2020, all reports and information required of the Permittee in the Industrial Users and Pretreatment Program section of this permit shall be submitted to the Pretreatment Coordinator in Region 1 EPA Water Division (WD). Starting on December 21, 2020, these submittals must be done electronically as NetDMR attachments and/or using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which will be accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>. These requests, reports and notices include:

- (1) Annual Pretreatment Reports,
- (2) Pretreatment Reports Reassessment of Technically Based Industrial Discharge Limits Form,
- (3) Revisions to Industrial Discharge Limits,
- (4) Report describing Pretreatment Program activities, and
- (5) Proposed changes to a Pretreatment Program

- b. This information shall be submitted to EPA WD as a hard copy at the following address:

U.S. Environmental Protection Agency  
Water Division  
Regional Pretreatment Coordinator  
5 Post Office Square - Suite 100 (06-03)  
Boston, MA 02109-3912

## 4. Submittal of Biosolids/Sewage Sludge Reports

By February 19 of each year, the Permittee must electronically report their annual Biosolids/Sewage Sludge Report for the previous calendar year using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which is accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.

## 5. Submittal of Requests and Reports to EPA Water Division (WD)

- a. The following requests, reports, and information described in this permit shall be submitted to the NPDES Applications Coordinator in EPA Water Division (WD):

- (1) Transfer of permit notice;
- (2) Request for changes in sampling location;
- (3) Request for reduction in testing frequency;
- (4) Request for change in WET testing requirement; and
- (5) Report on unacceptable dilution water / request for alternative dilution water for WET testing.

- b. These reports, information, and requests shall be submitted to EPA WD electronically at [R1NPDESReporting@epa.gov](mailto:R1NPDESReporting@epa.gov).
6. Submittal of Reports to EPA Enforcement and Compliance Assurance Division (ECAD) in Hard Copy Form
- a. The following notifications and reports shall be signed and dated originals, submitted as hard copy, with a cover letter describing the submission:
- (1) Prior to December 21, 2020, written notifications required under Part II.B.4.c, for bypasses, and Part II.D.1.e, for sanitary sewer overflows (SSOs). Starting on 21 December 2020, such notifications must be done electronically using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which will be accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.
- b. This information shall be submitted to EPA ECAD at the following address:
- U.S. Environmental Protection Agency  
Enforcement and Compliance Assurance Division  
Water Compliance Section  
5 Post Office Square, Suite 100 (04-SMR)  
Boston, MA 02109-3912

7. State Reporting

Duplicate signed copies of all WET test reports shall be submitted to the Massachusetts Department of Environmental Protection, Division of Watershed Management, at the following address:

Massachusetts Department of Environmental Protection  
Bureau of Water Resources  
Division of Watershed Management  
8 New Bond Street  
Worcester, Massachusetts 01606

8. Verbal Reports and Verbal Notifications

- a. Any verbal reports or verbal notifications, if required in Parts I and/or II of this permit, shall be made to both EPA and to the State. This includes verbal reports and notifications which require reporting within 24 hours (e.g., Part II.B.4.c.(2), Part II.B.5.c.(3), and Part II.D.1.e).

- b. Verbal reports and verbal notifications shall be made to:

EPA ECAD at 617-918-1510  
and  
MassDEP's Emergency Response at 888-304-1133

## **I. STATE PERMIT CONDITIONS**

1. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are 1) a Federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq.; and 2) an identical State surface water discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00. All of the requirements contained in this authorization, as well as the standard conditions contained in 314 CMR 3.19, are hereby incorporated by reference into this State surface water discharge permit.
2. This authorization also incorporates the State water quality certification issued by MassDEP under § 401(a) of the Federal Clean Water Act, 40 C.F.R. 124.53, M.G.L. c. 21, § 27 and 314 CMR 3.07. All of the requirements (if any) contained in MassDEP's water quality certification for the permit are hereby incorporated by reference into this State surface water discharge permit as special conditions pursuant to 314 CMR 3.11.
3. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law such permit shall remain in full force and effect under federal law as a NPDES Permit issued by the EPA. In the event this permit is declared invalid, illegal or otherwise issued in violation of Federal law, this permit shall remain in full force and effect under State law as a permit issued by the Commonwealth of Massachusetts.

**RESPONSE TO COMMENTS  
NPDES PERMIT NO. MA0101427  
NEWBURYPORT WATER POLLUTION CONTROL FACILITY  
NEWBURYPORT, MASSACHUSETTS**

The U.S. Environmental Protection Agency's New England Region (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) are issuing a Final National Pollutant Discharge Elimination System (NPDES) Permit for the Newburyport Water Pollution Control Facility (WPCF) located in Newburyport, Massachusetts. This permit is being issued under the Federal Clean Water Act (CWA), 33 U.S.C., §§ 1251 et. seq., and the Massachusetts Clean Water Act, M.G.L. Ch. 21, §§ 26-35.

In accordance with the provisions of 40 C.F.R. §124.17, this document presents EPA's responses to comments received on the Draft NPDES Permit # MA0101427 ("Draft Permit"). The Response to Comments explains and supports EPA's determinations that form the basis of the Final Permit. From October 15, 2019 to November 13, 2019, EPA and MassDEP (together, the "Agencies") solicited public comments on the Draft Permit.

EPA and MassDEP received comments from the City of Newburyport (the "Permittee" or the "Town") dated November 6, 2019.

Although the Agencies' knowledge of the facility has benefited from the various comments and additional information submitted, the information and arguments presented did not raise any substantial new questions concerning the permit that warranted the Agencies exercising their discretion to reopen the public comment period. The Agencies did, however, make certain clarifications in response to comments. These improvements and changes are explained in this document and reflected in the Final Permit. Below, the agencies provide a summary of the changes made in the Final Permit. The analyses underlying these changes are contained in the responses to individual comments that follow.

A copy of the Final Permit and this response to comments document will be posted on the EPA Region 1 web site: [http://www.epa.gov/region1/npdes/permits\\_listing\\_ma.html](http://www.epa.gov/region1/npdes/permits_listing_ma.html).

A copy of the Final Permit may be also obtained by writing or calling Michele Barden, USEPA, 5 Post Office Square, Suite 100 (Mail Code: 06-4), Boston, MA 02109-3912; Telephone: (617) 918-1539; Email [barden.michele@epa.gov](mailto:barden.michele@epa.gov).

## **I. Summary of Changes to the Final Permit**

1. The inspection frequency for effluent diffuser has been reduced to every five years. See Part I.G.1.b. of the Final Permit.

## **II. Responses to Comments**

Comments are reproduced below as received; they have not been edited.

**A. Comments from Donna D. Holaday, Mayor, City of Newburyport, dated November 6, 2019.**

**Comment 1**

Page 15. G. Special Conditions. Item 1.b.

The City requests that the USEPA increase the frequency of the proposed inspections and videotaping of the facility's outfall pipe and diffusers from once every two years to once every five years. We concur that the initial inspection should be conducted within 12 months of the effective date of the permit.

An underwater inspection of the outfall diffuser field at the Newburyport Wastewater Treatment Facility was conducted in December 2006. Five of the seven diffusers/orifices were found to be either partially or completely blocked by plywood. The two remaining orifices were clear and fully open with no obstructions. The complete report is on file.

The Treatment facility upgrade project, Contract 1, included repair and remediation of the blocked diffusers/orifices. The project was concluded in 2012. Following repair all diffusers were fully open and functioning, as designed. Given the fact that the two diffusers that were "open" and not blocked by plywood were fully functioning and clear upon inspection, and logically in that condition since installation at the time of the 1979 plant upgrade, it is our opinion and assertion the recently repaired diffusers will remain clear and functional for an extended period of time.

The city believes a five year frequency of inspection is adequate. The city also submits that the financial impact of a more frequent schedule presents an unnecessary financial burden.

**Response 1**

EPA agrees with and adopts the Permittee's reasoning and has revised the frequency to inspect and videotape the operation of the diffuser either remotely or using a qualified diver or marine contractor to once every five years with the first inspection occurring within twelve ("12") months of the effective date of the permit.

**AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. §§1251 et seq.; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§ 26-53),

**City of Newburyport, Massachusetts**

is authorized to discharge from the facility located at

**Newburyport Water Pollution Control Facility  
115B Water Street  
Newburyport, MA 01950**

to receiving water named

**Merrimack River  
Merrimack Watershed**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on the first day of the calendar month immediately following 60 days after signature.<sup>1</sup>

This permit expires at midnight, five years from the last day of the month preceding the effective date.

This permit supersedes the permit issued on August 15, 2012.

This permit consists of the cover page(s), **Part I, Attachment A** (Marine Acute Toxicity Test Procedure and Protocol, July 2012), **Attachment B** (Reassessment of Technically Based Industrial Discharge Limits), **Attachment C** (NPDES Permit Requirement for Industrial Pretreatment Annual Report) and **Part II** (NPDES Part II Standard Conditions, April 2018).

Signed this       day of

\_\_\_\_\_  
Ken Moraff, Director  
Water Division  
Environmental Protection Agency  
Region 1  
Boston, MA

\_\_\_\_\_  
Lealdon Langley, Director  
Division of Watershed Management  
Department of Environmental Protection  
Commonwealth of Massachusetts  
Boston, MA

<sup>1</sup> Pursuant to 40 Code of Federal Regulations (C.F.R.) § 124.15(b)(3), if no comments requesting a change to the Draft Permit are received, the permit will become effective upon the date of signature. Procedures for appealing EPA's Final Permit decision may be found at 40 C.F.R. § 124.19.

**PART I****A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. During the period beginning on the effective date and lasting through the expiration date, the Permittee is authorized to discharge treated effluent through Outfall Serial Number 001 to Merrimack River. The discharge shall be limited and monitored as specified below; the receiving water and the influent shall be monitored as specified below.

Effluent Characteristic	Effluent Limitation			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
Effluent Flow <sup>5</sup>	3.4 MGD Rolling Average	---	---	Continuous	Recorder
Effluent Flow <sup>5</sup>	Report MGD	---	Report MGD	Continuous	Recorder
BOD <sub>5</sub>	30 mg/L 851 lb/day	45 mg/L 1276 lb/day	Report mg/L	3/week	Composite
BOD <sub>5</sub> Removal	≥ 85 %	---	---	---	---
TSS	30 mg/L 851 lb/day	45 mg/L 1276 lb/day	Report mg/L	2/week	Composite
TSS Removal	≥ 85 %	---	---	---	---
pH Range <sup>6</sup>	6.5 - 8.5 S.U.			5/week	Grab
Total Residual Chlorine <sup>7,8</sup>	0.23 mg/L	---	0.39 mg/L	5/week	Grab
Fecal coliform <sup>8</sup>	88 organisms/100 mL	---	260 organisms/100 mL	5/week	Grab
<i>Enterococci</i> <sup>8</sup>	35 colonies/100 mL	---	104 colonies/100 mL	5/week	Grab
Ammonia Nitrogen	Report mg/L	---	Report mg/L	1/month	Composite
Total Nitrogen <sup>9</sup> (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L Report lb/day	--- --- ---	Report mg/L Report lb/day Report mg/L Report lb/day	1/week 1/month	Composite Composite
Total Kjeldahl Nitrogen (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L	--- ---	Report mg/L Report lb/day Report mg/L	1/week 1/month	Composite Composite

Effluent Characteristic	Effluent Limitation			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
	Report lb/day		Report lb/day		
Total Nitrate + Nitrite (April 1 – October 31) (November 1 – March 31)	Report mg/L Report lb/day Report mg/L Report lb/day	--- ---	Report mg/L Report lb/day Report mg/L Report lb/day	1/week 1/month	Composite Composite
<b>Whole Effluent Toxicity (WET) Testing<sup>10,11</sup></b>					
LC <sub>50</sub>	---	---	≥ 100 %	1/quarter	Composite
Salinity	---	---	Report ppt	1/quarter	Composite
Ammonia Nitrogen	---	---	Report mg/L	1/quarter	Composite
Total Cadmium	---	---	Report mg/L	1/quarter	Composite
Total Copper	---	---	Report mg/L	1/quarter	Composite
Total Nickel	---	---	Report mg/L	1/quarter	Composite
Total Lead	---	---	Report mg/L	1/quarter	Composite
Total Zinc	---	---	Report mg/L	1/quarter	Composite

Ambient Characteristic <sup>12</sup>	Reporting Requirements			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>
Salinity	---	---	Report ppt	1/quarter	Grab
Ammonia Nitrogen	---	---	Report mg/L	1/quarter	Grab
Total Cadmium	---	---	Report mg/L	1/quarter	Grab
Total Copper	---	---	Report mg/L	1/quarter	Grab
Total Nickel	---	---	Report mg/L	1/quarter	Grab
Total Lead	---	---	Report mg/L	1/quarter	Grab
Total Zinc	---	---	Report mg/L	1/quarter	Grab
pH <sup>13</sup>	---	---	Report S.U.	1/quarter	Grab
Temperature <sup>13</sup>	---	---	Report °C	1/quarter	Grab

Influent Characteristic	Reporting Requirements			Monitoring Requirements <sup>1,2,3</sup>	
	Average Monthly	Average Weekly	Maximum Daily	Measurement Frequency	Sample Type <sup>4</sup>



BOD <sub>5</sub>	Report mg/L	---	---	2/month	Composite
TSS	Report mg/L	---	---	2/month	Composite

## Footnotes:

1. Effluent samples shall yield data representative of the discharge. A routine sampling program shall be developed in which samples are taken at the same location, same time and same days of the week each month. The Permittee shall report the results to the Environmental Protection Agency Region 1 (EPA) and the State of any additional testing above that required herein, if testing is in accordance with 40 C.F.R. Part 136.
2. In accordance with 40 C.F.R. § 122.44(i)(1)(iv), the Permittee shall monitor according to sufficiently sensitive test procedures (i.e., methods) approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O, for the analysis of pollutants or pollutant parameters (except WET). A method is “sufficiently sensitive” when: 1) The method minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant or pollutant parameter; or 2) The method has the lowest ML of the analytical methods approved under 40 C.F.R. Part 136 or required under 40 C.F.R. chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The term “minimum level” refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher. Minimum levels may be obtained in several ways: They may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor.
3. When a parameter is not detected above the ML, the Permittee must report the data qualifier signifying less than the ML for that parameter (e.g., < 50 µg/L, if the ML for a parameter is 50 µg/L). For reporting an average based on a mix of values detected and not detected, assign a value of “0” for all non-detects for that reporting period and report the average of all the results.
4. Each composite sample will consist of at least twenty-four (24) grab samples taken during one consecutive 24-hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportional to flow.
5. Report annual average, monthly average, and the maximum daily flow in million gallons per day (MGD). The limit is an annual average, which shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average flow for the reporting month and the monthly average flows of the previous eleven months.
6. The pH shall be within the specified range at all times. The minimum and maximum pH sample measurement values for the month shall be reported in standard units (S.U.).

7. The Permittee shall minimize the use of chlorine while maintaining adequate bacterial control. Monitoring for total residual chlorine (TRC) is only required for discharges which have been previously chlorinated or which contain residual chlorine.

Chlorination and dechlorination systems shall include an alarm system for indicating system interruptions or malfunctions. Any interruption or malfunction of the chlorine dosing system that may have resulted in levels of chlorine that were inadequate for achieving effective disinfection, or interruptions or malfunctions of the dechlorination system that may have resulted in excessive levels of chlorine in the final effluent shall be reported with the monthly DMRs. The report shall include the date and time of the interruption or malfunction, the nature of the problem, and the estimated amount of time that the reduced levels of chlorine or dechlorination chemicals occurred.

8. *Enterococci* and Fecal Coliform monitoring shall be conducted concurrently with TRC monitoring, if TRC monitoring is required. The monthly average limit for Fecal Coliform is expressed as a geometric mean. For samples tested using the Most Probable Number (MPN) method, the units may be expressed as MPN. The units may also be expressed as colony forming units (cfu) when using the Membrane Filtration method.
9. Total Nitrogen shall be calculated as the sum of Total Kjeldahl Nitrogen and Total Nitrate + Nitrite.

The total nitrogen loading values reported each quarter shall be calculated as follows:

Total Nitrogen (lbs/day) = [(average monthly total nitrogen concentration (mg/L) \* total monthly effluent flow (Millions of Gallons (MG)) / # of days in the month] \* 8.34

10. The Permittee shall conduct acute toxicity tests (LC<sub>50</sub>) in accordance with test procedures and protocols specified in **Attachment A** of this permit. LC<sub>50</sub> is defined in Part II.E. of this permit. The Permittee shall test the Mysid Shrimp (*Americamysis bahia*) and the Inland Silverside (*Menidia beryllina*). Toxicity test samples shall be collected and tests completed during the same weeks each time of calendar quarters ending March 31<sup>st</sup>, June 30<sup>th</sup>, September 30<sup>th</sup>, and December 31<sup>st</sup>. The complete report for each toxicity test shall be submitted as an attachment to the monthly DMR submittal immediately following the completion of the test.
11. For Part I.A.1., Whole Effluent Toxicity Testing, the Permittee shall conduct the analyses specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS

for the effluent sample. If toxicity test(s) using the receiving water as diluent show the receiving water to be toxic or unreliable, the Permittee shall follow procedures outlined in **Attachment A**, Section IV., DILUTION WATER. Minimum levels and test methods are specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS.

12. For Part I.A.1., Ambient Characteristic, the Permittee shall conduct the analyses specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS for the receiving water sample collected as part of the WET testing requirements. Such samples shall be taken from the receiving water at a point immediately outside of the permitted discharge's zone of influence at a reasonably accessible location, as specified in **Attachment A**. Minimum levels and test methods are specified in **Attachment A**, Part VI. CHEMICAL ANALYSIS.
13. A pH and temperature measurement shall be taken of each receiving water sample at the time of collection and the results reported on the appropriate DMR. These pH and temperature measurements are independent from any pH and temperature measurements required by the WET testing protocols.

**Part I.A. continued.**

2. The discharge shall not cause a violation of the water quality standards of the receiving water.
3. The discharge shall be free from pollutants in concentrations or combinations that, in the receiving water, settle to form objectionable deposits; float as debris, scum or other matter to form nuisances; produce objectionable odor, color, taste or turbidity; or produce undesirable or nuisance species of aquatic life.
4. The discharge shall be free from pollutants in concentrations or combinations that adversely affect the physical, chemical, or biological nature of the bottom.
5. The discharge shall not result in pollutants in concentrations or combinations in the receiving water that are toxic to humans, aquatic life or wildlife.
6. The discharge shall be free from floating, suspended and settleable solids in concentrations or combinations that would impair any use assigned to the receiving water.
7. The discharge shall be free from oil, grease and petrochemicals that produce a visible film on the surface of the water, impart an oily taste to the water or an oily or other undesirable taste to the edible portions of aquatic life, coat the banks or bottom of the water course, or are deleterious or become toxic to aquatic life.
8. The Permittee must provide adequate notice to EPA-Region 1 and the State of the following:
  - a. Any new introduction of pollutants into the Publicly-Owned Treatment Works (POTW) from an indirect discharger which would be subject to Part 301 or Part 306 of the Clean Water Act if it were directly discharging those pollutants or in a primary industry category (see 40 C.F.R. Part 122 Appendix A as amended) discharging process water; and
  - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - c. For purposes of this paragraph, adequate notice shall include information on:
    - (1) The quantity and quality of effluent introduced into the POTW; and
    - (2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
9. Pollutants introduced into the POTW by a non-domestic source (user) shall not pass through the POTW or interfere with the operation or performance of the works.

**B. UNAUTHORIZED DISCHARGES**

1. This permit authorizes discharges only from the outfall listed in Part I.A.1, in accordance with the terms and conditions of this permit. Discharges of wastewater from any other point sources, including sanitary sewer overflows (SSOs), are not authorized by this permit in accordance with Part II.D.1.e.(1) (24-hour reporting). See Part I.H below for reporting requirements.
2. Starting December 21, 2020, the Permittee must provide notification to the public within 24 hours of becoming aware of any unauthorized discharge, except SSOs that do not impact a surface water or the public, on a publicly available website, and it shall remain on the website for a minimum of 12 months. Such notification shall include the location and description of the discharge; estimated volume; the period of noncompliance, including exact dates and times; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue.
3. Notification of SSOs to MassDEP shall be made on its SSO Reporting Form (which includes MassDEP Regional Office telephone numbers). The reporting form and instruction for its completion may be found on-line at <https://www.mass.gov/how-to/sanitary-sewer-overflowbypassbackup-notification>.

**C. OPERATION AND MAINTENANCE OF THE SEWER SYSTEM**

Operation and maintenance (O&M) of the sewer system shall be in compliance with the Standard Conditions of Part II and the following terms and conditions. The Permittee shall complete the following activities for the collection system which it owns:

1. Maintenance Staff

The Permittee shall provide an adequate staff to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this permit. Provisions to meet this requirement shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

2. Preventive Maintenance Program

The Permittee shall maintain an ongoing preventive maintenance program to prevent overflows and bypasses caused by malfunctions or failures of the sewer system infrastructure. The program shall include an inspection program designed to identify all potential and actual unauthorized discharges. Plans and programs to meet this requirement shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

3. Infiltration/Inflow

The Permittee shall control infiltration and inflow (I/I) into the sewer system as necessary to prevent high flow related unauthorized discharges from their collection systems and high flow related violations of the wastewater treatment plant's effluent limitations. Plans and programs to control I/I shall be described in the Collection System O&M Plan required pursuant to Section C.5. below.

#### 4. Collection System Mapping

The Permittee shall prepare or update a map of the sewer collection system it owns. The map shall be on a street map of the community, with sufficient detail and at a scale to allow easy interpretation. The collection system information shown on the map shall be based on current conditions and shall be kept up-to-date and available for review by federal, state, or local agencies. Such map(s) shall include, but not be limited to the following:

- a. All sanitary sewer lines and related manholes;
- b. All combined sewer lines, related manholes, and catch basins;
- c. All combined sewer regulators and any known or suspected connections between the sanitary sewer and storm drain systems (e.g. combination manholes);
- d. All outfalls, including the treatment plant outfall(s), CSOs, and any known or suspected SSOs, including stormwater outfalls that are connected to combination manholes;
- e. All pump stations and force mains;
- f. The wastewater treatment facility(ies);
- g. All surface waters (labeled);
- h. Other major appurtenances such as inverted siphons and air release valves;
- i. A numbering system which uniquely identifies manholes, catch basins, overflow points, regulators and outfalls;
- j. The scale and a north arrow; and
- k. The pipe diameter, date of installation, type of material, distance between manholes, and the direction of flow.

#### 5. Collection System O&M Plan

The Permittee shall update and implement the Collection System O&M Plan it has previously submitted to EPA and the State. The Plan shall include:

- a. A description of the collection system management goals, staffing, information management, and legal authorities;
- b. A description of the collection system and the overall condition of the collection system including a list of all pump stations and a description of recent studies and construction activities;
- c. A preventive maintenance and monitoring program for the collection system;
- d. Description of sufficient staffing necessary to properly operate and maintain the sanitary sewer collection system and how the operation and maintenance program is staffed;
- e. Description of funding, the source(s) of funding and provisions for funding sufficient for implementing the plan;
- f. Identification of known and suspected overflows and back-ups, including manholes. A description of the cause of the identified overflows and back-ups, corrective actions taken, and a plan for addressing the overflows and back-ups consistent with the requirements of this permit;
- g. A description of the Permittee's programs for preventing I/I related effluent violations and all unauthorized discharges of wastewater, including overflows and by-passes and the ongoing program to identify and remove sources of I/I. The program shall include an inflow identification and control program that focuses on the disconnection and redirection of illegal sump pumps and roof down spouts;
- h. An educational public outreach program for all aspects of I/I control, particularly private inflow; and
- i. An Overflow Emergency Response Plan to protect public health from overflows and unanticipated bypasses or upsets that exceed any effluent limitation in the permit.

