



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

July 1, 2022

Mr. Jeffery O'Hearn
Pioneer Plastics Corporation
1 Pionite Road
Auburn, ME 04210

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0000540
Maine Waste Discharge License (WDL) Application #W007876-5S-I-R
Final Permit/License

Dear Mr. O'Hearn,

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this permit/license renewal and its attached conditions carefully. Compliance with this permit/license will protect water quality.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-1298.

Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Breanne Blaisdell
Bureau of Water Quality

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

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

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

Enc.

cc:

Cindy Dionne, MDEP
Stuart Rose, MDEP
Pamela Parker, MDEP
Thomas Danielson, MDEP
Lori Mitchell, MDEP
Irene Saumur, MDEP
Sandy Mojica, USEPA
Nathan Chien, USEPA
Richard Carvalho, USEPA



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: November 2018

Contact: (207) 287-2452

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed more than 30 calendar days after the date on which the Commissioner's decision was filed with the Board will be dismissed unless notice of the Commissioner's license decision was required to be given to the person filing an appeal (appellant) and the notice was not given as required.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. An appeal may be submitted by fax or e-mail if it contains a scanned original signature. It is recommended that a faxed or e-mailed appeal be followed by the submittal of mailed original paper documents. The complete appeal, including any attachments, must be received at DEP's offices in Augusta on or before 5:00 PM on the due date; materials received after 5:00 pm are not considered received until the following day. The risk of material not being received in a timely manner is on the sender, regardless of the method used. The appellant must also send a copy of the appeal documents to the Commissioner of the DEP; the applicant (if the appellant is not the applicant in the license proceeding at issue); and if a hearing was held on the application, any intervenor in that hearing process. All of the information listed in the next section of this information sheet must be submitted at the time the appeal is filed.

INFORMATION APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status.* The appeal must explain how the appellant has standing to maintain an appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions regarding compliance with the law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing requirements that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for public hearing must be filed as part of the notice of appeal, and must include an offer of proof in accordance with Chapter 2. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed evidence must be submitted with the appeal. The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered in an appeal only under very limited circumstances. The proposed evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Specific requirements for supplemental evidence are found in Chapter 2 § 24.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made easily accessible by the DEP. Upon request, the DEP will make application materials available during normal working hours, provide space to review the file, and provide an opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a license holder may proceed with a project pending the outcome of an appeal, but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, and will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, any materials submitted in response to the appeal, and relevant excerpts from the DEP's application review file will be sent to Board members with a recommended decision from DEP staff. The appellant, the license holder if different from the appellant, and any interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. The appellant and the license holder will have an opportunity to address the Board at the Board meeting. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see 38 M.R.S. § 346(1); 06-096 C.M.R. ch. 2; 5 M.R.S. § 11001; and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S. § 346(4).

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

ADDITIONAL INFORMATION

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

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

PIONEER PLASTICS CORPORATION)	MAINE POLLUTANT DISCHARGE
AUBURN, ANDROSCOGGIN COUNTY)	ELIMINATION SYSTEM PERMIT
NON-PROCESS AND COOLING WATERS)	AND
ME0000540)	WASTE DISCHARGE LICENSE
W007876-5S-I-R)	RENEWAL
APPROVAL		

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *et seq.*, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of PIONEER PLASTICS CORPORATION (permittee), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

On September 10, 2021, the Department accepted as complete for processing an application from the permittee for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0000540 / Maine Waste Discharge License (WDL) #W007876-5S-H-R, which was issued by the Department on September 21, 2016 for a five-year term. The 9/21/16 permit authorized the daily maximum discharge of 1.2 million gallons per day (MGD) of non-process wastewater and non-contact cooling water on an intermittent basis and when the receiving water flow is at least 75 cubic feet per second, to the Little Androscoggin River, Class C, in Auburn, Maine.

PERMIT SUMMARY

This permitting action carries forward all the terms and conditions of the previous permit.

CONCLUSIONS

BASED on the findings in the attached and incorporated Fact Sheet dated July 1, 2022, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S. §464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of PIONEER PLASTICS CORPORATION to discharge a daily maximum of 1.2 MGD of non-process wastewater and non-contact cooling water on an intermittent basis and when the receiving water flow is at least 75 cubic feet per second, to the Little Androscoggin River, Class C, in Auburn, Maine, SUBJECT TO ALL APPLICABLE STANDARDS AND REGULATIONS AND THE FOLLOWING CONDITIONS:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. *Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. 2(21)(A) (amended June 9, 2018).