#### 6. Annual Reporting Requirement

The Permittee shall submit a summary report of activities related to the implementation of its Collection System O&M Plan during the previous calendar year. The report shall be submitted to EPA and the State annually by March 31. The summary report shall, at a minimum, include:

- a. A description of the staffing levels maintained during the year;
- b. A map and a description of inspection and maintenance activities conducted and corrective actions taken during the previous year;
- c. Expenditures for any collection system maintenance activities and corrective actions taken during the previous year;
- d. A map with areas identified for investigation/action in the coming year;
- e. A summary of unauthorized discharges during the past year and their causes and a report of any corrective actions taken as a result of the unauthorized discharges reported pursuant to the Unauthorized Discharges section of this permit; and



f. If the average annual flow in the previous calendar year exceeded 80 percent of the facility's 3.4 MGD design flow (2.7 MGD), or there have been capacity related overflows, the report shall include:

- (1) Plans for further potential flow increases describing how the Permittee will maintain compliance with the flow limit and all other effluent limitations and conditions; and
- (2) A calculation of the maximum daily, weekly, and monthly infiltration and the maximum daily, weekly, and monthly inflow for the reporting year.

#### **D. ALTERNATE POWER SOURCE**

In order to maintain compliance with the terms and conditions of this permit, the Permittee shall provide an alternative power source(s) sufficient to operate the portion of the publicly owned treatment works it owns and operates, as defined in Part II.E.1 of this permit.

#### **E. INDUSTRIAL USERS AND PRETREATMENT PROGRAM**

1. The Permittee shall develop and enforce specific effluent limits (local limits) for Industrial User(s), and all other users, as appropriate, which together with appropriate changes in the POTW Treatment Plant's Facilities or operation, are necessary to ensure continued compliance with the POTW's NPDES permit or sludge use or disposal practices. Specific local limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond. Within 90 days of the effective date of this permit, the Permittee shall prepare and submit a written technical evaluation to the EPA analyzing the need to revise local limits. As part of this evaluation, the Permittee shall assess how the POTW performs with respect to influent and effluent of pollutants, water quality concerns, sludge quality, sludge processing concerns/inhibition, biomonitoring results, activated sludge inhibition, worker health and safety and collection system concerns. In preparing this evaluation, the Permittee shall complete and submit the attached form (see **Attachment B** – Reassessment of Technically Based Industrial Discharge Limits) with the technical evaluation to assist in determining whether existing local limits need to be revised. Justifications and conclusions should be based on actual plant data if available and should be included in the report. Should the evaluation reveal the need to revise local limits, the Permittee shall complete the revisions within 120 days of notification by EPA and submit the revisions to EPA for approval. The Permittee shall carry out the local limits revisions in accordance with EPA's Local Limit Development Guidance (July 2004).
2. The Permittee shall implement the Industrial Pretreatment Program in accordance with the legal authorities, policies, procedures, and financial provisions described in the Permittee's approved Pretreatment Program, and the General Pretreatment Regulations, 40 C.F.R. Part 403. At a minimum, the Permittee must perform the following duties to properly implement the Industrial Pretreatment Program (IPP):

- a. Carry out inspection, surveillance, and monitoring procedures which will determine independent of information supplied by the industrial user, whether the industrial user is in compliance with the Pretreatment Standards. At a minimum, all significant industrial users shall be sampled and inspected at the frequency established in the approved IPP but in no case less than once per year and maintain adequate records.
  - b. Issue or renew all necessary industrial user control mechanisms within 90 days of their expiration date or within 180 days after the industry has been determined to be a significant industrial user.
  - c. Obtain appropriate remedies for noncompliance by any industrial user with any pretreatment standard and/or requirement.
  - d. Maintain an adequate revenue structure for continued implementation of the Pretreatment Program.
3. The Permittee shall provide the EPA and the State with an annual report describing the Permittee's pretreatment program activities for the twelve (12) month period ending 60 days prior to the due date in accordance with 403.12(i). The annual report shall be consistent with the format described in **Attachment C** (NPDES Permit Requirement for Industrial Pretreatment Annual Report) of this permit and shall be submitted no later than **March 1** of each year.
  4. The Permittee must obtain approval from EPA prior to making any significant changes to the industrial pretreatment program in accordance with 40 C.F.R. 403.18(c).
  5. The Permittee must assure that applicable National Categorical Pretreatment Standards are met by all categorical industrial users of the POTW. These standards are published in the Federal Regulations at 40 C.F.R. Part 405 et seq.
  6. The Permittee must modify its pretreatment program, if necessary, to conform to all changes in the Federal Regulations that pertain to the implementation and enforcement of the industrial pretreatment program. The Permittee must provide EPA, in writing, within 180 days of this permit's effective date proposed changes, if applicable, to the Permittee's pretreatment program deemed necessary to assure conformity with current Federal Regulations. At a minimum, the Permittee must address in its written submission the following areas: (1) Enforcement response plan; (2) revised sewer use ordinances; and (3) slug control evaluations. The Permittee will implement these proposed changes pending EPA Region I's approval under 40 C.F.R. § 403.18. This submission is separate and distinct from any local limits analysis submission described in Part I.E.1.

## **F. SLUDGE CONDITIONS**

1. The Permittee shall comply with all existing federal and state laws and regulations that apply to sewage sludge use and disposal practices, including EPA regulations promulgated at 40

C.F.R. Part 503, which prescribe “Standards for the Use or Disposal of Sewage Sludge” pursuant to § 405(d) of the CWA, 33 U.S.C. § 1345(d).

2. If both state and federal requirements apply to the Permittee’s sludge use and/or disposal practices, the Permittee shall comply with the more stringent of the applicable requirements.
3. The requirements and technical standards of 40 C.F.R. Part 503 apply to the following sludge use or disposal practices:
  - a. Land application - the use of sewage sludge to condition or fertilize the soil
  - b. Surface disposal - the placement of sewage sludge in a sludge only landfill
  - c. Sewage sludge incineration in a sludge only incinerator
4. The requirements of 40 C.F.R. Part 503 do not apply to facilities which dispose of sludge in a municipal solid waste landfill. 40 C.F.R. § 503.4. These requirements also do not apply to facilities which do not use or dispose of sewage sludge during the life of the permit but rather treat the sludge (e.g., lagoons, reed beds), or are otherwise excluded under 40 C.F.R. § 503.6.
5. The 40 C.F.R. Part 503 requirements include the following elements:
  - General requirements
  - Pollutant limitations
  - Operational Standards (pathogen reduction requirements and vector attraction reduction requirements)
  - Management practices
  - Record keeping
  - Monitoring
  - Reporting

Which of the 40 C.F.R. Part 503 requirements apply to the Permittee will depend upon the use or disposal practice followed and upon the quality of material produced by a facility. The EPA Region 1 Guidance document, “EPA Region 1 - NPDES Permit Sludge Compliance Guidance” (November 4, 1999), may be used by the Permittee to assist it in determining the applicable requirements.<sup>2</sup>

6. The sludge shall be monitored for pollutant concentrations (all Part 503 methods) and pathogen reduction and vector attraction reduction (land application and surface disposal) at the following frequency. This frequency is based upon the volume of sewage sludge generated at the facility in dry metric tons per year, as follows:

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<sup>2</sup> This guidance document is available upon request from EPA Region 1 and may also be found at: <http://www.epa.gov/region1/npdes/permits/generic/sludgeguidance.pdf>

less than 290	1/ year
290 to less than 1,500	1 /quarter
1,500 to less than 15,000	6 /year
15,000 +	1 /month

Sampling of the sewage sludge shall use the procedures detailed in 40 C.F.R. § 503.8.

7. Under 40 C.F.R. § 503.9(r), the Permittee is a “person who prepares sewage sludge” because it “is ... the person who generates sewage sludge during the treatment of domestic sewage in a treatment works ...” If the Permittee contracts with *another* “person who prepares sewage sludge” under 40 C.F.R. § 503.9(r) – i.e., with “a person who derives a material from sewage sludge” – for use or disposal of the sludge, then compliance with Part 503 requirements is the responsibility of the contractor engaged for that purpose. If the Permittee does not engage a “person who prepares sewage sludge,” as defined in 40 C.F.R. § 503.9(r), for use or disposal, then the Permittee remains responsible to ensure that the applicable requirements in Part 503 are met. 40 C.F.R. § 503.7. If the ultimate use or disposal method is land application, the Permittee is responsible for providing the person receiving the sludge with notice and necessary information to comply with the requirements of 40 C.F.R. § 503 Subpart B.
8. The Permittee shall submit an annual report containing the information specified in the 40 C.F.R. Part 503 requirements (§ 503.18 (land application), § 503.28 (surface disposal), or § 503.48 (incineration)) by **February 19** (*see also* “EPA Region 1 - NPDES Permit Sludge Compliance Guidance”). Reports shall be submitted electronically using EPA’s Electronic Reporting tool (“NeT”) (*see* “Reporting Requirements” section below).

## G. SPECIAL CONDITIONS

1. The permittee shall operate the effluent diffuser according to the best management practices below:
  - a. The effluent diffuser shall be maintained to ensure proper operation. Proper operation means that the outfall pipe be intact, operating as designed, and have unobstructed flow. Maintenance may include dredging in the vicinity of the diffuser, removal of solids/debris in the diffuser header pipe, and repair/replacement.
  - b. To determine if maintenance will be required, the Permittee shall inspect and videotape the operation of the diffuser either remotely or using a qualified diver or marine contractor. The inspections and videotaping shall be performed every two years with the first inspection occurring within twelve (12) months of the effective date of the permit. EPA and MassDEP shall be contacted at least seven days prior to a dive inspection.
  - c. Any necessary maintenance dredging must be performed only during the marine construction season authorized by the Massachusetts Department of Marine

Fisheries and only after receiving all necessary permits from the Massachusetts Department of Environmental Protection, U.S. Coast Guard, U.S. Army Corps of Engineers, and other appropriate agencies.

- d. Copies of reports summarizing the results of each diffuser inspection shall be submitted to EPA and MassDEP within 60 days of each inspection. Where it is determined that maintenance will be necessary, the Permittee shall provide the proposed schedule for the maintenance.
2. The Permittee shall verbally notify the Massachusetts Division of Marine Fisheries within 4 hours of any emergency condition, plant upset, bypass, SSO discharges or other system failure which has the potential to violate bacteria permit limits. Within 24 hours a written notification of a permit excursion or plant failure shall be sent to the following address:

Division of Marine Fisheries  
Shellfish Management Program  
30 Emerson Avenue  
Gloucester, MA 01930  
(978) 282-0308

## H. REPORTING REQUIREMENTS

Unless otherwise specified in this permit, the Permittee shall submit reports, requests, and information and provide notices in the manner described in this section.

### 1. Submittal of DMRs Using NetDMR

The Permittee shall continue to submit its monthly monitoring data in discharge monitoring reports (DMRs) to EPA and the State no later than the 15th day of the month electronically using NetDMR. When the Permittee submits DMRs using NetDMR, it is not required to submit hard copies of DMRs to EPA or the State. NetDMR is accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.

### 2. Submittal of Reports as NetDMR Attachments

Unless otherwise specified in this permit, the Permittee shall electronically submit all reports to EPA as NetDMR attachments rather than as hard copies. *See Part I.H.7. for more information on State reporting.* Because the due dates for reports described in this permit may not coincide with the due date for submitting DMRs (which is no later than the 15th day of the month), a report submitted electronically as a NetDMR attachment shall be considered timely if it is electronically submitted to EPA using NetDMR with the next DMR due following the report due date specified in this permit.

### 3. Submittal of Industrial User and Pretreatment Related Reports

- a. Prior to December 21, 2020, all reports and information required of the Permittee in the Industrial Users and Pretreatment Program section of this permit shall be submitted to the Pretreatment Coordinator in Region 1 EPA Water Division (WD). Starting on December 21, 2020, these submittals must be done electronically as NetDMR attachments and/or using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which will be accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>. These requests, reports and notices include:

- (1) Annual Pretreatment Reports,
- (2) Pretreatment Reports Reassessment of Technically Based Industrial Discharge Limits Form,
- (3) Revisions to Industrial Discharge Limits,
- (4) Report describing Pretreatment Program activities, and
- (5) Proposed changes to a Pretreatment Program

- b. This information shall be submitted to EPA WD as a hard copy at the following address:

U.S. Environmental Protection Agency  
Water Division  
Regional Pretreatment Coordinator  
5 Post Office Square - Suite 100 (06-03)  
Boston, MA 02109-3912

4. Submittal of Biosolids/Sewage Sludge Reports

By February 19 of each year, the Permittee must electronically report their annual Biosolids/Sewage Sludge Report for the previous calendar year using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which is accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.

5. Submittal of Requests and Reports to EPA Water Division (WD)

- a. The following requests, reports, and information described in this permit shall be submitted to the NPDES Applications Coordinator in EPA Water Division (WD):

- (1) Transfer of permit notice;
- (2) Request for changes in sampling location;
- (3) Request for reduction in testing frequency;
- (4) Request for change in WET testing requirement; and
- (5) Report on unacceptable dilution water / request for alternative dilution water for WET testing.

- b. These reports, information, and requests shall be submitted to EPA WD electronically at [R1NPDESReporting@epa.gov](mailto:R1NPDESReporting@epa.gov).

6. Submittal of Reports to EPA Enforcement and Compliance Assurance Division (ECAD) in Hard Copy Form

- a. The following notifications and reports shall be signed and dated originals, submitted as hard copy, with a cover letter describing the submission:

(1) Prior to December 21, 2020, written notifications required under Part II.B.4.c, for bypasses, and Part II.D.1.e, for sanitary sewer overflows (SSOs). Starting on 21 December 2020, such notifications must be done electronically using EPA's NPDES Electronic Reporting Tool ("NeT"), or another approved EPA system, which will be accessible through EPA's Central Data Exchange at <https://cdx.epa.gov/>.

- b. This information shall be submitted to EPA ECAD at the following address:

U.S. Environmental Protection Agency  
Enforcement and Compliance Assurance Division  
Water Compliance Section  
5 Post Office Square, Suite 100 (04-SMR)  
Boston, MA 02109-3912

7. State Reporting

Duplicate signed copies of all WET test reports shall be submitted to the Massachusetts Department of Environmental Protection, Division of Watershed Management, at the following address:

Massachusetts Department of Environmental Protection  
Bureau of Water Resources  
Division of Watershed Management  
8 New Bond Street  
Worcester, Massachusetts 01606

8. Verbal Reports and Verbal Notifications

- a. Any verbal reports or verbal notifications, if required in Parts I and/or II of this permit, shall be made to both EPA and to the State. This includes verbal reports and notifications which require reporting within 24 hours (e.g., Part II.B.4.c.(2), Part II.B.5.c.(3), and Part II.D.1.e).
- b. Verbal reports and verbal notifications shall be made to:

**EPA ECAD at 617-918-1510  
and  
MassDEP's Emergency Response at 888-304-1133**

**I. STATE PERMIT CONDITIONS**

1. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are 1) a Federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§ 1251 et seq.; and 2) an identical State surface water discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00. All of the requirements contained in this authorization, as well as the standard conditions contained in 314 CMR 3.19, are hereby incorporated by reference into this State surface water discharge permit.
2. This authorization also incorporates the State water quality certification issued by MassDEP under § 401(a) of the Federal Clean Water Act, 40 C.F.R. 124.53, M.G.L. c. 21, § 27 and 314 CMR 3.07. All of the requirements (if any) contained in MassDEP's water quality certification for the permit are hereby incorporated by reference into this State surface water discharge permit as special conditions pursuant to 314 CMR 3.11.
3. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law such permit shall remain in full force and effect under federal law as a NPDES Permit issued by the EPA. In the event this permit is declared invalid, illegal or otherwise issued in violation of Federal law, this permit shall remain in full force and effect under State law as a permit issued by the Commonwealth of Massachusetts.



**ATTACHMENT A**  
**MARINE ACUTE**  
**TOXICITY TEST PROCEDURE AND PROTOCOL**

## **I. GENERAL REQUIREMENTS**

The permittee shall conduct acceptable acute toxicity tests in accordance with the appropriate test protocols described below:

- **2007.0 - Mysid Shrimp (Americamysis bahia) definitive 48 hour test.**
- **2006.0 - Inland Silverside (Menidia beryllina) definitive 48 hour test.**

Acute toxicity data shall be reported as outlined in Section VIII.

## **II. METHODS**

The permittee shall use the most recent 40 CFR Part 136 methods. Whole Effluent Toxicity (WET) Test Methods and guidance may be found at:

<http://water.epa.gov/scitech/methods/cwa/wet/index.cfm#methods>

The permittee shall also meet the sampling, analysis and reporting requirements included in this protocol. This protocol defines more specific requirements while still being consistent with the Part 136 methods. If, due to modifications of Part 136, there are conflicting requirements between the Part 136 method and this protocol, the permittee shall comply with the requirements of the Part 136 method.

## **III. SAMPLE COLLECTION**

A discharge and receiving water sample shall be collected. The receiving water control sample must be collected immediately upstream of the permitted discharge's zone of influence. The acceptable holding times until initial use of a sample are 24 and 36 hours for on-site and off-site testing, respectively. A written waiver is required from the regulating authority for any holding time extension. Sampling guidance dictates that, where appropriate, aliquots for the analysis required in this protocol shall be split from the samples, containerized and immediately preserved, or analyzed as per 40 CFR Part 136. EPA approved test methods require that samples collected for metals analyses be preserved immediately after collection. Testing for the presence of total residual chlorine<sup>1</sup> (TRC) must be analyzed immediately or as soon as possible, for all effluent samples, prior to WET testing. TRC analysis may be performed on-site or by the toxicity testing laboratory and the samples must be dechlorinated, as necessary, using sodium thiosulfate

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<sup>1</sup> For this protocol, total residual chlorine is synonymous with total residual oxidants.  
(July 2012)

prior to sample use for toxicity testing. If performed on site the results should be included on the chain of custody (COC) presented to WET laboratory.

Standard Methods for the Examination of Water and Wastewater describes dechlorination of samples (APHA, 1992). Dechlorination can be achieved using a ratio of 6.7 mg/L anhydrous sodium thiosulfate to reduce 1 mg/L chlorine. If dechlorination is necessary, a thiosulfate control consisting of the maximum concentration of thiosulfate used to dechlorinate the sample in the toxicity test control water must also be run in the WET test.

All samples submitted for chemical and physical analyses will be analyzed according to Section VI of this protocol. Grab samples must be used for pH, temperature, and total residual chlorine (as per 40 CFR Part 122.21).

All samples held for use beyond the day of sampling shall be refrigerated and maintained at a temperature range of 0-6° C.

#### **IV. DILUTION WATER**

Samples of receiving water must be collected from a reasonably accessible location in the receiving water body immediately upstream of the permitted discharge's zone of influence. Avoid collection near areas of obvious road or agricultural runoff, storm sewers or other point source discharges and areas where stagnant conditions exist. EPA strongly urges that screening for toxicity be performed prior to the set up of a full, definitive toxicity test any time there is a question about the test dilution water's ability to achieve test acceptability criteria (TAC) as indicated in Section V of this protocol. The test dilution water control response will be used in the statistical analysis of the toxicity test data. All other control(s) required to be run in the test will be reported as specified in the Discharge Monitoring Report (DMR) Instructions, Attachment F, page 2, Test Results & Permit Limits.

The test dilution water must be used to determine whether the test met the applicable TAC. When receiving water is used for test dilution, an additional control made up of standard laboratory water (0% effluent) is required. This control will be used to verify the health of the test organisms and evaluate to what extent, if any, the receiving water itself is responsible for any toxic response observed.

If dechlorination of a sample by the toxicity testing laboratory is necessary a "sodium thiosulfate" control, representing the concentration of sodium thiosulfate used to adequately dechlorinate the sample prior to toxicity testing, must be included in the test.

If the use of alternate dilution water (ADW) is authorized, in addition to the ADW test control, the testing laboratory must, for the purpose of monitoring the receiving water, also run a receiving water control.

If the receiving water is found to be, or suspected to be toxic or unreliable, ADW of known quality with hardness similar to that of the receiving water may be substituted. Substitution is

species specific meaning that the decision to use ADW is made for each species and is based on the toxic response of that particular species. Substitution to an ADW is authorized in two cases. The first case is when repeating a test due to toxicity in the site dilution water requires an **immediate decision** for ADW use by the permittee and toxicity testing laboratory. The second is when two of the most recent documented incidents of unacceptable site dilution water toxicity require ADW use in future WET testing.

For the second case, written notification from the permittee requesting ADW use **and** written authorization from the permit issuing agency(s) is required **prior to** switching to a long-term use of ADW for the duration of the permit.

Written requests for use of ADW must be mailed with supporting documentation to the following addresses:

Director  
Office of Ecosystem Protection (CAA)  
U.S. Environmental Protection Agency, Region 1  
Five Post Office Square, Suite 100  
Mail Code OEP06-5  
Boston, MA 02109-3912

and

Manager  
Water Technical Unit (SEW)  
U.S. Environmental Protection Agency  
Five Post Office Square, Suite 100  
Mail Code OES04-4  
Boston, MA 02109-3912

Note: USEPA Region 1 retains the right to modify any part of the alternate dilution water policy stated in this protocol at any time. Any changes to this policy will be documented in the annual DMR posting.

*See the most current annual DMR instructions which can be found on the EPA Region 1 website at <http://www.epa.gov/region1/enforcementandassistance/dmr.html> for further important details on alternate dilution water substitution requests.*

## **V. TEST CONDITIONS AND TEST ACCEPTABILITY CRITERIA**

EPA Region 1 requires tests be performed using four replicates of each control and effluent concentration because the non-parametric statistical tests cannot be used with data from fewer replicates. The following tables summarize the accepted Americamysis and Menidia toxicity test conditions and test acceptability criteria:

**EPA NEW ENGLAND EFFLUENT TOXICITY TEST CONDITIONS FOR THE MYSID, AMERICAMYSIS BAHIA 48 HOUR TEST<sup>1</sup>**

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1. Test type	48hr Static, non-renewal
2. Salinity	25ppt $\pm$ 10 percent for all dilutions by adding dry ocean salts
3. Temperature (°C)	20°C $\pm$ 1°C or 25°C $\pm$ 1°C, temperature must not deviate by more than 3°C during test
4. Light quality	Ambient laboratory illumination
5. Photoperiod	16 hour light, 8 hour dark
6. Test chamber size	250 ml (minimum)
7. Test solution volume	200 ml/replicate (minimum)
8. Age of test organisms	1-5 days, <u><math>\leq</math> 24 hours age range</u>
9. No. Mysids per test chamber	10
10. No. of replicate test chambers per treatment	4
11. Total no. Mysids per test concentration	40
12. Feeding regime	Light feeding using concentrated <u>Artemia</u> naupli while holding prior to initiating the test
13. Aeration <sup>2</sup>	None
14. Dilution water	5-30 ppt, +/- 10%; Natural seawater, or deionized water mixed with artificial sea salts
15. Dilution factor	$\geq$ 0.5
16. Number of dilutions <sup>3</sup>	5 plus a control. An additional dilution at the permitted effluent concentration (%)

	effluent) is required if it is not included in the dilution series.
17. Effect measured	Mortality - no movement of body appendages on gentle prodding
18. Test acceptability	90% or greater survival of test organisms in control solution
19. Sampling requirements	For on-site tests, samples are used within 24 hours of the time that they are removed from the sampling device. For off-site tests, samples must be first used within 36 hours of collection.
20. Sample volume required	Minimum 1 liter for effluents and 2 liters for receiving waters

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Footnotes:

- <sup>1</sup> Adapted from EPA 821-R-02-012.
- <sup>2</sup> If dissolved oxygen falls below 4.0 mg/L, aerate at rate of less than 100 bubbles/min. Routine D.O. checks are recommended.
- <sup>3</sup> When receiving water is used for dilution, an additional control made up of standard laboratory dilution water (0% effluent) is required.

**EPA NEW ENGLAND TOXICITY TEST CONDITIONS FOR THE INLAND SILVERSIDE, MENIDIA BERYLLINA 48 HOUR TEST<sup>1</sup>**

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1. Test Type	48 hr Static, non-renewal
2. Salinity	25 ppt $\pm$ 10 % by adding dry ocean salts
3. Temperature	20°C $\pm$ 1°C or 25°C $\pm$ 1°C, temperature must not deviate by more than 3°C during test
4. Light Quality	Ambient laboratory illumination
5. Photoperiod	16 hr light, 8 hr dark
6. Size of test vessel	250 mL (minimum)
7. Volume of test solution	200 mL/replicate (minimum)
8. Age of fish	9-14 days; 24 hr age range
9. No. fish per chamber	10 (not to exceed loading limits)
10. No. of replicate test vessels per treatment	4
11. Total no. organisms per concentration	40
12. Feeding regime	Light feeding using concentrated <u>Artemia</u> nauplii while holding prior to initiating the test
13. Aeration <sup>2</sup>	None
14. Dilution water	5-32 ppt, +/- 10% ; Natural seawater, or deionized water mixed with artificial sea salts.
15. Dilution factor	$\geq 0.5$
16. Number of dilutions <sup>3</sup>	5 plus a control. An additional dilution at the permitted concentration (% effluent) is required if it is not included in the dilution series.
17. Effect measured	Mortality-no movement on gentle prodding.

18. Test acceptability	90% or greater survival of test organisms in control solution.
19. Sampling requirements	For on-site tests, samples must be used within 24 hours of the time they are removed from the sampling device. Off-site test samples must be used within 36 hours of collection.
20. Sample volume required	Minimum 1 liter for effluents and 2 liters for receiving waters.

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Footnotes:

- <sup>1</sup> Adapted from EPA 821-R-02-012.
- <sup>2</sup> If dissolved oxygen falls below 4.0 mg/L, aerate at rate of less than 100 bubbles/min. Routine D.O. checks recommended.
- <sup>3</sup> When receiving water is used for dilution, an additional control made up of standard laboratory dilution water (0% effluent) is required.

V.1. Test Acceptability Criteria

If a test does not meet TAC the test must be repeated with fresh samples within 30 days of the initial test completion date.

V.2. Use of Reference Toxicity Testing

Reference toxicity test results and applicable control charts must be included in the toxicity testing report.

In general, if reference toxicity test results fall outside the control limits established by the laboratory for a specific test endpoint, a reason or reasons for this excursion must be evaluated, correction made and reference toxicity tests rerun as necessary as prescribed below.

If a test endpoint value exceeds the control limits at a frequency of more than one out of twenty then causes for the reference toxicity test failure must be examined and if problems are identified corrective action taken. The reference toxicity test must be repeated during the same month in which the exceedance occurred.

If two consecutive reference toxicity tests fall outside control limits, the possible cause(s) for the exceedance must be examined, corrective actions taken and a repeat of the reference toxicity test must take place immediately. Actions taken to resolve the problem must be reported.

### V.2.a. Use of Concurrent Reference Toxicity Testing

In the case where concurrent reference toxicity testing is required due to a low frequency of testing with a particular method, if the reference toxicity test results fall slightly outside of laboratory established control limits, but the primary test met the TAC, the results of the primary test will be considered acceptable. However, if the results of the concurrent test fall well outside the established **upper** control limits i.e.  $\geq 3$  standard deviations for IC25s and LC50 values and  $\geq$  two concentration intervals for NOECs or NOAECs, and even though the primary test meets TAC, the primary test will be considered unacceptable and must be repeated.

## **VI. CHEMICAL ANALYSIS**

At the beginning of the static acute test, pH, salinity, and temperature must be measured at the beginning and end of each 24 hour period in each dilution and in the controls. The following chemical analyses shall be performed for each sampling event.

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<u>Parameter</u>	<u>Effluent</u>	<u>Diluent</u>	<u>Minimum Level for effluent<sup>*1</sup> (mg/L)</u>
pH	x	x	---
Salinity	x	x	ppt(o/oo)
Total Residual Chlorine <sup>*2</sup>	x	x	0.02
Total Solids and Suspended Solids	x	x	---
Ammonia	x	x	0.1
Total Organic Carbon	x	x	0.5
<u>Total Metals</u>			
Cd	x	x	0.0005
Pb	x	x	0.0005
Cu	x	x	0.003
Zn	x	x	0.005
Ni	x	x	0.005

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### Superscript:

<sup>\*1</sup> These are the minimum levels for effluent (fresh water) samples. Tests on diluents (marine waters) shall be conducted using the Part 136 methods that yield the lowest MLs.

<sup>\*2</sup> Either of the following methods from the 18th Edition of the APHA Standard Methods for the Examination of Water and Wastewater must be used for these analyses:



- Method 4500-Cl E Low Level Amperometric Titration (the preferred method);
- Method 4500-CL G DPD Photometric Method.

## **VII. TOXICITY TEST DATA ANALYSIS**

### LC50 Median Lethal Concentration

An estimate of the concentration of effluent or toxicant that is lethal to 50% of the test organisms during the time prescribed by the test method.

Methods of Estimation:

- Probit Method
- Spearman-Kärber
- Trimmed Spearman-Kärber
- Graphical

See flow chart in Figure 6 on page 73 of EPA 821-R-02-012 for appropriate method to use on a given data set.

### No Observed Acute Effect Level (NOAEL)

See flow chart in Figure 13 on page 87 of EPA 821-R-02-012.

## **VIII. TOXICITY TEST REPORTING**

A report of results must include the following:

- Toxicity Test summary sheet(s) (Attachment F to the DMR Instructions) which includes:
  - Facility name
  - NPDES permit number
  - Outfall number
  - Sample type
  - Sampling method
  - Effluent TRC concentration
  - Dilution water used
  - Receiving water name and sampling location
  - Test type and species
  - Test start date
  - Effluent concentrations tested (%) and permit limit concentration
  - Applicable reference toxicity test date and whether acceptable or not
  - Age, age range and source of test organisms used for testing
  - Results of TAC review for all applicable controls
  - Permit limit and toxicity test results
  - Summary of any test sensitivity and concentration response evaluation that was conducted

Please note: The NPDES Permit Program Instructions for the Discharge Monitoring Report Forms (DMRs) are available on EPA's website at

<http://www.epa.gov/NE/enforcementandassistance/dmr.html>

In addition to the summary sheets the report must include:

- A brief description of sample collection procedures;
- Chain of custody documentation including names of individuals collecting samples, times and dates of sample collection, sample locations, requested analysis and lab receipt with time and date received, lab receipt personnel and condition of samples upon receipt at the lab(s);
- Reference toxicity test control charts;
- All sample chemical/physical data generated, including minimum levels (MLs) and analytical methods used;
- All toxicity test raw data including daily ambient test conditions, toxicity test chemistry, sample dechlorination details as necessary, bench sheets and statistical analysis;
- A discussion of any deviations from test conditions; and
- Any further discussion of reported test results, statistical analysis and concentration-response relationship and test sensitivity review per species per endpoint.

## **ATTACHMENT B**

### **EPA - New England**

#### **Reassessment of Technically Based Industrial Discharge Limits**

Under 40 CFR §122.21(j)(4), all Publicly Owned Treatment Works (POTWs) with approved Industrial Pretreatment Programs (IPPs) shall provide the following information to the Director: a written evaluation of the need to revise local industrial discharge limits under 40 CFR §403.5(c)(1).

Below is a form designed by the U.S. Environmental Protection Agency (EPA - New England) to assist POTWs with approved IPPs in evaluating whether their existing Technically Based Local Limits (TBLLs) need to be recalculated. The form allows the permittee and EPA to evaluate and compare pertinent information used in previous TBLLs calculations against present conditions at the POTW.

**Please read direction below before filling out form.**

#### **ITEM I.**

- \* In Column (1), list what your POTW's influent flow rate was when your existing TBLLs were calculated. In Column (2), list your POTW's present influent flow rate. Your current flow rate should be calculated using the POTW's average daily flow rate from the previous 12 months.
- \* In Column (1) list what your POTW's SIU flow rate was when your existing TBLLs were calculated. In Column (2), list your POTW's present SIU flow rate.
- \* In Column (1), list what dilution ratio and/or 7Q10 value was used in your old/expired NPDES permit. In Column (2), list what dilution ration and/or 7Q10 value is presently being used in your new/reissued NPDES permit.

The 7Q10 value is the lowest seven day average flow rate, in the river, over a ten year period. The 7Q10 value and/or dilution ratio used by EPA in your new NPDES permit can be found in your NPDES permit "Fact Sheet."

- \* In Column (1), list the safety factor, if any, that was used when your existing TBLLs were calculated.
- \* In Column (1), note how your bio-solids were managed when your existing TBLLs were calculated. In Column (2), note how your POTW is presently disposing of its biosolids and how your POTW will be disposing of its biosolids in the future.

## ITEM II.

- \* List what your existing TBLLs are - as they appear in your current Sewer Use Ordinance (SUO).

## ITEM III.

- \* Identify how your existing TBLLs are allocated out to your industrial community. Some pollutants may be allocated differently than others, if so please explain.

## ITEM IV.

- \* Since your existing TBLLs were calculated, identify the following in detail:
  - (1) if your POTW has experienced any upsets, inhibition, interference or pass-through as a result of an industrial discharge.
  - (2) if your POTW is presently violating any of its current NPDES permit limitations - include toxicity.

## ITEM V.

- \* Using current sampling data, list in Column (1) the average and maximum amount of pollutants (in pounds per day) received in the POTW's influent. Current sampling data is defined as data obtained over the last 24 month period.

All influent data collected and analyzed must be in accordance with 40 CFR §136. Sampling data collected should be analyzed using the lowest possible detection method(s), e.g. graphite furnace.

- \* Based on your existing TBLLs, as presented in Item II., list in Column (2), for each pollutant the Maximum Allowable Headwork Loading (MAHL) values derived from an applicable environmental criteria or standard, e.g. water quality, sludge, NPDES, inhibition, etc. For more information, please see EPA's Local Limit Guidance Document (July 2004).

## Item VI.

- \* Using current sampling data, list in Column (1) the average and maximum amount of pollutants (in micrograms per liter) present your POTW's effluent. Current sampling data is defined as data obtained during the last 24 month period.

**(Item VI. continued)**

All effluent data collected and analyzed must be in accordance with 40 CFR §136. Sampling data collected should be analyzed using the lowest possible detection method(s), e.g. graphite furnace.

- \* List in Column (2A) what the Water Quality Standards (WQS) were (in micrograms per liter) when your TBLLs were calculated, please note what hardness value was used at that time. Hardness should be expressed in milligram per liter of Calcium Carbonate.

List in Column (2B) the current WQSs or "Chronic Gold Book" values for each pollutant multiplied by the dilution ratio used in your new/reissued NPDES permit. For example, with a dilution ratio of 25:1 at a hardness of 25 mg/l - Calcium Carbonate (copper's chronic WQS equals 6.54 ug/l) the chronic NPDES permit limit for copper would equal 156.25 ug/l.

**ITEM VII.**

- \* In Column (1), list all pollutants (in micrograms per liter) limited in your new/reissued NPDES permit. In Column (2), list all pollutants limited in your old/expired NPDES permit.

**ITEM VIII.**

- \* Using current sampling data, list in Column (1) the average and maximum amount of pollutants in your POTW's biosolids. Current data is defined as data obtained during the last 24 month period. Results are to be expressed as total dry weight.

All biosolids data collected and analyzed must be in accordance with 40 CFR §136.

In Column (2A), list current State and/or Federal sludge standards that your facility's biosolids must comply with. Also note how your POTW currently manages the disposal of its biosolids. If your POTW is planning on managing its biosolids differently, list in Column (2B) what your new biosolids criteria will be and method of disposal.

In general, please be sure the units reported are correct and all pertinent information is included in your evaluation. If you have any questions, please contact your pretreatment representative at EPA - New England.



# **REASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS (TBLLs)**

POTW Name & Address : \_\_\_\_\_

NPDES                                      PERMIT                                      #                                      :

\_\_\_\_\_

Date EPA approved current TBLLs : \_\_\_\_\_

Date              EPA              approved              current              Sewer              Use              Ordinance              :

\_\_\_\_\_

## **ITEM I.**

In Column (1) list the conditions that existed when your current TBLLs were calculated. In Column (2), list current conditions or expected conditions at your POTW.		
	Column (1) EXISTING TBLLs	Column (2) PRESENT CONDITIONS
POTW Flow (MGD)		
Dilution Ratio or 7Q10 (from NPDES Permit)		
SIU Flow (MGD)		
Safety Factor		N/A
Biosolids Disposal Method(s)		

**ITEM II.**

EXISTING TBLLs			
POLLUTANT	NUMERICAL LIMIT (mg/l) or (lb/day)	POLLUTANT	NUMERICAL LIMIT (mg/l) or (lb/day)

**ITEM III.**

Note how your existing TBLLs, listed in Item II., are allocated to your Significant Industrial Users (SIUs), i.e. uniform concentration, contributory flow, mass proportioning, other. Please specify by circling.

**ITEM IV.**

Has your POTW experienced any upsets, inhibition, interference or pass-through from industrial sources since your existing TBLLs were calculated?

If yes, explain.

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Has your POTW violated any of its NPDES permit limits and/or toxicity test requirements?

If yes, explain.

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# ITEM V.

Using current POTW influent sampling data fill in Column (1). In Column (2), list your Maximum Allowable Headwork Loading (MAHL) values used to derive your TBLLs listed in Item II. In addition, please note the Environmental Criteria for which each MAHL value was established, i.e. water quality, sludge, NPDES etc.

Pollutant	Column (1) Influent Data Analyses		Column (2)	Criteria
	Maximum (lb/day)	Average (lb/day)	MAHL Values (lb/day)	
Arsenic				
Cadmium				
Chromium				
Copper				
Cyanide				
Lead				
Mercury				
Nickel				
Silver				
Zinc				
Other (List)				



# ITEM VI.

Using current POTW effluent sampling data, fill in Column (1). In Column (2A) list what the Water Quality Standards (Gold Book Criteria) were at the time your existing TBLLs were developed. List in Column (2B) current Gold Book values multiplied by the dilution ratio used in your new/reissued NPDES permit.

Pollutant	Column (1)		Columns (2A) (2B)	
	Effluent Data Analyses Maximum (ug/l)	Average (ug/l)	Water Quality Criteria (Gold Book) From TBLLs Today (ug/l) (ug/l)	
Arsenic				
*Cadmium				
*Chromium				
*Copper				
Cyanide				
*Lead				
Mercury				
*Nickel				
Silver				
*Zinc				
Other (List)				

\*Hardness Dependent (mg/l - CaCO<sub>3</sub>)

ITEM VII.

In Column (1), identify all pollutants limited in your new/reissued NPDES permit. In Column (2), identify all pollutants that were limited in your old/expired NPDES permit.

[illegible]

### ITEM VIII.

Using current POTW biosolids data, fill in Column (1). In Column (2A), list the biosolids criteria that was used at the time your existing TBLLs were calculated. If your POTW is planing on managing its biosolids differently, list in Column (2B) what your new biosolids criteria would be and method of disposal.

Pollutant	Column (1)	Biosolids	Columns	
	Data Analyses		(2A)	(2B)
	Average		Biosolids Criteria	
	(mg/kg)		From TBLLs	New
Arsenic				
Cadmium				
Chromium				
Copper				
Cyanide				
Lead				
Mercury				
Nickel				
Silver				
Zinc				
Molybdenum				
Selenium				
Other (List)				

## **Attachment C**

### **Industrial Pretreatment Program Annual Report Requirements**

The Permittee shall provide to the Approval Authority with an annual report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this section shall be submitted no later than one year after approval of the POTW's Pretreatment Program, and at least annually thereafter, and must include, at a minimum, the applicable required data in appendix A to 40 CFR Part 127. The report required by this section must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2020 all annual reports submitted in compliance with this section must be submitted electronically by the POTW Pretreatment Program to the Approval Authority or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR Part 3 (including, in all cases, Subpart D to Part 3), 40 CFR 122.22, and 40 CFR Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, the Approval Authority may also require POTW Pretreatment Programs to electronically submit annual reports under this section if specified by a particular permit or if required to do so by state law.

The permitted shall submit to Approval Authority and the state permitting authority a report that contains the following information requested by EPA:

1. An updated list of the POTW's Industrial Users by category as set forth in 40 C.F.R. 403.8(f)(2)(i), to include:
  - a. Names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. This list shall identify which Industrial Users are subject to categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the categorical Pretreatment Standards. The POTW shall also list the Industrial Users that are subject only to local Requirements. The list must also identify Industrial Users subject to categorical Pretreatment Standards that are subject to reduced reporting requirements under paragraph (e)(3), and identify which Industrial Users are Non-Significant Categorical Industrial Users.
  - b. Permit status. Whether each SIU has an unexpired control mechanism and an explanation as to why any SIUs are operating without a current, unexpired control mechanism (e.g. permit);
  - c. Baseline monitoring reporting requirements for newly promulgated industries
  - d. In addition, a brief description of the industry and general activities;
2. A summary of compliance and enforcement activities during the preceding year, including the number of:

- a. significant industrial users inspected by POTW (include inspection dates for each industrial user),
  - b. significant industrial users sampled by POTW (include sampling dates for each industrial user),
  - c. compliance schedules issued (include list of subject users),
  - d. written notices of violations issued (include list of subject users),
  - e. administrative orders issued (include list of subject users),
  - f. criminal or civil suits filed (include list of subject users) and,
  - g. penalties obtained (include list of subject users and penalty amounts);
3. A narrative description of program effectiveness including present and proposed changes to the program, such as funding, staffing, ordinances, regulations, rules and/or statutory authority;
  4. The Permittee shall prepare annually a list of industrial users, which during the preceding twelve (12) months have significantly violated Pretreatment Standards or requirements 40 C.F.R. 403.8(f)(2)(vii). This list is to be published annually in a newspaper of general circulation in the Permittee's service area.
  5. A summary of all monitoring activities performed within the previous twelve (12) months. The following information shall be reported:

Total number of SIUs inspected; and  
Total number of SIUs sampled.

- a. For all industrial users that were in Significant Non-Compliance during the previous twelve (12) months, provide the name of the violating industrial user; indicate the nature of the violations, the type and number of actions taken (administrative order, criminal or civil suit, fines or penalties collected, etc.) and current compliance status. Indicate if the company returned to compliance and the date compliance was attained. Determination of Significant Non-Compliance shall be performed.
6. A summary of all enforcement actions not covered by the paragraph above conducted in accordance with the approved Enforcement Response Plan.
  7. A description of actions being taken to reduce the incidence of significant violations by significant industrial users.
  8. A detailed description of all interference and pass-through that occurred during the past year.
  9. A thorough description of all investigations into interference and pass-through during the past year.

10. A description of monitoring, sewer inspections and evaluations which were done during the past year to detect interference and pass-through, specifying parameters and frequencies;
11. The Permittee shall analyze the treatment facility influent and effluent at least Annually for the presence of the toxic pollutants listed in 40 CFR Part 122 Appendix D (NPDES Application Testing Requirements) Table III as follows:
  - Antimony
  - Arsenic
  - Beryllium
  - Cadmium
  - Chromium
  - Copper
  - Lead
  - Mercury
  - Nickel
  - Selenium
  - Silver
  - Thallium
  - Zinc
  - Cyanide
  - Phenols

The sampling program shall consist of one 24-hour flow-proportioned composite and at least one grab sample that is representative of the flows received by the POTW. The composite shall consist of hourly flow-proportioned grab samples taken over a 24-hour period if the sample is collected manually or shall consist of a minimum of 48 samples collected at 30 minute intervals if an automated sampler is used. Cyanide shall be taken as a grab sample during the same period as the composite sample. Sampling and preservation shall be consistent with 40 CFR Part 136. All analytical procedures and method detection limits must be specified when reporting the results of such analyses.

12. The Permittee shall analyze the treatment facility sludge (biosolids) prior to disposal, for the presence of toxic pollutants listed above in 40 CFR Part 122 Appendix D (NPDES Application Testing Requirements) Table III at least once per year. If the Permittee does not dispose of biosolids during the calendar year, the Permittee shall certify to that in the Pretreatment Annual Report and the monitoring requirements in this paragraph shall be suspended for that calendar year.
  - a. The Permittee shall use sample collection and analysis procedures as approved for use under 40 CFR Part 503 or specified in the EPA Region 8 General Permit for biosolids.
13. The summary shall include an evaluation of influent sampling results versus threshold inhibitory concentrations for the Wastewater Treatment System and effluent sampling results versus water quality standards. Such a comparison shall be based on the sampling program described in the paragraphs above or any similar sampling program described in this Permit.
14. Identification of the specific locations, if any, designated by the Permittee for receipt (discharge) of trucked or hauled waste, if modified;
15. Information as required by the Approval Authority or state permitting authority on the discharge to the POTW from the following activities:
  - (A) Ground water clean-up from underground storage tanks;
  - (B) Trucked or hauled waste; and,
  - (C) Groundwater clean-up from RCRA or Superfund sites.
16. A description of all changes made during the previous calendar year to the Permittee's pretreatment program that were not submitted as substantial or non-substantial modifications to EPA.
17. The date of the latest adoption of local limits and an indication as to whether or not the Town is under a State or Federal compliance schedule that includes steps to be taken to revise local limits.
18. Any other information that may be deemed necessary by the Approval Authority.

NPDES PART II STANDARD CONDITIONS  
(April 26, 2018)<sup>1</sup>

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<sup>1</sup> Updated July 17, 2018 to fix typographical errors.



## NPDES PART II STANDARD CONDITIONS

(April 26, 2018)

### A. GENERAL REQUIREMENTS

#### 1. Duty to Comply

The Permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act (CWA or Act) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- a. The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. Penalties for Violations of Permit Conditions: The Director will adjust the civil and administrative penalties listed below in accordance with the Civil Monetary Penalty Inflation Adjustment Rule (83 Fed. Reg. 1190-1194 (January 10, 2018) and the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note. See Pub. L. 114-74, Section 701 (Nov. 2, 2015)). These requirements help ensure that EPA penalties keep pace with inflation. Under the above-cited 2015 amendments to inflationary adjustment law, EPA must review its statutory civil penalties each year and adjust them as necessary.

#### (1) Criminal Penalties

- (a) *Negligent Violations.* The CWA provides that any person who negligently violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to criminal penalties of not less than \$2,500 nor more than \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation or by imprisonment of not more than 2 years, or both.
- (b) *Knowing Violations.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both.
- (c) *Knowing Endangerment.* The CWA provides that any person who knowingly violates permit conditions implementing Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act and who knows at that time that he or she is placing another person in imminent danger of death or serious bodily injury shall upon conviction be subject to a fine of not more than \$250,000 or by imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing

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endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in Section 309(c)(3)(B)(iii) of the Act, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- (d) *False Statement.* The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both. The Act further provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.
- (2) *Civil Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act, the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).
- (3) *Administrative Penalties.* The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act is subject to an administrative penalty as follows:
  - (a) *Class I Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act, the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).
  - (b) *Class II Penalty.* Not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, and 40 C.F.R. Part 19. *See* Pub. L.114-74, Section 701 (Nov. 2, 2015); 83 Fed. Reg. 1190 (January 10, 2018).

### 2. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit

NPDES PART II STANDARD CONDITIONS  
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condition.

3. Duty to Provide Information

The Permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The Permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

4. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the Permittee from responsibilities, liabilities or penalties to which the Permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

5. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

6. Confidentiality of Information

a. In accordance with 40 C.F.R. Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 C.F.R. Part 2 (Public Information).

b. Claims of confidentiality for the following information will be denied:

- (1) The name and address of any permit applicant or Permittee;
- (2) Permit applications, permits, and effluent data.

c. Information required by NPDES application forms provided by the Director under 40 C.F.R. § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

7. Duty to Reapply

If the Permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the Permittee must apply for and obtain a new permit. The Permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

8. State Authorities

Nothing in Parts 122, 123, or 124 precludes more stringent State regulation of any activity

## NPDES PART II STANDARD CONDITIONS

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covered by the regulations in 40 C.F.R. Parts 122, 123, and 124, whether or not under an approved State program.

### 9. Other Laws

The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.

## B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

### 1. Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

### 2. Need to Halt or Reduce Not a Defense

It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

### 3. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

### 4. Bypass

#### a. Definitions

- (1) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
- (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- b. *Bypass not exceeding limitations.* The Permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this Section.

#### c. Notice

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- (1) *Anticipated bypass.* If the Permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass. As of December 21, 2020 all notices submitted in compliance with this Section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.
- (2) *Unanticipated bypass.* The Permittee shall submit notice of an unanticipated bypass as required in paragraph D.1.e. of this part (24-hour notice). As of December 21, 2020 all notices submitted in compliance with this Section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by a particular permit or required to do so by law.