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 1 DAY OF July 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY



For, Melanie Loyzim, Commissioner

FILED

JULY 1, 2022

**State of Maine
Board of Environmental Protection**

Date filed with Board of Environmental Protection _____

Date of initial receipt of application: September 9, 2021

Date of application acceptance: September 10, 2021

This Order prepared by Rod Robert, Bureau of Water Quality

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge non-process wastewater and non-contact cooling water from **Outfall #002A** to the Little Androscoggin River at Auburn. Such discharges are limited and must be monitored by the permittee as specified below ⁽¹⁾⁽²⁾:

Effluent Limitations	Discharge Limitations		Minimum Monitoring Requirements	
	Daily Maximum	Daily Maximum	Measurement Frequency	Sample Type
Flow [00056]	1.2 MGD [03]	---	When Discharging [WH/DS]	Calculate [CA]
Discharge Duration [81381]	Report Total Hours [8A]	---	Once/Discharge [01/DS]	Recorder [RC]
Total Copper [01042]	Report lbs./day [26]	Report µg/L [28]	When Discharging [WH/DS]	Composite ⁽⁴⁾ [08]
Effluent Temperature [00011]	78°F [15]	---	Twice/Discharge [02/DS]	Measure [MS]
pH [00400]	6.0 – 8.5 SU [12]	---	Twice/Discharge [02/DS]	Recorder [RC]
Whole Effluent Toxicity ⁽³⁾ Acute–No Observed Effect Level (A-NOEL) <i>Ceriodaphnia dubia</i> (Water Flea) [TDA3B]	Report % [23]	---	When Discharging [WH/DS]	Composite ⁽⁴⁾ [08]

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

Footnotes: See Pages 5 and 6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

FOOTNOTES

1. **Sampling** – All effluent monitoring must be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater testing. Samples that are sent to another POTW licensed pursuant to Waste discharge licenses, 38 M.R.S. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of Maine Comprehensive and Limited Environmental Laboratory Certification Rules, 10-144 CMR 263 (last amended December 19, 2018). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. **River Flow Restricted Discharge** – The permittee is not authorized to discharge when the receiving water flow rate is less than 75 cubic feet per second as measured at United States Geological Survey (USGS) river gauge #01057000 (Little Androscoggin River near South Paris, Maine), or other methods approved in writing by the Department.
3. **Whole Effluent Toxicity (WET)** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute threshold of 2.4%), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. This permitting action is not establishing chronic WET testing based on the intermittent nature of the discharge and Department best professional judgment that the discharge does not exhibit chronic effects on the receiving water. The critical acute threshold of 2.4% was derived as the mathematical inverse of the applicable acute dilution factor of 41.4:1.

The permittee must initiate A-NOEL WET testing at a minimum frequency of once per discharge event using the water flea (*Ceriodaphnia dubia*). The permittee must evaluate test results being submitted and identify to the Department possible exceedances of the critical acute water quality threshold of 2.4%.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

Toxicity tests must be conducted by an experienced laboratory approved by the Department. See https://www.maine.gov/dep/water/wd/municipal_industrial/index.html for a copy of the Department's WET report form. The laboratory must follow procedures as described in the following U.S. Environmental Protection Agency (USEPA) methods manuals

- a. U.S. Environmental Protection Agency. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th ed. EPA 821-R-02-012. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the acute method manual).

The permittee is also required to analyze the effluent for the parameters specified in the analytical of the "WET and Chemical Specific Data Report Form" form each time a WET test is performed. The form can be found at:

https://www.maine.gov/dep/water/wd/municipal_industrial/index.html

4. **Composite Samples** – Composite samples collected for total copper and WET testing must be comprised of eight (8) grab samples collected at equal intervals over the course of a single discharge event. The permittee must combine all grab samples to form a composite for laboratory analysis.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of the receiving waters.
3. The permittee must not discharge effluent that causes visible discoloration or turbidity in the receiving waters or otherwise impairs the uses designated for the classification of the receiving waters.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification

SPECIAL CONDITIONS

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on September 10, 2021; 2) the terms and conditions of this permit; 3) only when the river flow is at least 75 cfs; and 4) only from Outfall #002A. Discharges of wastewater from any other point source are not authorized under this permit and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting* of this permit.