### d. *Prohibition of bypass.*

- (1) Bypass is prohibited, and the Director may take enforcement action against a Permittee for bypass, unless:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (c) The Permittee submitted notices as required under paragraph 4.c of this Section.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 4.d of this Section.

## 5. Upset

- a. *Definition.* *Upset* means an exceptional incident in which there is an unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or

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improper operation.

- b. *Effect of an upset.* An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph B.5.c. of this Section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. *Conditions necessary for a demonstration of upset.* A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the Permittee can identify the cause(s) of the upset;
  - (2) The permitted facility was at the time being properly operated; and
  - (3) The Permittee submitted notice of the upset as required in paragraph D.1.e.2.b. (24-hour notice).
  - (4) The Permittee complied with any remedial measures required under B.3. above.
- d. *Burden of proof.* In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

### C. MONITORING REQUIREMENTS

#### 1. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the Permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least 5 years (or longer as required by 40 C.F.R. § 503), the Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- c. Records of monitoring information shall include:
  - (1) The date, exact place, and time of sampling or measurements;
  - (2) The individual(s) who performed the sampling or measurements;
  - (3) The date(s) analyses were performed;
  - (4) The individual(s) who performed the analyses;
  - (5) The analytical techniques or methods used; and
  - (6) The results of such analyses.
- d. Monitoring must be conducted according to test procedures approved under 40 C.F.R. § 136 unless another method is required under 40 C.F.R. Subchapters N or O.
- e. The Clean Water Act provides that any person who falsifies, tampers with, or

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knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

### 2. Inspection and Entry

The Permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

## D. REPORTING REQUIREMENTS

### 1. Reporting Requirements

- a. *Planned Changes.* The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 C.F.R. § 122.29(b); or
  - (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements at 40 C.F.R. § 122.42(a)(1).
  - (3) The alteration or addition results in a significant change in the Permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. *Anticipated noncompliance.* The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

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- c. *Transfers.* This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the Permittee and incorporate such other requirements as may be necessary under the Clean Water Act. *See* 40 C.F.R. § 122.61; in some cases, modification or revocation and reissuance is mandatory.
- d. *Monitoring reports.* Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21, 2016 all reports and forms submitted in compliance with this Section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to report electronically if specified by a particular permit or if required to do so by State law.
  - (2) If the Permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 C.F.R. § 136, or another method required for an industry-specific waste stream under 40 C.F.R. Subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
  - (3) Calculations for all limitations which require averaging or measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- e. *Twenty-four hour reporting.*
  - (1) The Permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Permittee becomes aware of the circumstances. A written report shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combined sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020 all



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reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases Subpart D to Part 3), § 122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require Permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section.

- (2) The following shall be included as information which must be reported within 24 hours under this paragraph.
    - (a) Any unanticipated bypass which exceeds any effluent limitation in the permit. *See* 40 C.F.R. § 122.41(g).
    - (b) Any upset which exceeds any effluent limitation in the permit.
    - (c) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. *See* 40 C.F.R. § 122.44(g).
  - (3) The Director may waive the written report on a case-by-case basis for reports under paragraph D.1.e. of this Section if the oral report has been received within 24 hours.
- f. *Compliance Schedules.* Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- g. *Other noncompliance.* The Permittee shall report all instances of noncompliance not reported under paragraphs D.1.d., D.1.e., and D.1.f. of this Section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph D.1.e. of this Section. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports shall contain the information described in paragraph D.1.e. and the applicable required data in Appendix A to 40 C.F.R. Part 127. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the Permittee to the Director or initial recipient, as defined in 40 C.F.R. § 127.2(b), in compliance with this Section and 40 C.F.R. Part 3 (including, in all cases, Subpart D to Part 3), §122.22, and 40 C.F.R. Part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part 127, Permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit or if required to do so by state law. The Director may also require Permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this Section.
- h. *Other information.* Where the Permittee becomes aware that it failed to submit any

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relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

- i. *Identification of the initial recipient for NPDES electronic reporting data.* The owner, operator, or the duly authorized representative of an NPDES-regulated entity is required to electronically submit the required NPDES information (as specified in Appendix A to 40 C.F.R. Part 127) to the appropriate initial recipient, as determined by EPA, and as defined in 40 C.F.R. § 127.2(b). EPA will identify and publish the list of initial recipients on its Web site and in the FEDERAL REGISTER, by state and by NPDES data group (see 40 C.F.R. § 127.2(c) of this Chapter). EPA will update and maintain this listing.

### 2. Signatory Requirement

- a. All applications, reports, or information submitted to the Director shall be signed and certified. *See* 40 C.F.R. §122.22.
- b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

### 3. Availability of Reports.

Except for data determined to be confidential under paragraph A.6. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Director. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

## E. DEFINITIONS AND ABBREVIATIONS

### 1. General Definitions

For more definitions related to sludge use and disposal requirements, see EPA Region 1's NPDES Permit Sludge Compliance Guidance document (4 November 1999, modified to add regulatory definitions, April 2018).

*Administrator* means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

*Applicable standards and limitations* means all, State, interstate, and federal standards and limitations to which a "discharge," a "sewage sludge use or disposal practice," or a related activity is subject under the CWA, including "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," pretreatment standards, and "standards for sewage sludge use or disposal" under Sections 301, 302, 303, 304, 306, 307, 308, 403 and 405 of the CWA.

*Application* means the EPA standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by EPA for use in

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“approved States,” including any approved modifications or revisions.

*Approved program* or *approved State* means a State or interstate program which has been approved or authorized by EPA under Part 123.

*Average monthly discharge limitation* means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

*Average weekly discharge limitation* means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week.

*Best Management Practices (“BMPs”)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of “waters of the United States.” BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*Bypass* see B.4.a.1 above.

*C-NOEC* or “*Chronic (Long-term Exposure Test) – No Observed Effect Concentration*” means the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specified time of observation.

*Class I sludge management facility* is any publicly owned treatment works (POTW), as defined in 40 C.F.R. § 501.2, required to have an approved pretreatment program under 40 C.F.R. § 403.8 (a) (including any POTW located in a State that has elected to assume local program responsibilities pursuant to 40 C.F.R. § 403.10 (e)) and any treatment works treating domestic sewage, as defined in 40 C.F.R. § 122.2, classified as a Class I sludge management facility by the EPA Regional Administrator, or, in the case of approved State programs, the Regional Administrator in conjunction with the State Director, because of the potential for its sewage sludge use or disposal practice to affect public health and the environment adversely.

*Contiguous zone* means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

*Continuous discharge* means a “discharge” which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or similar activities.

*CWA* means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 *et seq.*

*CWA and regulations* means the Clean Water Act (CWA) and applicable regulations promulgated thereunder. In the case of an approved State program, it includes State program requirements.

*Daily Discharge* means the “discharge of a pollutant” measured during a calendar day or any

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other 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurements, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

*Direct Discharge* means the “discharge of a pollutant.”

*Director* means the Regional Administrator or an authorized representative. In the case of a permit also issued under Massachusetts’ authority, it also refers to the Director of the Division of Watershed Management, Department of Environmental Protection, Commonwealth of Massachusetts.

*Discharge*

- (a) When used without qualification, *discharge* means the “discharge of a pollutant.”
- (b) As used in the definitions for “interference” and “pass through,” *discharge* means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

*Discharge Monitoring Report* (“DMR”) means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by Permittees. DMRs must be used by “approved States” as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA’s.

*Discharge of a pollutant* means:

- (a) Any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or
- (b) Any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any “indirect discharger.”

*Effluent limitation* means any restriction imposed by the Director on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States,” the waters of the “contiguous zone,” or the ocean.

*Effluent limitation guidelines* means a regulation published by the Administrator under section 304(b) of CWA to adopt or revise “effluent limitations.”

*Environmental Protection Agency* (“EPA”) means the United States Environmental Protection

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Agency.

*Grab Sample* means an individual sample collected in a period of less than 15 minutes.

*Hazardous substance* means any substance designated under 40 C.F.R. Part 116 pursuant to Section 311 of CWA.

*Incineration* is the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

*Indirect discharger* means a nondomestic discharger introducing “pollutants” to a “publicly owned treatment works.”

*Interference* means a discharge (see definition above) which, alone or in conjunction with a discharge or discharges from other sources, both:

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (b) Therefore is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resources Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SDWA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

*Landfill* means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

*Land application* is the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

*Land application unit* means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment and disposal.

*LC<sub>50</sub>* means the concentration of a sample that causes mortality of 50% of the test population at a specific time of observation. The *LC<sub>50</sub>* = 100% is defined as a sample of undiluted effluent.

*Maximum daily discharge limitation* means the highest allowable “daily discharge.”

*Municipal solid waste landfill (MSWLF) unit* means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 C.F.R. § 257.2. A MSWLF unit also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator waste and industrial solid waste. Such a landfill may be

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publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.

### *Municipality*

- (a) When used without qualification *municipality* means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of CWA.
- (b) As related to sludge use and disposal, *municipality* means a city, town, borough, county, parish, district, association, or other public body (including an intermunicipal Agency of two or more of the foregoing entities) created by or under State law; an Indian tribe or an authorized Indian tribal organization having jurisdiction over sewage sludge management; or a designated and approved management Agency under Section 208 of the CWA, as amended. The definition includes a special district created under State law, such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity, or an integrated waste management facility as defined in Section 201 (e) of the CWA, as amended, that has as one of its principal responsibilities the treatment, transport, use or disposal of sewage sludge.

*National Pollutant Discharge Elimination System* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA. The term includes an “approved program.”

*New Discharger* means any building, structure, facility, or installation:

- (a) From which there is or may be a “discharge of pollutants;”
- (b) That did not commence the “discharge of pollutants” at a particular “site” prior to August 13, 1979;
- (c) Which is not a “new source;” and
- (d) Which has never received a finally effective NPDES permit for discharges at that “site.”

This definition includes an “indirect discharger” which commences discharging into “waters of the United States” after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas exploratory drilling rig or a coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a “site” for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a “site” under EPA’s permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Director in the issuance of a final permit to be in an area of biological concern. In determining whether an area is an area of biological concern, the Director shall consider the factors specified in 40 C.F.R. §§ 125.122 (a) (1) through (10).

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An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a “new discharger” only for the duration of its discharge in an area of biological concern.

*New source* means any building, structure, facility, or installation from which there is or may be a “discharge of pollutants,” the construction of which commenced:

- (a) After promulgation of standards of performance under Section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with Section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal.

*NPDES* means “National Pollutant Discharge Elimination System.”

*Owner or operator* means the owner or operator of any “facility or activity” subject to regulation under the NPDES programs.

*Pass through* means a Discharge (see definition above) which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation).

*Pathogenic organisms* are disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

*Permit* means an authorization, license, or equivalent control document issued by EPA or an “approved State” to implement the requirements of Parts 122, 123, and 124. “Permit” includes an NPDES “general permit” (40 C.F.R. § 122.28). “Permit” does not include any permit which has not yet been the subject of final agency action, such as a “draft permit” or “proposed permit.”

*Person* means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

*Person who prepares sewage sludge* is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

*pH* means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25° Centigrade or measured at another temperature and then converted to an equivalent value at 25° Centigrade.

*Point Source* means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (see 40 C.F.R. § 122.3).

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials

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(except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (a) Sewage from vessels; or
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by the authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

*Primary industry category* means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al. v. Train*, 8 E.R.C. 2120 (D.D.C. 1976), *modified* 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of 40 C.F.R. Part 122.

*Privately owned treatment works* means any device or system which is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a “POTW.”

*Process wastewater* means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

*Publicly owned treatment works (POTW)* means a treatment works as defined by Section 212 of the Act, which is owned by a State or municipality (as defined by Section 504(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

*Regional Administrator* means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

*Secondary industry category* means any industry which is not a “primary industry category.”

*Septage* means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

*Sewage Sludge* means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced waste water treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 C.F.R. Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.

*Sewage sludge incinerator* is an enclosed device in which only sewage sludge and auxiliary fuel are fired.

*Sewage sludge unit* is land on which only sewage sludge is placed for final disposal. This does



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not include land on which sewage sludge is either stored or treated. Land does not include waters of the United States, as defined in 40 C.F.R. § 122.2.

*Sewage sludge use or disposal practice* means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

*Significant materials* includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substance designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

*Significant spills* includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA (see 40 C.F.R. §§ 110.10 and 117.21) or Section 102 of CERCLA (see 40 C.F.R. § 302.4).

*Sludge-only facility* means any “treatment works treating domestic sewage” whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to section 405(d) of the CWA, and is required to obtain a permit under 40 C.F.R. § 122.1(b)(2).

*State* means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or an Indian Tribe as defined in the regulations which meets the requirements of 40 C.F.R. § 123.31.

*Store or storage of sewage sludge* is the placement of sewage sludge on land on which the sewage sludge remains for two years or less. This does not include the placement of sewage sludge on land for treatment.

*Storm water* means storm water runoff, snow melt runoff, and surface runoff and drainage.

*Storm water discharge associated with industrial activity* means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.

*Surface disposal site* is an area of land that contains one or more active sewage sludge units.

*Toxic pollutant* means any pollutant listed as toxic under Section 307(a)(1) or, in the case of “sludge use or disposal practices,” any pollutant identified in regulations implementing Section 405(d) of the CWA.

*Treatment works treating domestic sewage* means a POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices.

For purposes of this definition, “domestic sewage” includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under Section 405(f) of the CWA, the Director may designate any person subject to the standards for sewage sludge use and

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disposal in 40 C.F.R. Part 503 as a “treatment works treating domestic sewage,” where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 C.F.R. Part 503.

*Upset* see B.5.a. above.

*Vector attraction* is the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

*Waste pile* or *pile* means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

*Waters of the United States* or *waters of the U.S.* means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate “wetlands;”
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands”, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - (1) Which are or could be used by interstate or foreign travelers for recreational or other purpose;
  - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 C.F.R. § 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland.

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Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

*Wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

*Whole Effluent Toxicity (WET)* means the aggregate toxic effect of an effluent measured directly by a toxicity test.

*Zone of Initial Dilution (ZID)* means the region of initial mixing surrounding or adjacent to the end of the outfall pipe or diffuser ports, provided that the ZID may not be larger than allowed by mixing zone restrictions in applicable water quality standards.

### 2. Commonly Used Abbreviations

BOD	Five-day biochemical oxygen demand unless otherwise specified
CBOD	Carbonaceous BOD
CFS	Cubic feet per second
COD	Chemical oxygen demand
Chlorine	
Cl <sub>2</sub>	Total residual chlorine
TRC	Total residual chlorine which is a combination of free available chlorine (FAC, see below) and combined chlorine (chloramines, etc.)
TRO	Total residual chlorine in marine waters where halogen compounds are present
FAC	Free available chlorine (aqueous molecular chlorine, hypochlorous acid, and hypochlorite ion)
Coliform	
Coliform, Fecal	Total fecal coliform bacteria
Coliform, Total	Total coliform bacteria
Cont.	Continuous recording of the parameter being monitored, i.e. flow, temperature, pH, etc.
Cu. M/day or M <sup>3</sup> /day	Cubic meters per day
DO	Dissolved oxygen

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kg/day	Kilograms per day
lbs/day	Pounds per day
mg/L	Milligram(s) per liter
mL/L	Milliliters per liter
MGD	Million gallons per day
Nitrogen	
Total N	Total nitrogen
NH <sub>3</sub> -N	Ammonia nitrogen as nitrogen
NO <sub>3</sub> -N	Nitrate as nitrogen
NO <sub>2</sub> -N	Nitrite as nitrogen
NO <sub>3</sub> -NO <sub>2</sub>	Combined nitrate and nitrite nitrogen as nitrogen
TKN	Total Kjeldahl nitrogen as nitrogen
Oil & Grease	Freon extractable material
PCB	Polychlorinated biphenyl
Surfactant	Surface-active agent
Temp. °C	Temperature in degrees Centigrade
Temp. °F	Temperature in degrees Fahrenheit
TOC	Total organic carbon
Total P	Total phosphorus
TSS or NFR	Total suspended solids or total nonfilterable residue
Turb. or Turbidity	Turbidity measured by the Nephelometric Method (NTU)
µg/L	Microgram(s) per liter
WET	“Whole effluent toxicity”
ZID	Zone of Initial Dilution

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
NEW ENGLAND - REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MASSACHUSETTS 02109-3912**

**FACT SHEET**

**DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES PURSUANT TO  
THE CLEAN WATER ACT (CWA)**

**NPDES PERMIT NUMBER:** MA0101427

**PUBLIC NOTICE START AND END DATES:** October 15, 2019 – November 13, 2019

**NAME AND MAILING ADDRESS OF APPLICANT:**

City of Newburyport  
115B Water Street  
Newburyport, MA 01950

**NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:**

Newburyport Water Pollution Control Facility  
115B Water Street  
Newburyport, MA 01950

**RECEIVING WATER AND CLASSIFICATION:**

Merrimack Watershed - USGS Code: 01070002  
Merrimack River (MA84A-06): Class SB – Shellfishing, CSO

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## **APPENDICES**

Appendix A – Monitoring Data Summary

Appendix B – Reasonable Potential and Limits Calculations

## 1 Proposed Action

The above-named applicant (the “Permittee”) has applied to the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) for reissuance of a National Pollutant Discharge Elimination System (NPDES) permit to discharge from the Treatment Plant (the “Facility”) into the designated receiving water.

The permit currently in effect was issued on August 15, 2012 with an effective date of November 1, 2012 and expired on November 1, 2017 (the “2012 Permit”). The Permittee filed an application for permit reissuance with EPA dated May 26, 2017, as required by 40 Code of Federal Regulations (C.F.R.) § 122.6. Since the permit application was deemed timely and complete by EPA on July 24, 2017, the Facility’s 2012 Permit has been administratively continued pursuant to 40 C.F.R. § 122.6 and § 122.21(d). EPA and the State conducted a site visit on July 2, 2019.

This NPDES Permit is issued jointly by EPA and MassDEP under federal and state law, respectively. As such, all the terms and conditions of the permit are, therefore, incorporated into and constitute a discharge permit issued by the Director of the Division of Watershed Management pursuant to M.G.L. Chap. 21, § 43.

## 2 Statutory and Regulatory Authority

Congress enacted the Clean Water Act (CWA), “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” *See* CWA § 101(a). To achieve this objective, the CWA makes it unlawful for any person to discharge any pollutant into the waters of the United States from any point source, except as authorized by specific permitting sections of the CWA, one of which is § 402. *See* CWA §§ 303(a), 402(a). Section 402(a) established one of the CWA’s principal permitting programs, the NPDES Permit Program. Under this section, EPA may “issue a permit for the discharge of any pollutant or combination of pollutants” in accordance with certain conditions. *See* CWA § 402(a). NPDES permits generally contain discharge limitations and establish related monitoring and reporting requirements. *See* CWA § 402(a)(1) and (2). The regulations governing EPA’s NPDES permit program are generally found in 40 C.F.R. §§ 122, 124, 125, and 136.

Section 301 of the CWA provides for two types of effluent limitations to be included in NPDES permits: “technology-based” effluent limitations (TBELs) and “water quality-based” effluent limitations (WQBELs). *See* CWA §§ 301, 304(b); 40 C.F.R. §§ 122, 125, and 131.

### 2.1 Technology-Based Requirements

Technology-based limitations, generally developed on an industry-by-industry basis, reflect a specified level of pollutant reducing technology available and economically achievable for the type of facility being permitted. *See* CWA § 301(b). As a class, publicly owned treatment works (POTWs) must meet performance-based requirements based on available wastewater treatment technology. *See* CWA § 301(b)(1)(B). The performance level for POTWs is referred to as “secondary treatment.” Secondary treatment is comprised of technology-based requirements expressed in terms of BOD<sub>5</sub>, TSS and pH. *See* 40 C.F.R. § 133.

Under § 301(b)(1) of the CWA, POTWs must have achieved effluent limits based upon



secondary treatment technology by July 1, 1977. Since all statutory deadlines for meeting various treatment technology-based effluent limitations established pursuant to the CWA have expired, when technology-based effluent limits are included in a permit, compliance with those limitations is from the date the issued permit becomes effective. *See* 40 C.F.R. § 125.3(a)(1).

## **2.2 Water Quality Based Requirements**

The CWA and federal regulations require that effluent limitations based on water quality considerations be established for point source discharges when such limitations are necessary to meet state or federal water quality standards that are applicable to the designated receiving water. This is necessary when less stringent TBELs would interfere with the attainment or maintenance of water quality criteria in the receiving water. *See* § 301(b)(1)(C) of the CWA and 40 C.F.R. §§ 122.44(d)(1) and 122.44(d)(5).

### **2.2.1 Water Quality Standards**

The CWA requires that each state develop water quality standards (WQSs) for all water bodies within the State. *See* CWA § 303 and 40 C.F.R. § 131.10-12. Generally, WQSs consist of three parts: 1) beneficial designated use or uses for a water-body or a segment of a water-body; 2) numeric or narrative water quality criteria sufficient to protect the assigned designated use(s); and 3) anti-degradation requirements to ensure that once a use is attained it will not be degraded and to protect high quality and National resource waters. *See* CWA § 303(c)(2)(A) and 40 C.F.R. § 131.12. The applicable State WQSs can be found in Title 314 of the Code of Massachusetts Regulations, Chapter 4 (314 CMR 4.00).

Receiving water requirements are established according to numerical and narrative standards in WQSs adopted under State law for each water body classification. When using chemical-specific numeric criteria to develop permit limits, acute and chronic aquatic life criteria and human health criteria are used and expressed in terms of maximum allowable in-stream pollutant concentrations. In general, aquatic-life acute criteria are considered applicable to daily time periods (maximum daily limit) and aquatic-life chronic criteria are considered applicable to monthly time periods (average monthly limit). Chemical-specific human health criteria are typically based on lifetime chronic exposure and are therefore typically applicable to monthly average limits.

When permit effluent limits are necessary for a pollutant to meet narrative water quality criteria, the permitting authority must establish effluent limits in one of three ways: based on a “calculated numeric criterion for the pollutant which the permitting authority demonstrates will attain and maintain applicable narrative water quality criteria and fully protect the designated use,” on a “case-by-case basis” using CWA § 304(a) recommended water quality criteria, supplemented as necessary by other relevant information; or, in certain circumstances, based on an indicator parameter. *See* 40 C.F.R. § 122.44(d)(1)(vi)(A-C).

### **2.2.2 Antidegradation**

Federal regulations found at 40 C.F.R. § 131.12 require states to develop and adopt a statewide antidegradation policy that maintains and protects existing in-stream water uses and the level of water quality necessary to protect these existing uses. In addition, the antidegradation policy ensures that high quality waters which exceed levels necessary to support propagation of fish, shellfish, and wildlife and support recreation in and on the water, are maintained unless the State

finds that allowing degradation is necessary to accommodate important economic or social development in the area in which the waters are located.

Massachusetts' statewide antidegradation policy, entitled "Antidegradation Provisions", is found in the State's WQSs at 314 CMR 4.04. Massachusetts guidance for the implementation of this policy is in an associated document entitled "Implementation Procedure for the Antidegradation Provisions of the State Water Quality Standards", dated October 21, 2009. According to the policy, no lowering of water quality is allowed, except in accordance with the antidegradation policy, and all existing in-stream uses and the level of water quality necessary to protect the existing uses of a receiving water must be maintained and protected.

This permit is being reissued with effluent limitations sufficiently stringent to protect the existing uses of the receiving water.

### **2.2.3 Assessment and Listing of Waters and Total Maximum Daily Loads.**

The objective of the CWA is to restore and maintain the chemical, physical and biological integrity of the Nation's waters. To meet this goal, the CWA requires states to develop information on the quality of their water resources and report this information to EPA, the U.S. Congress, and the public. To this end, the EPA released guidance on November 19, 2001, for the preparation of an integrated "List of Waters" that could combine reporting elements of both § 305(b) and § 303(d) of the CWA. The integrated list format allows states to provide the status of all their assessed waters in one list. States choosing this option must list each water body or segment in one of the following five categories: 1) Unimpaired and not threatened for all designated uses; 2) Unimpaired waters for some uses and not assessed for others; 3) Insufficient information to make assessments for any uses; 4) Impaired or threatened for one or more uses but not requiring the calculation of a Total Maximum Daily Load (TMDL); and 5) Impaired or threatened for one or more uses and requiring a TMDL.

A TMDL is a planning tool and potential starting point for restoration activities with the ultimate goal of attaining water quality standards. A TMDL is essentially a pollution budget designed to restore the health of an impaired water body. A TMDL typically identifies the source(s) of the pollutant from direct and indirect discharges, determines the maximum load of the pollutant that can be discharged to a specific water body while maintaining WQSs for designated uses, and allocates that load to the various pollutant sources, including point source discharges, subject to NPDES permits. *See* 40 C.F.R. § 130.7.

For impaired waters where a TMDL has been developed for a particular pollutant and the TMDL includes a waste load allocation for a NPDES permitted discharge, the effluent limit in the permit may not exceed the waste load allocation. *See* 40 C.F.R. § 122.44(d)(1)(vii)(B).

### **2.2.4 Reasonable Potential**

Pursuant to 40 C.F.R. § 122.44(d)(1), NPDES permits must contain any requirements in addition to TBELs necessary to achieve water quality standards established under § 303 of the CWA. In addition, limitations "must control any pollutant or pollutant parameter (conventional, non-conventional, or toxic) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including State narrative criteria for water quality". *See* 40 C.F.R. § 122.44(d)(1)(i). There is reasonable potential to cause or contribute to an excursion if the

projected or actual in-stream concentration exceeds the applicable criterion. If the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contribute to such an excursion, the permit must contain WQBELs for the pollutant. *See* 40 C.F.R. 122.44(d)(1)(iii).

In determining reasonable potential, EPA considers: 1) existing controls on point and non-point sources of pollution; 2) the variability of the pollutant or pollutant parameter in the effluent; 3) the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity); and 4) where appropriate, the dilution of the effluent in the receiving water. EPA typically considers the statistical approach outlined in *Technical Support Document for Water Quality-based Toxics Control (TSD)*<sup>1</sup> to determine if the discharge causes, or has the reasonable potential to cause, or contribute to an excursion above any WQS. *See* 40 C.F.R. § 122.44(d). EPA's quantitative approach statistically projects effluent concentrations based on available effluent data, which are then compared to the applicable WQC.

### 2.2.5 State Certification

EPA may not issue a permit unless the State Water Pollution Control Agency with jurisdiction over the receiving water(s) either certifies that the effluent limitations contained in the permit are stringent enough to assure that the discharge will not cause the receiving water to violate the State WQSs or it is deemed that the state has waived its right to certify. Regulations governing state certification are set forth in 40 C.F.R. § 124.53 and § 124.55. EPA has requested permit certification by the State pursuant to 40 C.F.R. § 124.53 and expects that the Draft Permit will be certified.

If the State believes that any conditions more stringent than those contained in the Draft Permit are necessary to meet the requirements of either the CWA §§ 208(e), 301, 302, 303, 306 and 307 or the appropriate requirements of State law, the State should include such conditions and, in each case, cite the CWA or State law reference upon which that condition is based. Failure to provide such a citation waives the right to certify as to that condition. The only exception to this is that the sludge conditions/requirements implementing § 405(d) of the CWA are not subject to the § 401 State Certification requirements. Reviews and appeals of limitations and conditions attributable to State certification shall be made through the applicable procedures of the State and may not be made through the applicable procedures of 40 C.F.R. § 124.

In addition, the State should provide a statement of the extent to which any condition of the Draft Permit can be made less stringent without violating the requirements of State law. Since the State's certification is provided prior to permit issuance, any failure by the State to provide this statement waives the State's right to certify or object to any less stringent condition.

It should be noted that under CWA § 401, EPA's duty to defer to considerations of state law is intended to prevent EPA from relaxing any requirements, limitations or conditions imposed by state law. Therefore, "[a] State may not condition or deny a certification on the grounds that State law allows a less stringent permit condition." *See* 40 C.F.R. § 124.55(c). In such an

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<sup>1</sup> March 1991, EPA/505/2-90-001

instance, the regulation provides that, “The Regional Administrator shall disregard any such certification conditions or denials as waivers of certification.” *Id.* EPA regulations pertaining to permit limits based upon water quality standards and state requirements are contained in 40 C.F.R. § 122.4 (d) and 40 C.F.R. § 122.44(d).

### 2.3 Effluent Flow Requirements

Sewage treatment plant discharge is encompassed within the definition of “pollutant” and is subject to regulation under the CWA. The CWA defines “pollutant” to mean, *inter alia*, “municipal...waste” and “sewage...discharged into water.” 33 U.S.C. § 1362(6).

EPA may use design flow of wastewater effluent both to determine the necessity for effluent limitations in the permit that comply with the Act, and to calculate the limits themselves. EPA practice is to use design flow as a reasonable and important worst-case condition in EPA’s reasonable potential and WQBEL calculations to ensure compliance with WQSs under § 301(b)(1)(C). Should the wastewater effluent flow exceed the flow assumed in these calculations, the instream dilution would decrease and the calculated effluent limits may not be protective of WQSs. Further, pollutants that do not have the reasonable potential to exceed WQSs at the lower wastewater discharge flow may have reasonable potential at a higher flow due to the decreased dilution. To ensure that the assumptions underlying the Region’s reasonable potential analyses and derivation of permit effluent limitations remain sound for the duration of the permit, the Region may ensure its “worst-case” wastewater effluent flow assumption through imposition of permit conditions for wastewater effluent flow. Thus, the wastewater effluent flow limit is a component of WQBELs because the WQBELs are premised on a maximum level of flow. In addition, the wastewater effluent flow limit is necessary to ensure that other pollutants remain at levels that do not have a reasonable potential to exceed WQSs.

Using a facility’s design flow in the derivation of pollutant effluent limitations, including conditions to limit wastewater effluent flow, is consistent with, and anticipated by NPDES permit regulations. Regarding the calculation of effluent limitations for POTWs, 40 C.F.R. § 122.45(b)(1) provides, “permit effluent limitations...shall be calculated based on design flow.” POTW permit applications are required to include the design flow of the treatment facility. *Id.* § 122.21(j)(1)(vi).

Similarly, EPA’s reasonable potential regulations require EPA to consider “where appropriate, the dilution of the effluent in the receiving water,” 40 C.F.R. § 122.44(d)(1)(ii), which is a function of *both* the wastewater effluent flow and receiving water flow. EPA guidance directs that this “reasonable potential” analysis be based on “worst-case” conditions. EPA accordingly is authorized to carry out its reasonable potential calculations by presuming that a plant is operating at its design flow when assessing reasonable potential.

The limitation on wastewater effluent flow is within EPA’s authority to condition a permit in order to carry out the objectives of the Act. *See* CWA §§ 402(a)(2) and 301(b)(1)(C); 40 C.F.R. §§ 122.4(a) and (d); 122.43 and 122.44(d). A condition on the discharge designed to protect EPA’s WQBEL and reasonable potential calculations is encompassed by the references to “condition” and “limitations” in CWA §§ 402 and 301 and implementing regulations, as they are designed to assure compliance with applicable water quality regulations, including anti-degradation. Regulating the quantity of pollutants in the discharge through a restriction on the quantity of wastewater effluent is consistent with the overall structure and purposes of the CWA.

In addition, as provided in Part II.B.1 of this permit and 40 C.F.R. § 122.41(e), the Permittee is required to properly operate and maintain all facilities and systems of treatment and control. Operating the facilities wastewater treatment systems as designed includes operating within the facility's design wastewater effluent flow. Thus, the permit's wastewater effluent flow limitation is necessary to ensure proper facility operation, which in turn is a requirement applicable to all NPDES permits. *See* 40 C.F.R. § 122.41.

EPA has also included the wastewater effluent flow limit in the permit to minimize or prevent infiltration and inflow (I/I) that may result in unauthorized discharges and compromise proper operation and maintenance of the facility. Improper operation and maintenance may result in non-compliance with permit effluent limitations. Infiltration is groundwater that enters the collection system through physical defects such as cracked pipes or deteriorated joints. Inflow is extraneous flow added to the collection system that enters the collection system through point sources such as roof leaders, yard and area drains, sump pumps, manhole covers, tide gates, and cross connections from storm water systems. Significant I/I in a collection system may displace sanitary flow, reducing the capacity available for treatment and the operating efficiency of the treatment works and to properly operate and maintain the treatment works.

Furthermore, the extraneous flow due to significant I/I greatly increases the potential for sanitary sewer overflows (SSOs) in separate systems. Consequently, the effluent flow limit is a permit condition that relates to the permittee's duty to mitigate (*i.e.*, minimize or prevent any discharge in violation of the permit that has a reasonable likelihood of adversely affecting human health or the environment) and to properly operate and maintain the treatment works. *See* 40 C.F.R. §§ 122.41(d) and (e).

## **2.4 Monitoring and Reporting Requirements**

### **2.4.1 Monitoring Requirements**

EPA has the authority in accordance with several statutory and regulatory requirements established pursuant to the CWA, 33 USC § 1251 *et seq.*, the NPDES program (*See* § 402 and the implementing regulations generally found at 40 C.F.R. §§ 122, 124, 125, and 136), CWA § 308(a), 33 USC § 1318(a), and applicable state regulations to include requirements such as monitoring and reporting in NPDES permits.

The monitoring requirements included in this permit have been established to yield data representative of the discharges under the authority of §§ 308(a) and 402(a)(2) of the CWA, and consistent with 40 C.F.R. §§ 122.41(j), 122.43(a), 122.44(i) and 122.48. The monitoring requirements included in this permit specify routine sampling and analysis, which will provide ongoing, representative information on the levels of regulated constituents in the wastewater discharge streams. The monitoring program is needed to assess effluent characteristics, evaluate permit compliance, and determine if additional permit conditions are necessary to ensure compliance with technology-based and water quality-based requirements, including WQSs. EPA and/or the state may use the results of the chemical analyses conducted pursuant to this permit, as well as national water quality criteria developed pursuant to § 304(a)(1) of the CWA, state water quality criteria, and any other appropriate information or data, to develop numerical effluent limitations for any pollutants, including, but not limited to, those pollutants listed in Appendix D of 40 C.F.R. § 122. Therefore, the monitoring requirements in this permit are included for specific regulatory use in carrying out the CWA.

NPDES permits require that the approved analytical procedures found in 40 C.F.R. § 136 be used for sampling and analysis unless other procedures are explicitly specified. Permits also include requirements necessary to comply with the *National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting Rule*.<sup>2</sup> This Rule requires that where EPA-approved methods exist, NPDES applicants must use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a discharge. Further, the permitting authority must prescribe that only sufficiently sensitive EPA-approved methods be used for analyses of pollutants or pollutant parameters under the permit. The NPDES regulations at 40 C.F.R. § 122.21(e)(3) (completeness), 40 C.F.R. § 122.44(i)(1)(iv) (monitoring requirements) and/or as cross referenced at 40 C.F.R. § 136.1(c) (applicability) indicate that an EPA-approved method is sufficiently sensitive where:

- The method minimum level<sup>3</sup> (ML) is at or below the level of the applicable water quality criterion or permit limitation for the measured pollutant or pollutant parameter; or
- In the case of permit applications, the ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or parameter in the discharge; or
- The method has the lowest ML of the EPA-approved analytical methods.

## 2.4.2 Reporting Requirements

The Draft Permit requires the Permittee to electronically report monitoring results obtained during each calendar month as a Discharge Monitoring Report (DMR) to EPA and the State using NetDMR no later than the 15th day of the month following the completed reporting period.

NetDMR is a national web-based tool for regulated CWA permittees to submit DMRs electronically via a secure internet application to EPA through the Environmental Information Exchange Network. NetDMR has allowed participants to discontinue mailing in hard copy forms to EPA under 40 C.F.R. §§ 122.41 and 403.12. NetDMR is accessed from the following website: <https://netdmr.zendesk.com/hc/en-us>. Further information about NetDMR can be found on the EPA Region 1 NetDMR website.<sup>4</sup>

With the use of NetDMR, the Permittee is no longer required to submit hard copies of DMRs and reports to EPA and the State unless otherwise specified in the Draft Permit. In most cases,

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<sup>2</sup> Federal Register, Vol. 79, No. 160, Tuesday, August 19, 2014; FR Doc. 2014–19557.

<sup>3</sup> The term “minimum level” refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor. EPA is considering the following terms related to analytical method sensitivity to be synonymous: “quantitation limit,” “reporting limit,” “level of quantitation,” and “minimum level.” See Federal Register, Vol. 79, No. 160, Tuesday, August 19, 2014; FR Doc. 2014–19557.

<sup>4</sup> <https://netdmr.zendesk.com/hc/en-us/articles/209616266-EPA-Region-1-NetDMR-Information>.

reports required under the permit shall be submitted to EPA as an electronic attachment through NetDMR. Certain exceptions are provided in the permit, such as for providing written notifications required under the Part II Standard Conditions.

## **2.5 Anti-backsliding**

A permit may not be renewed, reissued or modified with less stringent limitations or conditions than those contained in a previous permit unless in compliance with the anti-backsliding requirements of the CWA. See §§ 402(o) and 303(d)(4) of the CWA and 40 C.F.R. § 122.44(l)(1 and 2). Anti-backsliding provisions apply to effluent limits based on technology, water quality, Best Professional Judgment (BPJ) and state certification requirements.

All proposed limitations in the Draft Permit are at least as stringent as limitations included in the 2012 Permit unless specific conditions exist to justify one of the exceptions listed in 40 C.F.R. § 122.44(l)(2)(i) and/or in accordance with § 303(d)(4). Discussion of any applicable exceptions are discussed in sections that follow. Therefore, the Draft Permit complies with the anti-backsliding requirements of the CWA.

## **3 Description of Facility and Discharge**

### **3.1 Location and Type of Facility**

The location of the treatment plant and the outfall 001 to the Merrimack River is shown in Figure 1 (see attached). The latitude and longitude of the outfall is 42.81°N, 70.86°W.

The Newburyport Water Pollution Control Facility (WPCF) is an activated sludge wastewater treatment plant that is engaged in the collection and treatment of municipal wastewater. Currently, the Facility serves approximately 17,000 residents in the City of Newburyport and 1,800 residents of the Town of Newbury. The town of Newbury is not a co-permittee for this permit because the City of Newburyport operates the treatment facility and the entire collection system.

The Facility has a design flow of 3.4 MGD, the annual average daily flow reported in the 2017 application was 1.55 MGD and the average for the last 5 years has been 1.66 MGD. The system is a separate system with no combined sewers. Wastewater is comprised of mostly domestic sewage with some commercial sewage and some septage.

There are five industrial users that discharge to the POTW. Pollutants introduced into POTWs by a non-domestic source shall not pass through the POTW or interfere with the operation or performance of the treatment works.

A quantitative description of the discharge in terms of effluent parameters, based on monitoring data submitted by the Permittee from February 2014 through January 2019 is provided in Appendix A of this Fact Sheet. EPA notes that there appear to be data entry errors for some of the ammonia, TKN and nitrate + nitrite data.

#### **3.1.1 Treatment Process Description**

Newburyport WPCF is an activated sludge treatment plant. Influent enters the Facility and either

flows through a mechanical screen or a bypass channel grinds the solids in the sewage. The influent channels discharge to a common channel, which flows to a single grit removal chamber. Wastewater from the grit chamber is transported to one of two influent wet wells via a 24-inch gravity sewer main. The wastewater is pumped to the two primary clarifiers afterwards. Wastewater flows by gravity to the activated sludge process, which includes diffused aeration, secondary settling, and return/waste activated sludge pumping. The activated sludge process ensues in four aeration basins, each equipped with fine-bubble diffused aeration grids. The aeration tank effluent is then directed to two final clarifiers. Final effluent from the clarifiers then flow to one of two chlorine contact tanks for disinfection then dechlorination prior to discharge to the Merrimack River. The final effluent flows by gravity during low tide to the Merrimack River and is pumped to the river during high tide. A flow diagram of the Facility is shown in Figure 2 (see attached).

Screenings removed by the mechanical step screen in the headworks are washed, compacted, and bagged on-site, and then hauled away for final disposal by G. Mello Disposal Corp. Primary and waste-activated sludge is co-settled in the primary clarifiers prior to thickening in one of two gravity thickener tanks. The thickened sludge is then dewatered through the use of two Fournier rotary screen presses prior to final disposal at the Ipswich composting facility operated by Agresource, Inc. Grit removed from the influent flow is also mixed with the dewatered sludge and then hauled away for final disposal. The average mass of sludge provided to a receiving facility over a 365-day period, reported on May 25, 2017 was 687 dry metric tons.

### 3.1.2 Collection System Description

The Newburyport WPCF is served by a separate sewer system that is in the City of Newburyport and the Town of Newbury. A separate sanitary sewer conveys domestic, industrial and commercial sewage, but not stormwater. It is part of a “two pipe system” consisting of separate sanitary sewers and storm sewers. The two systems have no interconnections; the sanitary sewer leads to the wastewater treatment plant and the storm sewers discharge to a local water body.

## 4 Description of Receiving Water and Dilution

The Newburyport WPCF discharges through outfall 001 into the Merrimack River within Segment MA84A-06. The segment is 4.46 square miles. The outfall is a multiport diffuser about 1,550 feet offshore on the bottom of the Merrimack River and just east of Half Tide Rock. The Merrimack River is part of the Merrimack River Watershed and discharges to the Atlantic Ocean.

This segment of the Merrimack River has been classified as Class SB with qualifiers for Shellfishing and CSO in the Massachusetts WQSs, 314 Code of Massachusetts Regulations (“CMR”) 4.06, Table 20. The MA WQS at 314 CMR 4.05(4)(b) state that Class SB “*waters are designated as habitat for fish, other aquatic life, and wildlife, including for their reproduction, migration, growth and other critical functions, and for primary and secondary contact recreation. In certain waters, habitat for fish, other aquatic life and wildlife may include, but is not limited to seagrass. Where designated in the tables to 314 CMR 4.00 for shellfishing, these waters shall be suitable for shellfish harvesting with depuration (Restricted and Conditionally Restricted Shellfish Areas). These waters shall have consistently good aesthetic value.*

A summary of the ambient data collected in the receiving water upstream of the outfall can be



found in Appendix A of this Fact Sheet.

The MassDEP's Massachusetts Year 2014 Integrated List of Waters (2014 Integrated List), the 303(d) list, includes the Merrimack River, Segment MA84A-06, as a Massachusetts Category 5 Water and in need of a total maximum daily load (TMDL) assessment due to enterococcus, fecal coliform and PCB in Fish Tissue. To date no TMDL has been approved for this segment for any of the listed impairments. According to the 2014 Integrated List, MassDEP is focusing on the development of TMDLs for bacteria and excessive nutrients and a draft TMDL for bacteria has been completed by MassDEP<sup>5</sup>. The Merrimack River, downstream of the discharges, was approved for restricted shellfishing in 2006 by the Massachusetts Division of Marine Fisheries.

#### **4.1 Available Dilution**

To ensure that discharges do not cause or contribute to violations of WQS under all expected circumstances, WQBELs are derived assuming critical conditions for the receiving water (*See EPA Permit Writer's Manual, Section 6.2.4*). Massachusetts water quality regulations state that the MassDEP "will establish extreme hydrological conditions at which aquatic life criteria must be applied on a case-by-case basis." (314 CMR 4.03(3)(c)).

The Newburyport WPCF discharge is from a multiport diffuser located on the bottom of the Merrimack River estuary. The U.S. Department of Health and Human Services conducted a dye study in the summer of 1997 at the mouth of the Merrimack River. The purpose of the study was to determine the extent of the plume from the Newburyport WPCF. The study approximated a dilution factor of 30 at the outfall. In 2003 EPA ran a CORMIX simulation that confirmed this dilution factor. The applicable variables have not changed significantly since either of these evaluations have been conducted so EPA has used a dilution factor of 30 in development of the Draft Permit.

### **5 Proposed Effluent Limitations and Conditions**

The proposed limitations and conditions, the bases of which are discussed throughout this Fact Sheet, may be found in Part I of the Draft Permit. EPA determined the pollutants of concern based on EPA's technology based effluent requirements, pollutants believed present in the permit application, and other information.

#### **5.1 Effluent Limitations and Monitoring Requirements**

In addition to the State and Federal regulations described in Section 2, data submitted by the Permittee in their permit application as well as in monthly discharge monitoring reports (DMRs) and in WET test reports from February 2014 to December 2018 (the "review period") were used to identify the pollutants of concern and to evaluate the discharge during the effluent limitations development process (*See Appendix A*).

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<sup>5</sup> MassDEP, 2015, "Final Massachusetts Year 2014 Integrated List of Waters," p. 26

### **5.1.1 Wastewater Effluent Flow**

The effluent flow limit in the 2012 Permit is 3.4 MGD, as a rolling annual average flow, based on the Facility's design flow. The DMR data during the review period shows that there have been no violations of the flow limit.

The Draft Permit continues the 3.4 MGD flow limit from the 2012 Permit. The Draft Permit requires that flow be measured continuously and that the rolling annual average flow, as well as the average monthly and maximum daily flow for each month be reported. The rolling annual average flow is calculated as the average of the flow for the reporting month and 11 previous months.

### **5.1.2 Biochemical Oxygen Demand (BOD<sub>5</sub>)**

#### **5.1.2.1 BOD<sub>5</sub> Concentration Limits**

The BOD<sub>5</sub> concentration limits in the 2012 Permit were based on the secondary treatment standards in 40 C.F.R. § 133.102; the average monthly limit is 30 mg/L and the average weekly limit is 45 mg/L. The 2012 Permit also included a BOD<sub>5</sub> maximum daily monitoring and reporting requirement that has been carried forward in the Draft Permit.

The DMR data during the review period shows that there have been four violations of the monthly average BOD<sub>5</sub> concentration limit and five violations of the weekly average BOD<sub>5</sub> concentration limit.

The Draft Permit proposes the same BOD<sub>5</sub> concentration limits as in the 2012 Permit as no new WLAs have been established and there have been no changes to the secondary treatment standards. The monitoring frequency remains three times per week.

#### **5.1.2.2 BOD<sub>5</sub> Mass Limits**

The 2012 Permit contained mass-based limits of 851 lb/day (average monthly) and 1276 lb/day (average weekly). These limits were based on EPA's secondary treatment standards and the design flow of the Facility.

The DMR data from the review period shows that there have been two violations of monthly average BOD<sub>5</sub> mass limits and three violations of weekly average BOD<sub>5</sub> mass limits.

The Draft Permit proposes the same mass-based limits as in the 2012 Permit as no new WLAs have been established, and there have been no changes to design flow or secondary treatment standards. The monitoring frequency remains three times per week.

### **5.1.3 Total Suspended Solids (TSS)**

#### **5.1.3.1 TSS Concentration Limits**

The TSS limits in the 2012 Permit were based on the secondary treatment standards in 40 C.F.R. § 133.102; the average monthly limit is 30 mg/L and the average weekly limit is 45 mg/L. The 2012 Permit also had a TSS maximum daily monitoring and reporting requirement that has been carried forward in the Draft Permit. The 2012 Permit also included a TSS maximum daily monitoring and reporting requirement that has been carried forward in the Draft Permit.

The DMR data during the review period shows that there have been five violations each of the monthly average and weekly average TSS concentration limits.

The Draft Permit proposes the same TSS concentration limits as in the 2012 Permit as no new WLAs have been established and there have been no changes to the secondary treatment standards. The monitoring frequency remains twice per week.

#### **5.1.3.2 TSS Mass Limits**

The 2012 Permit contained mass-based limits of 851 lb/day (average monthly) and 1276 lb/day (average weekly). These limits were based on EPA's secondary treatment and the design flow of the Facility.

The DMR data during the review period shows that there have been three violations of the monthly average TSS mass limits and five violations of the weekly average TSS mass limit.

The Draft Permit proposes the same mass-based limits as in the 2012 Permit as no new WLAs have been established, and there have been no changes to design flow or secondary treatment standards. The monitoring frequency remains twice per week.

#### **5.1.4 Eighty-Five Percent (85%) BOD<sub>5</sub> and TSS Removal Requirement**

In accordance with the provisions of 40 C.F.R. § 133.102(a)(3), (4) and (b)(3), the 2012 Permit requires that the 30-day average percent removal for BOD<sub>5</sub> and TSS is not less than 85%.

The requirement to achieve 85% BOD<sub>5</sub> and TSS removal has been carried forward into the Draft Permit.

#### **5.1.5 pH**

Consistent with the requirements of MA WQSs at 314 CMR 4.05(3)(b)(3), the Permit requires that the pH of the effluent is not less than 6.5 or greater than 8.5 standard units at any time. The monitoring frequency is five times per week. The DMR data during the review period show that there have been three violations of the pH limitations.

The pH requirements in the 2012 Permit are carried forward into the Draft Permit as there has been no change in the WQS with regards to pH.

#### **5.1.6 Bacteria**

The 2012 Permit included fecal coliform effluent limits to protect shellfishing uses and *enterococci* effluent limits to protect recreational uses.

The 2012 fecal coliform effluent limits were a monthly geometric mean limit of 88 colony forming units (cfu) per 100 mL, a maximum daily limit of 400 cfu per 100 mL and a requirement that no more than 10% of the samples collected monthly exceed 260 cfu per 100 mL. The DMR data during the review period shows that there have been no violations of the fecal coliform bacteria effluent limitations or the maximum daily limitation.

The 2012 *enterococci* limits were based on MA SWQSs at 314 CMR 4.05(b)(4)b.4 which require a monthly geometric mean of 35 colonies per 100 mL and a single sample maximum of

104 colonies per 100 mL. The DMR data during the review period shows that there have been four violations of the monthly geometric mean limitation and six violations of the maximum daily limitation.

The Draft Permit proposes effluent limits for bacteria that are consistent with MA SWQSSs. The fecal coliform limits are a monthly geometric mean or geometric mean most probable number (MPN) of 88 per organisms per 100 mL and a maximum daily limit of 260 per 100 mL. The *enterococci* limits are a monthly geometric mean of 35 colonies per 100 mL and a maximum daily limit of 104 colonies per 100 mL. The sampling frequency for fecal coliform and *enterococci* is five times per week.

### 5.1.7 Total Residual Chlorine

The effluent is disinfected with sodium hypochlorite and dechlorinated with sodium bisulfite prior to discharge. The 2012 Permit includes effluent limitations for total residual chlorine (TRC) of 230 µg/L (average monthly) and 390 µg/l (daily maximum). The DMR data during the review period show that there have been no violations of the TRC limitations.

The TRC permit limits are based on the instream chlorine criteria defined in *National Recommended Water Quality Criteria: 2002*, EPA 822R-02-047 (November 2002), as adopted by the MassDEP into the state water quality standards at 314 CMR 4.05(5)(e). The marine instream criteria for chlorine are 7.5 µg/l (chronic) and 13 µg/l (acute). Because the upstream chlorine is assumed to be zero in this case, the water quality-based chlorine limits are calculated as the criteria times the dilution factor, as follows:

Chronic criteria \* dilution factor = Chronic limit  
 $7.5 \mu\text{g/l} * 30 = 225 \mu\text{g/l}$  (0.23 mg/l, average monthly)

Acute criteria \* dilution factor = Acute limit  
 $13 \mu\text{g/l} * 30 = 390 \mu\text{g/l}$  = (0.39 mg/l, maximum daily)

These limits are included in the Draft Permit and are the same as the limits in the 2012 Permit.

### 5.1.8 Ammonia

Nitrogen in the form of ammonia can reduce the receiving water's dissolved oxygen concentration through nitrification and can be toxic to aquatic life, particularly at elevated temperatures. The toxicity level of ammonia in marine waters depends on the temperature, pH and salinity of the receiving water (USEPA 1989). The applicable ammonia water quality criteria are pH and, for the chronic criteria, temperature dependent and can be derived using EPA-recommended ammonia criteria from the document: *Ambient Water Quality Criteria for Ammonia (Saltwater)*, 1989 (EPA 440/5-88-004). These are the marine ammonia criteria in EPA's *National Recommended Water Quality Criteria*, 2002 (EPA 822-R-02-047) document, which are included by reference in the Massachusetts WQS (See 314 CMR 4.05(5)(e)).

The 2012 Permit does not include ammonia limits but does require monthly effluent ammonia monitoring as well as quarterly ambient ammonia monitoring as part of the Whole Effluent Toxicity (WET) testing. Ambient data, taken in the vicinity of the Newburyport outfall in the Merrimack River, is presented in Appendix A and shows ammonia concentrations that range from 0 to 0.49 mg/L. The median concentration for the warm weather period (April 1 through

October 31) is 0 mg/L and for the cold weather period (November 1 through March 31) is 0.19 mg/L.

EPA also conducted ambient sampling in this vicinity in the summer of 2017 which included pH, temperature and salinity monitoring. The median pH was 7.9 standard units and the median salinity was 17 parts per thousand (ppt). The median ambient temperature was 18.9° C for the warm weather period. Ambient cold weather temperature data is not available, therefore EPA has assumed a cold weather temperature of 5° C. Based on these data and assumptions, the applicable ammonia criteria were determined from the tables in the WQS, interpolating between values as necessary, and are presented in Appendix B.

To determine whether the effluent has the reasonable potential to cause or contribute to an exceedance above the in-stream water quality criteria for ammonia, EPA uses the procedure and mass balance equation presented in Appendix B to project the concentration downstream of the discharge and, if applicable, to determine the limit required in the permit.

Based on the analysis in Appendix B, there is no reasonable potential for ammonia to cause or contribute to an exceedance of the acute or chronic water quality criteria for either the warm weather or cold weather seasons. The Draft Permit will continue to require monthly average and maximum daily monitoring for ammonia. The monitoring frequency remains once per month. Additionally, effluent and ambient monitoring for ammonia will continue to be required in the quarterly WET tests.

### **5.1.9 Nutrients**

Nutrients are compounds containing nitrogen and phosphorus. Although nitrogen and phosphorus are essential for plant growth, high concentrations of these nutrients can cause eutrophication, a condition in which aquatic plant and algal growth is excessive. Plant and algae respiration and decomposition reduces dissolved oxygen in the water, creating poor habitat for fish and other aquatic animals. Recent studies provide evidence that both phosphorus and nitrogen can play a role in the eutrophication of certain ecosystems. However, typically phosphorus is the limiting nutrient triggering eutrophication in fresh water ecosystems and nitrogen in marine or estuarine ecosystems. Thus, for this receiving water, the Merrimack River, a marine water, the nutrient of concern is nitrogen.

#### **5.1.9.1 Total Nitrogen**

The 2012 Draft Permit includes monitoring and reporting of the maximum daily concentration and monthly average mass loading levels for total nitrate + nitrite and total Kjeldahl nitrogen (TKN).

However, more data is necessary to determine whether there is reasonable potential for nitrogen discharges from the facility to cause or contribute to a violation of the Massachusetts narrative nutrient criteria in the Merrimack River estuary, particularly data that characterizes aquatic life designated uses that may be affected in this area so that the narrative criteria can be interpreted numerically. In the meantime, EPA finds that quantifying the load of total nitrogen from this facility and others in the Merrimack River watershed is an important step to understanding the loading of nitrogen from point sources and their potential impact on the estuary.

The monitoring and reporting requirements in the Draft Permit include weekly monitoring and

reporting for total nitrate + nitrite, TKN and total nitrogen from April 1 through October 31 and monthly monitoring and reporting for total nitrate + nitrite, TKN and total nitrogen from November 1 through March 31. The data will provide necessary information on the loading of nitrogen and its impact to the Merrimack River Estuary.

#### **5.1.10 Metals**

Dissolved fractions of certain metals in water can be toxic to aquatic life. Therefore, there is a need to limit toxic metal concentrations in the effluent where aquatic life may be impacted. For the development of the Draft Permit, analyses were completed to evaluate whether there is reasonable potential for effluent discharges to cause or contribute to exceedances of the water quality criteria for cadmium, copper, lead, nickel and zinc given the updated upstream hydrologic and chemical characteristics of the receiving water. The 2012 Permit did not include effluent limits for metals but required effluent and ambient monitoring as part of the quarterly WET tests. A summary of this recent monitoring data is provided in Appendix A.

##### **5.1.10.1 Applicable Metals Criteria**

State water quality criteria for cadmium, copper, lead, nickel and zinc are established in terms of dissolved metals. However, many inorganic components of domestic wastewater, including metals, are in particulate form, and differences in the chemical composition between the effluent and the receiving water affects the partitioning of metals between the particulate and dissolved fractions as the effluent mixes with the receiving water, often resulting in a transition from the particulate to dissolved form (*The Metals Translator: Guidance for Calculating a Total Recoverable Permit Limit from a Dissolved Criterion* (USEPA 1996 [EPA-823-B96-007])). Consequently, quantifying only the dissolved fraction of metals in the effluent prior to discharge may not accurately reflect the biologically-available portion of metals in the receiving water. Regulations at 40 C.F.R. § 122.45(c) require, with limited exceptions, that effluent limits for metals in NPDES permits be expressed as total recoverable metals.

The criteria for cadmium, copper, lead, nickel and zinc are presented in Appendix B, based on EPA's National Recommended Water Quality Criteria: 2002, which are incorporated into the Massachusetts WQS by reference.

##### **5.1.10.2 Reasonable Potential Analysis and Limit Derivation**

To determine whether the effluent has the reasonable potential to cause or contribute to an exceedance above the in-stream water quality criteria for each metal, EPA uses the procedure and mass balance equation presented in Appendix B to project the concentration downstream of the discharge and, if applicable, to determine the limit required in the permit.

The results of this analysis for each metal are presented in Appendix B, showing that there is no reasonable potential for any metal and the Draft Permit does not require any permit limits. Effluent and ambient monitoring data will continue to be required as part of the WET tests, as described below.

#### **5.1.11 Whole Effluent Toxicity**

Sections 402(a)(2) and 308(a) of the CWA provide EPA and States with the authority to require toxicity testing. Section 308 specifically describes biological monitoring methods as techniques

that may be used to carry out objectives of the CWA. Whole effluent toxicity (WET) testing is conducted to ensure that the additivity, antagonism, synergism and persistence of the pollutants in the discharge do not cause toxicity, even when the pollutants are present at low concentrations in the effluent. The inclusion of WET requirements in the Draft Permit will assure that the Facility does not discharge combinations of pollutants into the receiving water in amounts that would affect aquatic life or human health.

In addition, under § 301(b)(1)(C) of the CWA, discharges are subject to effluent limitations based on WQSs. Under certain narrative State WQSs, and §§ 301, 303 and 402 of the CWA, EPA and the States may establish toxicity-based limitations to implement the narrative “no toxics in toxic amounts”. The Massachusetts WQSs at 314 CMR 4.05(5)(e) state, “*All surface waters shall be free from pollutants in concentrations or combinations that are toxic to humans, aquatic life or wildlife.*”

National studies conducted by the EPA have demonstrated that domestic sources, as well as industrial sources, contribute toxic constituents to POTWs. These constituents include metals, chlorinated solvents, aromatic hydrocarbons and others. Some of these constituents may cause synergistic effects, even if they are present in low concentrations. Because of the source variability and contribution of toxic constituents in domestic and industrial sources, EPA assumes that there is a reasonable potential for this discharge to cause or contribute to an exceedance of the “no toxics in toxic amounts” narrative water quality standard.

The EPA Region 1 and MassDEP’s<sup>6</sup> current toxic policy requires toxicity testing for all dischargers such as the Newburyport WPCF. Whole effluent acute effects are regulated by limiting the concentration that is lethal to 50% of the test organisms, known as the LC<sub>50</sub>. According to this policy, when the available receiving water dilution is greater than 20 and less than or equal to 100, the LC<sub>50</sub> ≥ 100%.

The acute WET limit in the 2012 Permit was LC<sub>50</sub> ≥ 100%, using the Mysid Shrimp (*Americamysis bahia*) and the Inland Silverside (*Menidia beryllina*), as the test species. Quarterly testing was required. All but one of the 2014-2018 WET tests achieved the effluent limit of greater than or equal to 100%. The LC<sub>50</sub> in the October 2014 WET test was 70.7%.

Based on the narrative water quality criterion, the dilution factor of 30, and in accordance with EPA national and regional policy and 40 C.F.R. § 122.44(d), the effluent limit in the Draft Permit remains the same as in the 2012 Permit. The acute WET test shall be conducted quarterly using the Mysid Shrimp (*Americamysis bahia*) and the Inland Silverside (*Menidia beryllina*). Toxicity testing must be performed in accordance with the updated EPA Region 1 WET test procedure and protocol specified in Attachment A of the Draft Permit (USEPA Region 1 Marine Acute Toxicity Test Procedure and Protocol, July 2012).

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<sup>6</sup> Implementation Policy for the Control of Toxic Pollutants in Surface Waters, MassDEP 1990

## **5.2 Industrial Pretreatment Program**

The Permittee is required to administer a pretreatment program based on the authority granted under 40 C.F.R. 122.44(j), 40 C.F.R. Part 403 and Section 307 of the Act. The Permittee's pretreatment program received EPA approval on September 28, 1984 and, as a result, appropriate pretreatment program requirements were incorporated into previous permits, which were consistent with that approval and federal pretreatment regulations in effect when the permits were issued.

The Federal Pretreatment Regulations in 40 C.F.R. Part 403 were amended in October 1988, in July 1990, and again in October 2005. Those amendments established new requirements for implementation of pretreatment programs. Upon reissuance of this NPDES permit, the Permittee is obligated to modify its pretreatment program to be consistent with current Federal Regulations. The activities that the Permittee must address include, but are not limited to, the following: 1) develop and enforce EPA approved specific effluent limits (technically-based local limits); 2) revise the local sewer-use ordinance or regulation, as appropriate, to be consistent with Federal Regulations; 3) develop an enforcement response plan; 4) implement a slug control evaluation program; 5) track significant noncompliance for industrial users; and 6) establish a definition of and track significant industrial users.

These requirements are necessary to ensure continued compliance with the POTW's NPDES permit and its sludge use or disposal practices.

In addition to the requirements described above, the Draft Permit requires the Permittee to submit to EPA in writing, within 180 days of the permit's effective date, a description of proposed changes to Permittee's pretreatment program deemed necessary to assure conformity with current federal pretreatment regulations. These requirements are included in the Draft Permit to ensure that the pretreatment program is consistent and up-to-date with all pretreatment requirements in effect. Lastly, the Permittee must continue to submit, annually by March 1<sup>st</sup>, a pretreatment report detailing the activities of the program for the twelve-month period ending 60 days prior to the due date.

## **5.3 Sludge Conditions**

Section 405(d) of the Clean Water Act requires that EPA develop technical standards regarding the use and disposal of sewage sludge. On February 19, 1993, EPA promulgated technical standards. These standards are required to be implemented through permits. The conditions in the permit satisfy this requirement.

## **5.4 Infiltration/Inflow (I/I)**

Infiltration is groundwater that enters the collection system through physical defects such as cracked pipes, or deteriorated joints. Inflow is extraneous flow entering the collection system through point sources such as roof leaders, yard and area drains, sump pumps, manhole covers, tide gates, and cross connections from storm water systems. Significant I/I in a collection system may displace sanitary flow, reducing the capacity and the efficiency of the treatment works and may cause bypasses to secondary treatment. It greatly increases the potential for sanitary sewer overflows (SSOs) in separate systems, and combined sewer overflows (CSOs) in combined systems.



The Draft Permit includes a requirement for the Permittee to control infiltration and inflow (I/I) within the sewer collections system it owns and operates. The permittee shall develop an I/I removal program commensurate with the severity of I/I in the collection system. This program may be scaled down in sections of the collection system that have minimal I/I.

## **5.5 Operation and Maintenance of the Sewer System**

The standard permit conditions for ‘Proper Operation and Maintenance’, found at 40 C.F.R. § 122.41(e), require the proper operation and maintenance of permitted wastewater systems and related facilities to achieve permit conditions. The requirements at 40 C.F.R. § 122.41(d) impose a ‘duty to mitigate’ upon the permittee, which requires that “all reasonable steps be taken to minimize or prevent any discharge violation of the permit that has a reasonable likelihood of adversity affecting human health or the environment. EPA and MassDEP maintain that an I/I removal program is an integral component of ensuring permit compliance with the requirements of the permit under the provisions at 40 C.F.R. § 122.41(d) and (e).

General requirements for proper operation and maintenance, and mitigation have been included in Part II of the permit. Specific permit conditions have also been included in Part I.B., Part I.C. and I.D. of the Draft Permit. These requirements include mapping of the wastewater collection system, preparing and implementing a collection system operation and maintenance plan, reporting of unauthorized discharges including SSOs, maintaining an adequate maintenance staff, performing preventative maintenance, controlling inflow and infiltration to separate sewer collection systems (combined systems are not subject to I/I requirements) to the extent necessary to prevent SSOs and I/I related effluent violations at the Water Pollution Control Facility and maintaining alternate power where necessary. These requirements are included to minimize the occurrence of permit violations that have a reasonable likelihood of adversely affecting human health or the environment.

## **5.6 Standard Conditions**

The standard conditions of the permit are based on 40 C.F.R. §122, Subparts A, C, and D and 40 C.F.R. § 124, Subparts A, D, E, and F and are consistent with management requirements common to other permits.

## **6 Federal Permitting Requirements**

### **6.1 Endangered Species Act**

Section 7(a) of the Endangered Species Act of 1973, as amended (ESA), grants authority and imposes requirements on federal agencies regarding endangered or threatened species of fish, wildlife, or plants (listed species) and habitat of such species that has been designated as critical (a “critical habitat”).

Section 7(a)(2) of the ESA requires every federal agency, in consultation with and with the assistance of the Secretary of Interior, to ensure that any action it authorizes, funds or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The United States Fish and Wildlife Service (USFWS) administers Section 7 consultations for freshwater species. The National Marine Fisheries Service (NOAA Fisheries) administers

## Section 7 consultations for marine and anadromous species.

The Federal action being considered in this case is EPA's proposed NPDES permit for the Newburyport Water Pollution Control Facility (WPCF), which discharges through Outfall 001 into Merrimack River at latitude 42.81°N, longitude 70.86°W. The outfall is a multiport diffuser about 1550 feet offshore on the bottom of the Merrimack River, just east of Half Tide Rock. The Merrimack River is part of the Merrimack River Watershed and discharges to the Atlantic Ocean. The Draft Permit is intended to replace the 2012 Permit in governing the Facility. As the federal agency charged with authorizing the discharge from this Facility, EPA determines potential impacts to federally listed species, and initiates consultation, when required under § 7(a)(2) of the ESA.

EPA has reviewed the federal endangered or threatened species of fish, wildlife, and plants in the expected action area of the outfall to determine if EPA's proposed NPDES permit could potentially impact any such listed species. For protected species under the jurisdiction of the USFWS, one listed endangered species, the roseate tern (*Sterna dougallii dougallii*), and three threatened species, the northern long-eared bat (*Myotis septentrionalis*), the piping plover (*Charadrius melodus*) and the red knot (*Calidris canutus rufa*) were identified as potentially occurring in the action area of the this section of the Merrimack River.<sup>7</sup>

According to the USFWS, the endangered roseate tern is found along the coast of Massachusetts from late April through early September, during their breeding season. Roseate terns nest on small barrier islands, often at ends or breaks. They nest in hollows or under dense vegetation, debris or rocks hidden from predators. This species does not interact with the tidally influenced benthic river discharge, so there is no direct effect on these coastal birds. Further, the permit action is also expected to have no indirect effect on the species because it is not expected to impact small fish in shallow or near surface water, primarily the American sand lance in, which is the main prey of the northeastern populations of the species. Therefore, the proposed permit action is deemed to have no impact on this listed species.

The threatened northern long-eared bat is found in "winter – mines and caves, summer – wide variety of forested habitats. This species is not aquatic, so the tidally influenced benthic river discharge will have no direct effect on this mammal. Further, the permit action is also expected to have no indirect effect on the species because it is not expected to impact insects, the primary prey of the northern long-eared bat. Therefore, the proposed permit action is deemed to have no impact on this listed species.

The threatened piping plover inhabits the beach ecosystem, specifically open, sandy habitat on outer beaches, where they feed and nest from late March through mid-September<sup>8</sup>. These birds reside in the sand on the high beach close to the dunes. By the end of the breeding season, both adult and young plovers depart Massachusetts for their wintering habitat in North Carolina and areas south. This species does not interact with the tidally influenced benthic river discharge, so there is no direct effect on these coastal birds. Further, the permit action is also expected to have

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<sup>7</sup> See §7 resources for USFWS at <https://ecos.fws.gov/ipac/>.

<sup>8</sup> The Atlantic coast piping plover, USFWS; August, 2007

no indirect effect on the species because it is not expected to impact the principal diet of the plover, which includes marine worms, crustaceans and insects that inhabit the sand. Therefore, the proposed permit action is deemed to have no impact on this listed species.

The threatened rufa red knot is a robin-sized shorebird that migrates great distances.<sup>9</sup> During its extensive migration, the red knot can be found at stopover habitats along the coastal islands of Massachusetts. This species does not come in contact with riverine benthic habitat, so the tidally influenced benthic river discharge will have no direct effect on this species. Further, the permit action is also expected to have no indirect effect on the species because it is not expected to impact the principal diet of this bird, which includes insects, invertebrates, especially small clams, mussels, and snails, but also crustaceans, marine worms, and horseshoe crab eggs. Therefore, the proposed permit action is deemed to have no impact on this listed species.

Based on the review of the habitat of the species under the jurisdiction of the USFWS listed above, EPA has determined that none of the federally protected species or their critical habitat overlap with the action area of the Newburyport WPCF. Therefore, ESA section 7 consultation will not be required for these species.

Regarding protected species under the jurisdiction of NOAA Fisheries, a number of anadromous and marine species and life stages likely overlap the action area of the WPCF. Subadult and adult life stages of Atlantic sturgeon (*Acipenser oxyrinchus*), adult, juvenile, young-of-year and post yolk-sac larvae life stages of shortnose sturgeon (*Acipenser brevirostrum*), adult and juvenile life stages of the following sea turtles - leatherback sea turtles (*Dermochelys coriacea*), loggerhead sea turtles (*Caretta caretta*), Kemp's ridley sea turtles (*Lepidochelys kempii*) and green sea turtles (*Chelonia mydas*); adult and juvenile life stages of the following whales - North Atlantic right whales (*Eubalaena glacialis*) and fin whales (*Balaenoptera physalus*) are all expected to be present in the vicinity of the Merrimack River and associated coastal area. In addition, the coastal area has been designated as critical habitat for North Atlantic right whale feeding<sup>10</sup> and the Merrimack River has been designated critical habitat for Atlantic sturgeon. These protected species life stages, as well as the listed North Atlantic right whale and Atlantic sturgeon critical habitat, are likely influenced by the discharge from this Facility.

Because these species may be affected by the discharge authorized by the proposed permit, EPA has evaluated the potential impacts of the permit action on these anadromous and marine species. On the basis of the evaluation, EPA's preliminary determination is that this action may affect, but is not likely to adversely affect, the relevant life stages of the NOAA Fisheries listed species above that are expected to inhabit the Merrimack River and associated coastal area in the vicinity of the action area of the discharge. In addition, EPA has made the preliminary determination that the proposed action may affect, but is not likely to adversely affect, the designated North Atlantic right whale critical habitat and Atlantic sturgeon critical habitat that overlap the action area. Therefore, EPA has judged that a formal consultation pursuant to Section 7 of the ESA is not required. EPA is seeking concurrence from NOAA Fisheries regarding this determination

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<sup>9</sup> <https://fws.gov/northeast/red-knot/>

<sup>10</sup> See §7 resources for NOAA Fisheries at

<https://noaa.maps.arcgis.com/apps/webappviewer/index.html?id=1bc332edc5204e03b250ac11f9914a27>

through the information in the Draft Permit, this Fact Sheet, as well as a letter that will be sent to NOAA Fisheries Protected Resources Division under separate cover.

Reinitiation of consultation will take place: (a) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered in the consultation; (b) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the consultation; or (c) if a new species is listed or critical habitat is designated that may be affected by the identified action.

## 6.2 Essential Fish Habitat

Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (*see* 16 U.S.C. § 1801 *et seq.*, 1998), EPA is required to consult with the National Marine Fisheries Service (NOAA Fisheries) if EPA's action or proposed actions that it funds, permits, or undertakes, "may adversely impact any essential fish habitat". *See* 16 U.S.C. § 1855(b).

The Amendments broadly define "essential fish habitat" (EFH) as: "waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity". *See* 16 U.S.C. § 1802(10). "Adverse impact" means any impact that reduces the quality and/or quantity of EFH, 50 C.F.R. § 600.910(a). Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

EFH is only designated for fish species for which federal Fisheries Management Plans exist. *See* 16 U.S.C. § 1855(b)(1)(A). EFH designations for New England were approved by the U.S. Department of Commerce on March 3, 1999.

The Federal action being considered in this case is EPA's proposed NPDES permit for the Newburyport WPCF, which discharges through Outfall 001 into the Merrimack River at latitude 42.81°N, longitude 70.86°W. The outfall is a multiport diffuser about 1550 feet offshore on the bottom of the Merrimack River, just east of Half Tide Rock. The Draft Permit is intended to replace the 2012 Permit in governing the Facility.

A review of the relevant essential fish habitat information provided by NOAA Fisheries indicates that the outfall exists within designated EFH for 12 federally managed species. The EFH species and life stages are listed in Table 1.

**Table 1: EFH Species and life stages in the vicinity of Newburyport WPCF  
Outfall at Latitude 42.81°N, Longitude 70.86°W**

Species/Management Unit	Lifestage(s) Found at Location
Atlantic Wolffish	ALL
Winter Flounder	Eggs, Juvenile, Larvae/Adult
Atlantic Herring	Juvenile, Larvae
Pollock	Juvenile, Eggs, Larvae
Red Hake	Eggs/Larvae/Juvenile
Silver Hake	Eggs/Larvae

Species/Management Unit	Lifestage(s) Found at Location
White Hake	Eggs
Bluefin Tuna	Adult
Longfin Inshore Squid	Juvenile
Atlantic Mackerel	Eggs, Larvae, Juvenile, Adult
Atlantic Butterfish	Adult
Atlantic salmon	ALL

### **EPA's Finding of all Potential Impacts to EFH Species**

- This Draft Permit action does not constitute a new source of pollutants. It is the reissuance of an existing NPDES permit;
- The effluent is discharged from a multiport diffuser about 1550 feet offshore on the bottom of the Merrimack River and is expected to experience rapid mixing from the river flow and diurnal tidal influence;
- The facility withdraws no water from the Merrimack River, so no life stages of EFH species are vulnerable to impingement or entrainment;
- Acute toxicity tests will be conducted four times a year to ensure that the discharge does not present toxicity problems;
- The effluent has a dilution factor of 30;
- Total suspended solids, biochemical oxygen demand, total residual chlorine, fecal coliform, *Enterococci* and pH are regulated by the Draft Permit to meet water quality standards;
- The Draft Permit prohibits the discharge of pollutants or combination of pollutants in toxic amounts;
- The effluent limitations and conditions in the Draft Permit were developed to be protective of all aquatic life; and
- The Draft Permit prohibits violations of the state water quality standards.

EPA believes that the conditions and limitations contained within the Newburyport WPCF Draft Permit adequately protects all aquatic life, including those species with designated EFH in the receiving water. Further mitigation is not warranted. Should adverse impacts to EFH be detected as a result of this permit action, or if new information is received that changes the basis for EPA's conclusions, NOAA Fisheries will be contacted and an EFH consultation will be re-initiated.

In addition to this Fact Sheet and the Draft Permit, information supporting EPA's finding is included in a letter under separate cover that will be sent to the NOAA Fisheries Habitat Division during the public comment period.

### **6.3 Coastal Zone Management (CZM) Consistency Review**

The regulation at 40 C.F.R. § 122.49(d) states "The Coastal Zone Management Act, 16 U.S.C.

1451 *et seq.* section 307(c) of the Act and implementing regulations (15 C.F.R. part 930) prohibit EPA from issuing a permit for an activity affecting land or water in the coastal zone until the applicant certifies that the proposed activity complies with the State Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce) overrides the State's nonconcurrence.

The discharge is within the defined CZM boundaries. The permittee has submitted a letter dated May 25, 2017 to the Massachusetts Coastal Zone Management Program stating their intention to abide by the CZM water quality and habitat policies. EPA expects that CZM will find the discharge consistent with its policies.

## **7 Public Comments, Hearing Requests and Permit Appeals**

All persons, including applicants, who believe any condition of the Draft Permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period, to:

Michele Barden  
EPA New England, Region 1  
5 Post Office Square, Suite-100 (06-1)  
Boston, MA 02109-3912  
Telephone: (617) 918-1539, FAX: (617)918-0539  
Email: [barden.michele@epa.gov](mailto:barden.michele@epa.gov)

Jennifer Wood  
Massachusetts Department of Environmental Protection  
Surface Water Discharge Permit Program  
One Winter Street, 6<sup>th</sup> Floor  
Boston, MA 02108  
Telephone: (617) 654-6536  
Email: [jennifer.wood@state.ma.us](mailto:jennifer.wood@state.ma.us)

Prior to the close of the public comment period, any person, may submit a written request to EPA and the State Agency for a public hearing to consider the Draft Permit. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held if the criteria stated in 40 C.F.R. § 124.12 are satisfied. In reaching a final decision on the Draft Permit, the EPA will respond to all significant comments in a Response to Comments document attached to the Final Permit and make these responses available to the public at EPA's Boston office and on EPA's website.

Following the close of the comment period, and after any public hearings, if such hearings are held, the EPA will issue a Final Permit decision, forward a copy of the final decision to the applicant, and provide a copy or notice of availability of the final decision to each person who submitted written comments or requested notice. The Final Permit is jointly issued by EPA and MassDEP under federal and state law, respectively, and constitutes two separate and independent permit authorizations: 1) a federal NPDES Permit issued by EPA pursuant to the Federal Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*; and 2) a state surface water discharge permit issued by MassDEP pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 25-53, and 314 C.M.R. 3.00. Within 30 days after EPA serves notice of the issuance of the Final Permit

decision, an appeal of the federal NPDES permit may be commenced by filing a petition for review of the permit with the Clerk of EPA's Environmental Appeals Board in accordance with the procedures at 40 C.F.R. § 124.19. An appeal of the state permit may be commenced by submitting a request for an adjudicatory hearing to MassDEP's Office of Appeals and Dispute Resolution consistent with 310 CMR 1.00.

## **8 Administrative Record**

The administrative record on which this Draft Permit is based may be accessed at EPA's Boston office between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays from Michele Barden, EPA Region 1, 5 Post Office Square, Suite-100 (06-1), Boston, MA 02109-3912 or via email at [barden.michele@epa.gov](mailto:barden.michele@epa.gov).

October 2019

Date

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Ken Moraff, Director

Water Division

U.S. Environmental Protection Agency



Figure 1: Location of Newburyport Water Pollution Control Facility

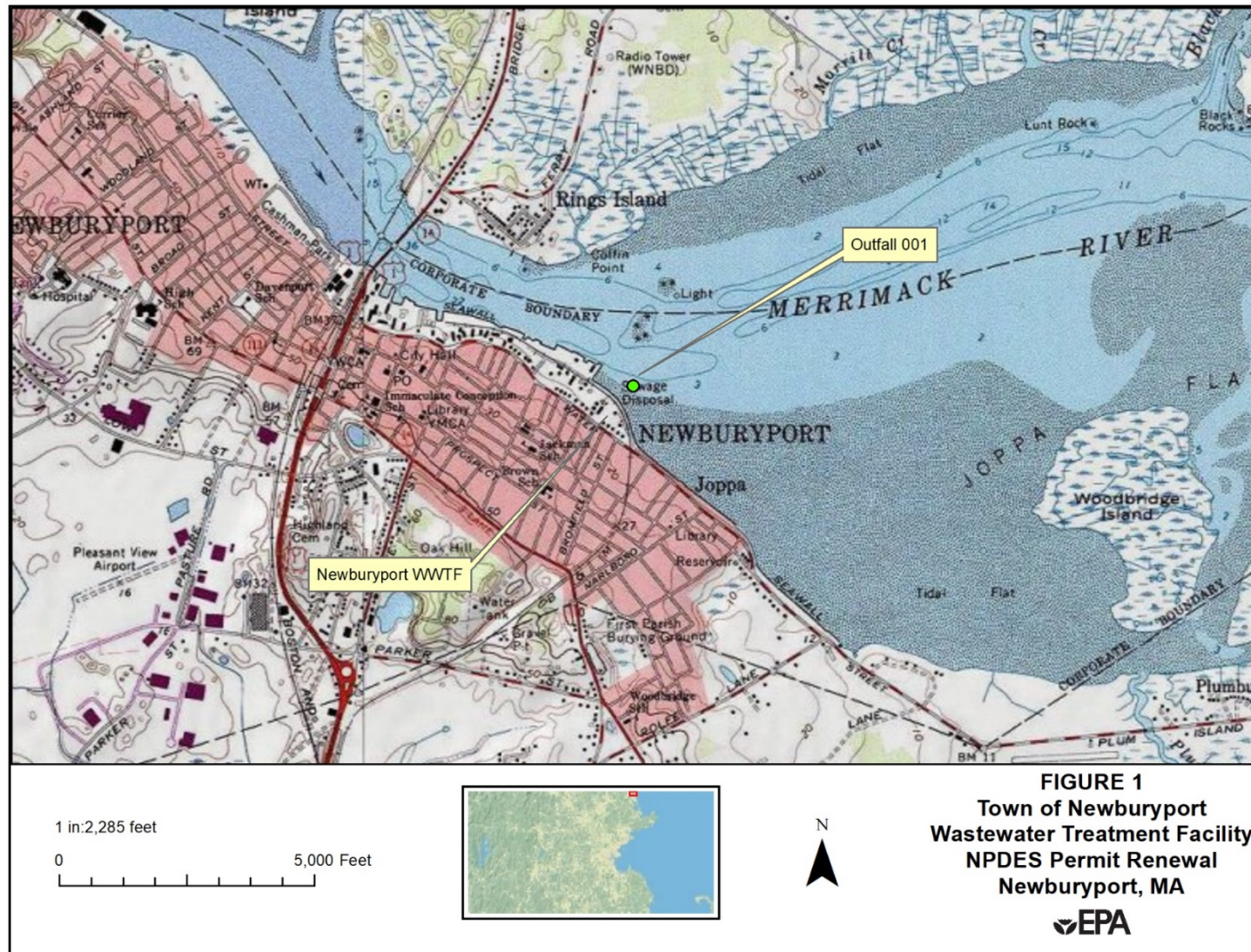
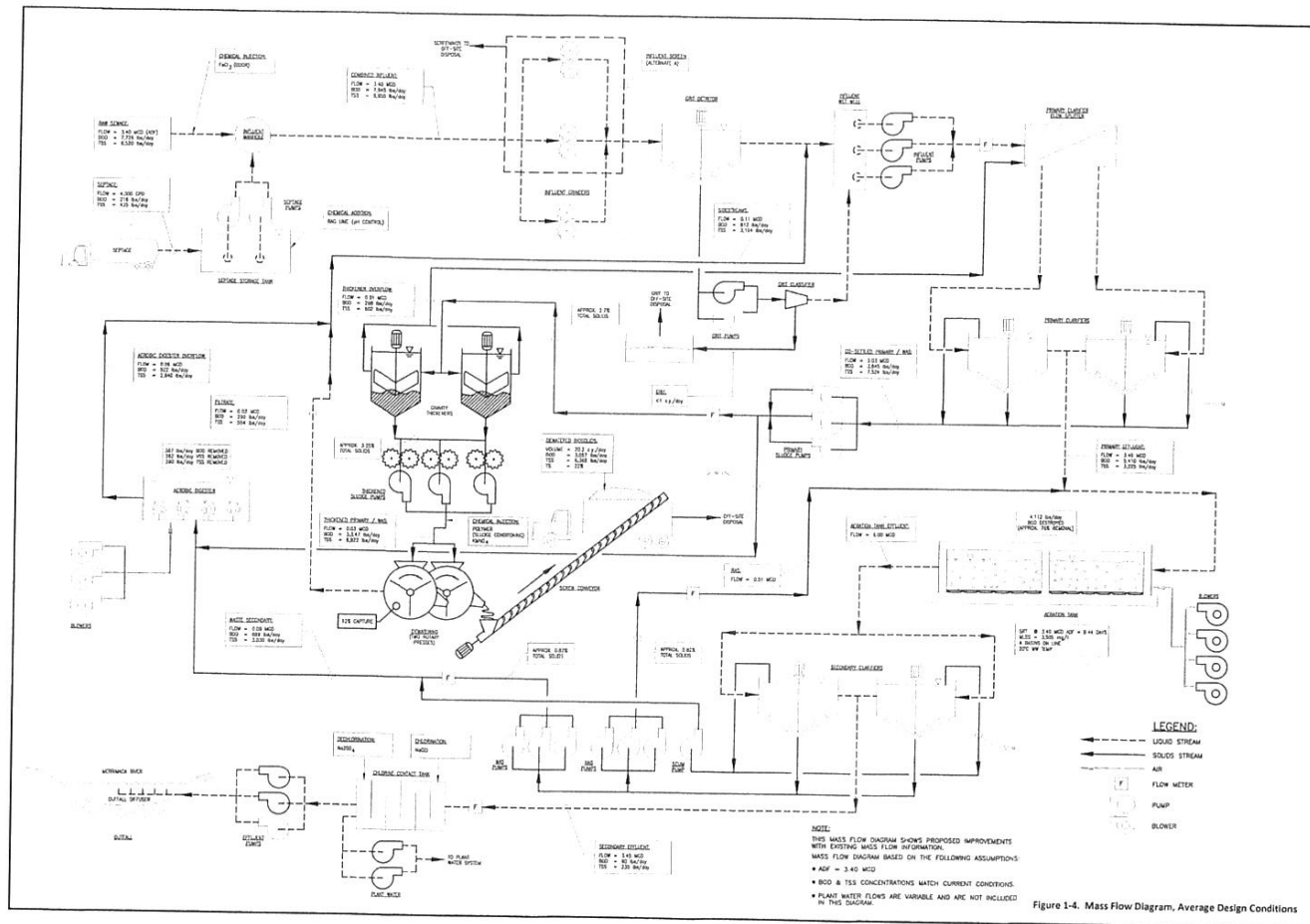




Figure 2: Flow diagram



## Oufall 001

Parameter	Flow	Flow	Flow	BOD5	BOD5	BOD5	BOD5	BOD5
	Rolling Annual Ave	Monthly Ave	Daily Max	Monthly Ave	Monthly Ave	Weekly Ave	Weekly Ave	Daily Max
Units	MGD	MGD	MGD	lb/d	mg/L	lb/d	mg/L	lb/d
Effluent Limit	3.4	Report	Report	851	30	1276	45	Report
Minimum	1.428	1.34	1.46	58.38	5	81.3	6.33	93.4
Maximum	1.822	2.512	4.51	1369	98	2435	177	2639
Average	1.64	1.66	2.13	234	16.9	341	24.8	463
No. of Violations	0	N/A	N/A	2	4	3	5	N/A
2/28/2014	1.71	1.487	2.15	179.81	14	236.77	17	256.7
3/31/2014	1.68	1.64	2.98	259.8	19	318.7	24.66	344
4/30/2014	1.68	1.7	2.23	354.45	25	368.9	29.3	413.66
5/31/2014	1.67	1.6	1.83	346.9	26	555.1	39	534.3
6/30/2014	1.62	1.46	1.76	267.8	22	329.1	25.3	396.98
7/31/2014	1.74	1.53	1.93	331.7	26	356.7	32	495.3
8/31/2014	1.56	1.46	1.91	304.41	25	467.04	40.33	614.4
9/30/2014	1.54	1.4	1.64	151.78	13	194.3	16.3	246.1
10/31/2014	1.53	1.36	2.11	136.1	12	147.4	13	149.2
11/30/2014	1.52	1.41	1.77	129.3	11	139.7	12.6	191.4
12/31/2014	1.54	2.01	4.51	268.2	16	315.2	20	372.2
1/31/2015	1.73	1.59	2.56	159.12	12	213.5	16	238.69
2/28/2015	1.54	1.34	1.53	122.93	11	142.65	12.6	176.14
3/31/2015	1.55	1.7	2.25	256.4	18	297.2	18.66	287.2
4/30/2015	1.57	2	2.32	183.48	11	275.22	16.5	346.94
5/31/2015	1.57	1.56	1.78	156.2	12	246.6	18.6	410.32
6/30/2015	1.6	1.75	2.2	87.57	6	104.4	7	146.78
7/31/2015	1.6	1.66	2.16	138.4	10	224	17	273.55
8/31/2015	1.61	1.54	1.88	77.06	6	92.82	7	104.75
9/30/2015	1.62	1.5	2.32	137.61	11	187.63	14.33	229.51
10/31/2015	1.62	1.4	1.75	58.38	5	81.3	6.33	93.4
11/30/2015	1.62	1.34	1.46	100.43	9	135.98	11.7	183.1
12/31/2015	1.57	1.41	1.69	94.07	8	98.94	8.66	109.9
1/31/2016	1.563	1.532	2.179	89.4	7	98.5	7.67	126.9
2/29/2016	1.59	1.61	2.14	107.41	8	149.4	9.33	232.01
3/31/2016	1.596	1.82	2.28	91.07	6	124.3	8.33	171.13
4/30/2016	1.64	1.65	2.24	80	6	86.05	6.33	121
5/31/2016	1.56	1.49	1.72	87.57	7	102.79	8.5	137.61
6/30/2016	1.54	1.5	1.7	87.57	27	484	40	699
7/31/2016	1.52	1.486	1.788	213	17	288	23	450
8/31/2016	1.55	1.6	1.8	147	11	204.16	15.3	269.3
9/30/2016	1.428	1.428	1.676	143	12	246	18	235

## Oufall 001

Parameter	Flow	Flow	Flow	BOD5	BOD5	BOD5	BOD5	BOD5
	Rolling Annual Ave	Monthly Ave	Daily Max	Monthly Ave	Monthly Ave	Weekly Ave	Weekly Ave	Daily Max
Units	MGD	MGD	MGD	lb/d	mg/L	lb/d	mg/L	lb/d
Effluent Limit	3.4	Report	Report	851	30	1276	45	Report
10/31/2016	1.526	1.456	1.918	102	9	112	10	139
11/30/2016	1.537	1.479	2.027	255	19	514	38	747
12/31/2016	1.542	1.476	1.7	611	49	1356	109	1542
1/31/2017	1.551	1.655	2.231	785	51	884	93	2324
2/28/2017	1.549	1.631	2.087	376	28	376	37	1264
3/31/2017	1.536	1.675	2.163	1369	98	2435	177	2639
4/30/2017	1.581	2.196	2.99	1282	70	1332	78	1673
5/31/2017	1.639	2.195	2.617	201	11	321	19	424
6/30/2017	1.69	2.11	2.558	158	9	211	12	448
7/31/2017	1.726	2.512	1.959	124	9	212	13	199
8/31/2017	1.738	1.657	1.893	114	8	542	13	264
9/30/2017	1.754	1.621	1.843	107	8	159	11	169
10/31/2017	1.818	1.546	1.872	83	7	110	8	121
11/30/2017	1.767	1.541	1.822	106	10	141	12	219
12/31/2017	1.773	1.558	1.787	176	15	294	25	318
1/31/2018	1.784	1.761	2.435	363	26	494	30	677
2/28/2018	1.796	1.734	2.086	362	25	694	49	1435
3/31/2018	1.822	1.991	2.442	316	19	414	24	491
4/30/2018	1.801	1.938	2.457	212	12	256	16	327
5/31/2018	1.768	1.8	2.008	151	10	281	17	345
6/30/2018	1.739	1.756	1.995	127	9	231	17	264
7/31/2018	1.713	1.649	1.92	97	8	142	12	147
8/31/2018	1.715	1.685	1.946	158	12	236	18	348
9/30/2018	1.72	1.667	2.753	136	9	177	13	467
10/31/2018	1.722	1.578	1.977	150	12	204	17	245
11/30/2018	1.769	2.097	2.946	266	14	315	17	502
12/31/2018	1.793	1.85	2.431	237	14	391	21	471
1/31/2019	1.792	1.747	2.698	247	15	294	21	528

## Oufall 001

Parameter	BOD5	TSS	TSS	TSS	TSS	TSS	TSS	pH
	Daily Max	Monthly Ave	Monthly Ave	Weekly Ave	Weekly Ave	Daily Max	Daily Max	Minimum
Units	mg/L	lb/d	mg/L	lb/d	mg/L	lb/d	mg/L	SU
Effluent Limit	Report	851	30	1276	45	Report	Report	6.5
Minimum	7	37.53	3	48.78	4	62.55	5	6.4
Maximum	192	1579	113	2279	171	3971	327	6.912
Average	32.5	235	16.3	404	27.3	627	44.3	6.59
No. of Violations	N/A	3	5	5	5	N/A	N/A	3
2/28/2014	19	61.71	5	87.9	6.2	110.33	7	6.83
3/31/2014	25	218.8	16	875.6	38.18	3126.2	147	6.912
4/30/2014	32	212.67	15	465.4	32.75	514.9	42	6.79
5/31/2014	43	280.2	21	452.4	35	534.3	51	6.69
6/30/2014	28	304.4	25	367.6	31.8	471.8	41	6.7
7/31/2014	44	255.2	20	437.1	37.6	688.3	63	6.54
8/31/2014	53	206.99	17	446.6	31	598.4	46	6.6
9/30/2014	18	152.4	13	221.2	17.6	467.04	35	6.63
10/31/2014	15	56.71	5	103.4	8	192	15	6.54
11/30/2014	17	47.03	4	49.87	4.6	65.02	5.33	6.66
12/31/2014	24	83.8	5	181.94	7	372.2	12	6.5
1/31/2015	18	79.56	6	85.23	7	139.44	11	6.53
2/28/2015	16	44.7	4	48.78	4.5	64.05	6	6.52
3/31/2015	24	85.46	6	320.8	19	541.7	32	6.52
4/30/2015	20	163.46	7	148.08	9.2	200.1	12	6.67
5/31/2015	30	104	8	194.2	14.2	584.1	41	6.57
6/30/2015	8	116.7	8	210.3	13	269.3	17	6.56
7/31/2015	20	83	6	147.1	9	176.1	12	6.65
8/31/2015	8	52.04	4	78.06	6	182.14	14	6.65
9/30/2015	16	137.61	11	308.06	25.33	312.92	28	6.57
10/31/2015	7	467.04	4	78.56	5	80.06	6	6.55
11/30/2015	16	89.3	8	157.4	15	171.9	15	6.6
12/31/2015	11	70.55	6	86.98	7	97.88	8	6.61
1/31/2016	10	51.1	4	79.1	6	94.5	7	6.57
2/29/2016	13	67.13	5	72.55	6	108	7	6.56
3/31/2016	9	60.71	4	792.3	5	76.31	5	6.5
4/30/2016	9	54.71	4	57.5	4	65.02	5	6.56
5/31/2016	11	37.53	3	58.38	5	62.55	5	6.52
6/30/2016	59	275.2	22	444.4	37	876.3	74	6.62
7/31/2016	36	288	23	488	39	625	50	6.4
8/31/2016	19	227	17	300.2	24	475	38	6.47
9/30/2016	21	155	13	264	21	355	28	6.5

## Oufall 001

Parameter	BOD5	TSS	TSS	TSS	TSS	TSS	TSS	pH
	Daily Max	Monthly Ave	Monthly Ave	Weekly Ave	Weekly Ave	Daily Max	Daily Max	Minimum
Units	mg/L	lb/d	mg/L	lb/d	mg/L	lb/d	mg/L	SU
Effluent Limit	Report	851	30	1276	45	Report	Report	6.5
10/31/2016	11	69	6	81	7	116	8	6.85
11/30/2016	53	255	19	523	38	747	53	6.6
12/31/2016	126	1042	82	2248	171	3971	327	6.85
1/31/2017	145	823	55	1734	106	2698	200	6.89
2/28/2017	92	639	47	1884	120	2679	155	6.9
3/31/2017	192	1579	113	2279	169	3012	230	6.7
4/30/2017	110	1081	59	1375	80	2239	131	6.5
5/31/2017	24	183	10	233	14	331	17	6.4
6/30/2017	21	217	13	384	22	568	33	6.5
7/31/2017	14	156	11	259	16	350	22	6.8
8/31/2017	19	120	10	145	11	186	14	6.5
9/30/2017	13	142	11	224	18	277	23	6.5
10/31/2017	10	100	9	113	9	184	16	6.5
11/30/2017	19	104	9	135	12	308	28	6.5
12/31/2017	28	162	14	347	30	414	35	6.5
1/31/2018	41	386	27	504	32	789	55	6.5
2/28/2018	97	292	21	580	42	1265	95	6.8
3/31/2018	27	292	17	372	24	615	37	6.5
4/30/2018	18	148	9	206	13	276	16	6.7
5/31/2018	21	130	9	188	12	355	25	6.5
6/30/2018	20	211	16	357	27	492	38	6.5
7/31/2018	12	118	10	192	16	358	29	6.5
8/31/2018	24	223	17	336	26	470	38	6.5
9/30/2018	22	173	12	250	18	484	35	6.5
10/31/2018	20	228	18	350	25	501	44	6.5
11/30/2018	20	238	12	334	17	427	20	6.5
12/31/2018	25	218	13	252	19	540	29	6.5
1/31/2019	26	164	11	224	16	258	18	6.6

## Oufall 001

Parameter	pH	Fecal Coliform	Fecal Coliform	Enterococci	Enterococci	TRC	TRC	Ammonia
	Maximum	Daily Max	MOAV GEO	Daily Max	MOAV GEO	Monthly Ave	Daily Max	Monthly Ave
Units	SU	CFU/100mL	CFU/100mL	#/100mL	#/100mL	mg/L	mg/L	lb/d
Effluent Limit	8.5	400	88	104	35	0.23	0.39	Report
Minimum	6.59	3	1.18	6	2.4	0	0.03	0
Maximum	8.5	200	71	579	46	0.12	0.36	312.16
Average	7.13	64.1	11.5	79.8	13.7	0.0422	0.174	74.2
No. of Violations	0	0	0	6	4	0	0	N/A
2/28/2014	7.18	8	1.18	54	15.35	0.05	0.28	185.73
3/31/2014	7.21	20	2.02	102	46	0.06	0.27	138.1
4/30/2014	7.09	130	3.49	93	31.08	0.09	0.33	312.16
5/31/2014	6.94	200	6.57	62	29.18	0.04	0.27	247.1
6/30/2014	6.9	75	8.53	48	19.64	0.08	0.26	253.5
7/31/2014	6.96	83	8.43	68	13.34	0.07	0.24	118.7
8/31/2014	6.82	45	7.58	54	16.58	0.12	0.33	83.94
9/30/2014	7.13	43	9.79	81	18.92	0.07	0.36	11.69
10/31/2014	6.86	50	8.61	52	8.46	0.01	0.06	3.95
11/30/2014	6.8	15	2.99	65	12.62	0.03	0.06	1.4
12/31/2014	6.59	14	2.22	31	8.26	0.04	0.16	10.26
1/31/2015	6.98	4	1.49	44	9.12	0.05	0.13	27.52
2/28/2015	6.75	5	1.498	18	8.357	0.03	0.07	31.19
3/31/2015	7.22	36	2.41	101	14.39	0.05	0.3	133
4/30/2015	7.2	20	2.03	85	12.88	0.05	0.31	290.8
5/31/2015	7.01	77	4.486	64	13.09	0.07	0.31	218.92
6/30/2015	7.06	23	9.5	49	8.41	0.05	0.22	44.41
7/31/2015	7.01	98.8	21.51	51	8.99	0.03	0.08	1.76
8/31/2015	7.03	56	16.77	21	6.35	0.03	0.04	0
9/30/2015	6.93	43	15.14	51	7.093	0.03	0.05	63.25
10/31/2015	7.02	36	10.65	6	2.4	0.02	0.04	0
11/30/2015	7.18	53	13.58	34	4.65	0.03	0.05	1.238
12/31/2015	6.86	11	2.93	18	7.371	0.03	0.09	79.93
1/31/2016	6.87	30	3.54	39	7.82	0.02	0.06	14.59
2/29/2016	6.91	22	3.11	42	12.76	0.02	0.04	14.77
3/31/2016	6.84	3	1.42	10	4.83	0.03	0.29	48.16
4/30/2016	6.78	24	1.47	75	3.315	0.02	0.05	41.28
5/31/2016	6.87	4	1.21	17	2.85	0.01	0.04	56.04
6/30/2016	7.21	39	15.29	101	21.12	0.06	0.36	216.17
7/31/2016	7.19	53	14.301	69	12.256	0.07	0.12	228
8/31/2016	7	109	31.63	55	10.365	0.06	0.28	7.5
9/30/2016	8.5	48	12.58	38	5.27	0.08	0.31	2.5

## Oufall 001

Parameter	pH	Fecal Coliform	Fecal Coliform	Enterococci	Enterococci	TRC	TRC	Ammonia
	Maximum	Daily Max	MOAV GEO	Daily Max	MOAV GEO	Monthly Ave	Daily Max	Monthly Ave
Units	SU	CFU/100mL	CFU/100mL	#/100mL	#/100mL	mg/L	mg/L	lb/d
Effluent Limit	8.5	400	88	104	35	0.23	0.39	Report
10/31/2016	7.28	73	16	9	4	0.07	0.28	11
11/30/2016	7.5	65	9	96	12	0.06	0.26	64
12/31/2016	7.19	169	13	72	12	0	0.31	54
1/31/2017	7.31	166	7	146	37	0.03	0.08	290
2/28/2017	7.5	150	7	90	7	0.03	0.09	272
3/31/2017	8.1	83	27	56	19	0.02	0.04	21
4/30/2017	6.9	29	4	53	22	0.02	0.07	220
5/31/2017	7.1	62	9.4	32	4.6	0.06	0.29	14
6/30/2017	7.3	83	17	13	6	0.06	0.36	1.76
7/31/2017	7.1	95	42	87	10	0.03	0.15	0
8/31/2017	7.5	129	69	74	15	0.06	0.28	2.2
9/30/2017	7	200	71	41	11	0.02	0.05	0.29
10/31/2017	7.81	89	43	26	6.2	0.06	0.18	1.4
11/30/2017	6.82	45	20	16	5	0.05	0.3	0.18
12/31/2017	6.8	25	9	24	5	0.04	0.07	0
1/31/2018	6.9	139	21	102	42	0.03	0.08	17.6
2/28/2018	7.1	59	6	125	26	0.06	0.27	55
3/31/2018	7	95	6	410	28	0.02	0.13	115
4/30/2018	6.9	200	5	459	36	0.02	0.04	178
5/31/2018	7	38	3	579	8	0.05	0.27	23
6/30/2018	7.4	11	3	11	3	0.02	0.04	5.7
7/31/2018	7.5	165	10	26	7	0.02	0.07	6.2
8/31/2018	7.8	42	5	95	32	0.03	0.17	10.5
9/30/2018	7.2	19	6	36	4	0.04	0.2	6.7
10/31/2018	7.1	48	4	33	7	0.04	0.15	5.5
11/30/2018	7	83	5	236	19	0.02	0.03	2.1
12/31/2018	7.2	4	1.5	71	17	0.03	0.1	17
1/31/2019	7.3	3	1.2	71	16	0.04	0.19	169

## Oufall 001

Parameter	Ammonia	Nitrite+Nitrate	Nitrite+Nitrate	TKN	TKN
	Daily Max	Monthly Ave	Daily Max	Monthly Ave	Daily Max
Units	mg/L	lb/d	mg/L	lb/d	mg/L
Effluent Limit	Report	Report	Report	Report	Report
Minimum	0	1	0.36	0	0
Maximum	270	947	486	394	394
Average	12.4	157	41.5	84.7	18.2
No. of Violations	N/A	N/A	N/A	N/A	N/A
2/28/2014	17	9.94	0.91	240.35	22
3/31/2014	12	26.3	2.29	368.2	32
4/30/2014	19	10.8	0.66	295.7	18
5/31/2014	19	12.7	0.98	260.2	20
6/30/2014	19	5	0.36	320.2	24
7/31/2014	8	145.4	9.8	127.6	8.6
8/31/2014	5.5	136.5	8.8	170.6	11
9/30/2014	0.86	11.29	153.4	29.9	2.2
10/31/2014	0.31	167.4	13.12	27.1	2.1
11/30/2014	0.13	11.71	0.93	6.2	0.5
12/31/2014	0.81	169.79	13.35	26.7	2.1
1/31/2015	2	142.28	10.34	45.9	2.9
2/28/2015	2.9	124.36	11.56	40.88	3.8
3/31/2015	11	129.7	10.73	58.04	4.8
4/30/2015	16	75.8	4.17	345.4	19
5/31/2015	15	51.66	3.54	56.92	3.9
6/30/2015	2.5	68.2	3.84	97.7	5.5
7/31/2015	0.14	163.71	13	15.11	1.2
8/31/2015	0	156.13	12	18.1	1.3
9/30/2015	4.8	386	29.3	88.28	6.7
10/31/2015	0	129.4	9.7	10.67	0.8
11/30/2015	0.11	180.1	16	22.35	2
12/31/2015	6.9	104.95	9.06	94.99	8.2
1/31/2016	1.1	136.9	10.31	38.28	2.7
2/29/2016	1.2	158.7	12.94	22.11	1.8
3/31/2016	3.3	127.12	8.71	1.75	4.3
4/30/2016	3	114.63	8.28	42.92	3.1
5/31/2016	4.2	94.07	7.05	62.71	4.7
6/30/2016	16	14.95	1.12	229.68	17
7/31/2016	21	42.3	3.9	228	21
8/31/2016	0.6	140	11.17	0.06	2.6
9/30/2016	2.5	20.16	20.16	4	4



## Oufall 001

Parameter	Ammonia	Nitrite+Nitrate	Nitrite+Nitrate	TKN	TKN
	Daily Max	Monthly Ave	Daily Max	Monthly Ave	Daily Max
Units	mg/L	lb/d	mg/L	lb/d	mg/L
Effluent Limit	Report	Report	Report	Report	Report
10/31/2016	18	230	302	18	34
11/30/2016	5.2	234	18.96	18	6.2
12/31/2016	62	126	149	95	109
1/31/2017	21	14.8	1.07	24	24
2/28/2017	270	14	14	394	394
3/31/2017	21	1	1	35	35
4/30/2017	12	28	1.52	21.52	21.52
5/31/2017	0.76	218	11.9	201	11
6/30/2017	0.1	336	19.1	40.5	2.3
7/31/2017	0	18.23	18.23	0.21	0.21
8/31/2017	0.16	278	20.1	11.7	0.85
9/30/2017	0.29	25.12	25.12	0	0
10/31/2017	0.11	232	18	14	1.1
11/30/2017	0.18	23	23	1.1	1.1
12/31/2017	0	42	29	1.7	1.7
1/31/2018	1.2	294	20	44	3
2/28/2018	55	121	121	84	84
3/31/2018	6.9	219	13.2	141	8.5
4/30/2018	11	115	7.1	210	13
5/31/2018	1.5	242	16.1	183	12.2
6/30/2018	0.39	407	27.8	7.8	0.53
7/31/2018	0.45	313	22.77	23.4	1.7
8/31/2018	10.5	192	192	32	32
9/30/2018	0.48	441	31.6	17	1.2
10/31/2018	7.7	313	392	22	28
11/30/2018	0.12	385	22.1	23	1.3
12/31/2018	22	370	486	0.03	0.1
1/31/2019	1.6	947	65	23	1.6

## Outfall 001 - WET Effluent

Parameter	LC50 Acute Menidia	LC50 Static 48Hr Acute Mysid. Bahia	Ammonia	Cadmium	Copper	Lead	Nickel	Zinc
	DLYAVMIN	DLYAVMIN	Daily Max	Daily Max	Daily Max	Daily Max	Daily Max	Daily Max
Units	%	%	mg/L	mg/L	mg/L	mg/L	mg/L	mg/L
Effluent Limit	100	100	Report	Report	Report	Report	Report	Report
Minimum	100	70.7	0.00	0.00	0.01	0.00	0.00	0.02
Maximum	100	100	22.00	0.00	0.03	0.00	0.01	0.22
Average	100	98.5	4.64	0.00	0.014	0.0003	0.0042	0.055
No. of Violations	0	1	N/A	N/A	N/A	N/A	N/A	N/A
4/30/2014	100	100	22.00	0.00	0.010	0.0000	0.0040	0.016
7/31/2014	100	100	1.10	0.00	0.005	0.0000	0.0040	0.220
10/31/2014	100	70.7	0.16	0.00	0.010	0.0000	0.0040	0.019
1/31/2015	100	100	0.51	0.00	0.014	0.0006	0.0040	0.059
4/30/2015	100	100	13.00	0.00	0.009	0.0000	0.0040	0.035
7/31/2015	100	100	0.15	0.00	0.014	0.0000	0.0040	0.039
10/31/2015	100	100	0.00	0.00	0.011	0.0000	0.0050	0.039
1/31/2016	100	100	0.22	0.00	0.009	0.0000	0.0030	0.050
4/30/2016	100	100	2.70	0.00	0.009	0.0000	0.0030	0.041
7/31/2016	100	100	1.20	0.00	0.008	0.0000	0.0050	0.027
10/31/2016	100	100	0.64	0.00	0.020	0.0004	0.0048	0.057
1/31/2017	100	100	20.00	0.00	0.018	0.0005	0.0046	0.045
4/30/2017	100	100	13.00	0.00	0.032	0.0018	0.0052	0.064
7/31/2017	100	100	0.20	0.00	0.014	0.0003	0.0043	0.047
10/31/2017	100	100	0.11	0.00	0.013	0.0004	0.0039	0.046
1/31/2018	100	100	2.20	0.00	0.023	0.0006	0.0035	0.068
4/30/2018	100	100	8.50	0.00	0.012	0.0005	0.0036	0.060
7/31/2018	100	100	0.76	0.00	0.016	0.0003	0.0062	0.059
10/31/2018	100	100	---	0.00	0.019	0.0004	0.0035	0.055
1/31/2019	100	100	1.70	0.00	0.017	0.0004	0.0037	0.059

## WET Ambient

Parameter	Ammonia	Cadmium	Copper	Lead	Nickel	Zinc
	Daily Max	Daily Max	Daily Max	Daily Max	Daily Max	Daily Max
Units	mg/L	mg/L	mg/L	mg/L	mg/L	mg/L
Effluent Limit	Report	Report	Report	Report	Report	Report
Minimum	0.00	0.0000	0.0000	0.0000	0.0000	0.0030
Maximum	0.49	0.0005	0.0050	0.0024	0.0011	0.0140
Average	0.11	0.0000	0.0020	0.0006	0.0001	0.0069
No. of Violations	N/A	N/A	N/A	N/A	N/A	N/A
4/30/2014	0.12	0.0000	0.0050	0.0010	0.0000	0.0060
7/31/2014	0.00	0.0000	0.0040	0.0010	0.0000	0.0060
10/31/2014	0.00	0.0000	0.0000	0.0000	0.0000	0.0030
1/31/2015	0.23	0.0000	0.0000	0.0000	0.0000	0.0050
4/30/2015	0.20	0.0000	0.0000	0.0000	0.0000	0.0050
7/31/2015	0.00	0.0000	0.0030	0.0000	0.0000	0.0050
10/31/2015	0.15	0.0000	0.0020	0.0008	0.0000	0.0060
1/31/2016	0.13	0.0000	0.0030	0.0020	0.0000	0.0090
4/30/2016	0.18	0.0000	0.0010	0.0010	0.0000	0.0040
7/31/2016	0.00	0.0000	0.0020	0.0000	0.0000	0.0050
10/31/2016	0.00	0.0000	0.0012	0.0000	0.0000	0.0032
1/31/2017	0.10	0.0000	0.0016	0.0007	0.0000	0.0055
4/30/2017	0.12	0.0000	0.0027	0.0009	0.0000	0.0110
7/31/2017	0.11	0.0000	0.0031	0.0024	0.0011	0.0100
10/31/2017	0.00	0.0000	0.0016	0.0000	0.0000	0.0060
1/31/2018	0.49	0.0005	0.0027	0.0012	0.0000	0.0088
4/30/2018	0.19	0.0000	0.0010	0.0000	0.0000	0.0088
7/31/2018	0.00	0.0000	0.0023	0.0000	0.0000	0.0140
10/31/2018	0.00	0.0000	0.0022	0.0008	0.0000	0.0082
1/31/2019	0.19	0.0000	0.0019	0.0000	0.0000	0.0080

A reasonable potential analysis is completed using a single set of critical conditions for flow and pollutant concentration that will ensure the protection of water quality standards. To determine the critical condition of the effluent, EPA projects an upper bound of the effluent concentration based on the observed monitoring data and a selected probability basis. EPA generally applies the quantitative approach found in Appendix E of the *Technical Support Document for Water Quality-based Toxics Control* (TSD)<sup>1</sup> to determine the upper bound of the effluent data. This methodology accounts for effluent variability based on the size of the dataset and the occurrence of non-detects (i.e., samples results in which a parameter is not detected above laboratory detection limits). For datasets of 10 or more samples, EPA uses the upper bound effluent concentration at the 95<sup>th</sup> percentile of the dataset. For datasets of less than 10 samples, EPA uses the maximum value of the dataset.

EPA uses the dilution factor, the calculated upper bound of the effluent data and a concentration representative of the parameter in the receiving water outside of the zone of influence of the discharge to project the downstream concentration after complete mixing using the following simple mass-balance equation:-

$$C_s(DF - 1) + C_e = C_d(DF)$$

Where:

$C_s$  = upstream concentration (median value of available ambient data)

$C_e$  = effluent concentration (95<sup>th</sup> percentile or maximum of effluent concentration)

$C_d$  = downstream concentration

DF = dilution factor (See Dilution Factor section of Fact Sheet)

Solving for the downstream concentration results in:

$$C_d = \frac{C_s(DF - 1) + C_e}{DF}$$

When both the downstream concentration ( $C_d$ ) and the effluent concentration ( $C_e$ ) exceed the applicable criterion, there is reasonable potential for the discharge to cause, or contribute to an excursion above the water quality standard. *See* 40 C.F.R. § 122.44(d). When EPA determines that a discharge causes, has the reasonable potential to cause, or contribute to such an excursion, the permit must contain WQBELs for the parameter. *See* 40 C.F.R. § 122.44(d)(1)(iii). Limits are calculated by using the criterion as the downstream concentration ( $C_d$ ) and rearranging the mass balance equation to solve for the effluent concentration ( $C_e$ ). The table below presents the

## Appendix B – Reasonable Potential and Limits Calculations

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reasonable potential calculations and, if applicable, the calculation of the limits required in the permit. Refer to the pollutant-specific section of the Fact Sheet for a detailed discussion of these calculations, any assumptions that were made and the resulting permit requirements.

Pollutant	DF	C <sub>s</sub> <sup>1</sup>	C <sub>e</sub> <sup>2</sup>		C <sub>d</sub>		Criteria		Reasonable Potential		Limits	
	--	mg/L	Acute (mg/L)	Chronic (mg/L)	Acute (mg/L)	Chronic (mg/L)	Acute (mg/L)	Chronic (mg/L)	C <sub>d</sub> & C <sub>r</sub> > Acute Criteria	C <sub>d</sub> & C <sub>r</sub> > Chronic Criteria	Acute (mg/L)	Chronic (mg/L)
Ammonia (Warm)	30	0.0	37.6	37.6	1.25	1.25	9.5	1.4	N	N	N/A	N/A
Ammonia (Cold)		0.2	83.5	83.5	2.97	2.97	25.4	3.8	N	N	N/A	N/A
		µg/L	µg/L	µg/L	µg/L	µg/L	µg/L	µg/L			µg/L	µg/L
Cadmium		0.0	0.0	0.0	0.00	0.00	40.2	8.9	N	N	N/A	N/A
Copper		2.0	26.1	26.1	2.80	2.80	5.8	3.7	N	N	N/A	N/A
Lead		0.4	0.9	0.9	0.37	0.37	220.8	8.5	N	N	N/A	N/A
Nickel		0.0	5.5	5.5	0.18	0.18	74.7	8.3	N	N	N/A	N/A
Zinc		6.0	113.5	113.5	9.58	9.58	95.1	85.6	N	N	N/A	N/A

<sup>1</sup>Median ammonia concentration for the receiving water upstream of the zone of influence of the facility's discharge taken from the WET testing data during the review period (see Appendix A).

<sup>2</sup>Values represent the 95<sup>th</sup> percentile (for n ≥ 10) or maximum (for n < 10) concentrations from the DMR data and/or WET testing data during the review period (see Appendix A). If the metal already has a limit (for either acute or chronic conditions), the value represents the existing limit.

MASSACHUSETTS DEPARTMENT OF  
ENVIRONMENTAL PROTECTION  
COMMONWEALTH OF MASSACHUSETTS  
1 WINTER STREET  
BOSTON, MASSACHUSETTS 02108

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY  
WATER DIVISION  
REGION I  
BOSTON, MASSACHUSETTS 02109

JOINT PUBLIC NOTICE OF A DRAFT NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE INTO THE WATERS OF THE  
UNITED STATES UNDER SECTION 301 AND 402 OF THE CLEAN WATER ACT (THE  
"ACT"), AS AMENDED, AND REQUEST FOR STATE CERTIFICATION UNDER SECTION  
401 OF THE ACT.

DATE OF NOTICE: October 15, 2019

PERMIT NUMBER: **MA0101427**

PUBLIC NOTICE NUMBER: MA-003-20

NAME AND MAILING ADDRESS OF APPLICANT:

Newburyport Water Pollution Control Facility  
115B Water Street  
Newburyport, MA 01950

NAME AND ADDRESS OF THE FACILITY WHERE DISCHARGE OCCURS:

Newburyport Water Pollution Control Facility  
115B Water Street  
Newburyport, MA 01950

RECEIVING WATER AND CLASSIFICATION:

Merrimack River (MA84A-06): Classification SB

PREPARATION OF THE DRAFT PERMIT:

The U.S. Environmental Protection Agency, (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) have cooperated in the development of a draft permit for the Newburyport Water Pollution Control Facility, which discharges treated domestic wastewater. Sludge from this facility is transported to Agresource, Inc., in Massachusetts where it is composted. The effluent limits and permit conditions imposed have been drafted to assure that State Water Quality Standards and provisions of the Clean Water Act will be met. EPA has formally requested that the State certify this draft permit pursuant to Section 401 of the Clean Water Act and expects that the draft permit will be certified.

#### INFORMATION ABOUT THE DRAFT PERMIT:

The draft permit and explanatory fact sheet may be obtained at no cost at [http://www.epa.gov/region1/npdes/draft\\_permits\\_listing\\_ma.html](http://www.epa.gov/region1/npdes/draft_permits_listing_ma.html) or by contacting:

Michele Barden  
U.S. EPA  
5 Post Office Square (06-1)  
Suite 100  
Boston, MA 02109-3912  
Telephone: (617) 918-1539  
[barden.michele@epa.gov](mailto:barden.michele@epa.gov)

The administrative record containing all documents relating to this draft permit is on file and may be inspected at the EPA Boston office mentioned above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except holidays.

#### PUBLIC COMMENT AND REQUEST FOR PUBLIC HEARING:

All persons, including applicants, who believe any condition of this draft permit is inappropriate, must raise all issues and submit all available comments and all supporting material for their comments in full by November 13, 2019, to the EPA contact and address listed above. Any person, prior to such date, may submit a request in writing to EPA and the State Agency for a public hearing to consider this draft permit. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on this draft permit the Regional Administrator will respond to all significant comments and make the responses available to the public at EPA's Boston office.

#### FINAL PERMIT DECISION AND APPEALS:

Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice. Within 30 days following the notice of the final permit decision any interested person may submit a request for a formal hearing to reconsider or contest the final decision.

LEALDON LANGLEY, DIRECTOR  
DIVISION OF WATERSHED MGMT  
MASSACHUSETTS DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

KEN MORAFF, DIRECTOR  
WATER DIVISION  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY – REGION 1