D. PROCEDURE FOR COOLING POND DISCHARGE

1. **At least two weeks prior to discharge and at a minimum frequency of twice per week**, the permittee must:
 - a. Monitor and record the cooling pond waters for the following parameters: total copper, temperature, pH, and water treatment additives (corrosion inhibitors, oxygen scavengers, etc.) used within the previous 30 days in any process contributing wastewater flows to the cooling pond.
 - b. Provide written notice to the Department assigned facility inspector that a discharge is scheduled and provide results of testing as specified in Special Condition D.1.a. of this permit as soon as they become available.
 - c. Notify the Department as to whether or not biocides, or the equivalent, have been used within the previous 60 days in any process contributing wastewater flows to the cooling pond. The Department may require additional monitoring or testing prior to discharge, at its discretion, for any chemical or compounds that may be present in the cooling pond waters.
2. **Upon termination of the discharge** (the point at which the gravity fed discharge ceases), the permittee must cover/plug the outlet pipe(s) in the cooling pond to ensure that any residual water and sludge remaining in the pond is not discharged to the river. Any residual water or sludge removed from the pond must be properly disposed of as solid waste in accordance with applicable Department rules and Maine laws.

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENTS

1. Any substantial change (increase or decrease) in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance.
2. For the purposes of this section, adequate notice must include information on:
 - (a) The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
 - (b) Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

F. OPERATION & MAINTENANCE (O&M) PLAN

The permittee must maintain a current written comprehensive Operation & Maintenance (O&M) Plan for the facility. The plan must provide a systematic approach by which the permittee must 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.

By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee must evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up-to-date. The O&M Plan must be kept on-site at all times and made available to Department and USEPA personnel upon request.

Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility, the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

SPECIAL CONDITIONS

G. MONITORING AND REPORTING

Electronic Reporting

NPDES Electronic Reporting, 40 C.F.R. 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than midnight on the 15th day of the month following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Toxics reporting must be done using the DEP toxsheet reporting form. An electronic copy of the Toxsheet reporting document must be submitted to your Department compliance inspector as an attachment to an email. In addition, a hardcopy form of this sheet must be signed and submitted to your compliance inspector, or a copy attached to your NetDMR submittal will suffice. Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned compliance inspector (unless otherwise specified) following address:

Department of Environmental Protection
Bureau of Water Quality
Southern Maine Regional Office
Division of Water Quality Management
312 Canco Road
Portland, Maine 04103

SPECIAL CONDITIONS

H. REOPENING OF PERMIT FOR MODIFICATION

In accordance with 38 M.R.S. § 414-A(5) and upon evaluation of the test results required by the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: (1) include effluent limitations necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

I. SEVERABILITY

In the event that any provision or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit must remain in full force and effect and must be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
MAINE WASTE DISCHARGE LICENSE**

FACT SHEET

DATE: **July 1, 2022**

PERMIT NUMBER: **ME0000540**

WASTE DISCHARGE LICENSE: **W007876-5S-I-R**

NAME AND ADDRESS OF APPLICANT:

**PIONEER PLASTICS CORPORATION
1 PIONITE ROAD
AUBURN, ME 04210**

COUNTY: **ANDROSCOGGIN**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**PIONEER PLASTICS CORPORATION
1 PIONITE ROAD
AUBURN, ME 04210**

RECEIVING WATER/CLASSIFICATION:

LITTLE ANDROSCOGGIN RIVER/CLASS C

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**JEFFREY OHEARN
(207) 225-0029
jeffrey_ohearn@panolam.com**

1. APPLICATION SUMMARY

- a. Application: On September 10, 2021, the Department of Environmental Protection (Department) accepted as complete for processing an application from Pioneer Plastics Corporation (permittee) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0000540 / Maine Waste Discharge License (WDL) #W007876-5S-H-R, which was issued by the Department on September 21, 2016 for a five-year term. The 9/21/16 permit authorized the daily maximum discharge of 1.2 million gallons per day (MGD) of non-process wastewater and non-contact cooling water on an intermittent basis and when the receiving water flow is at least 75 cubic feet per second, to the Little Androscoggin River, Class C, in Auburn, Maine.

2. PERMIT SUMMARY

- a. Terms and conditions: This permitting action carries forward all the terms and conditions of the previous permit.
- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee's facility.

August 30, 1995 – The U.S. Environmental Protection Agency (USEPA) issued a renewal of National Pollutant Discharge Elimination System (NPDES) permit #ME0000540 to Pioneer Plastics Corporation. The 8/30/95 permit superseded the NPDES permit issued to this facility by the USEPA on December 20, 1974 (earliest NPDES permit on file with the Department).

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine. From that date forward, the permit program has been referred to as the MEPDES permit program and #ME0000540 (same as the NPDES permit) will be the primary reference number for the facility.

September 24, 2001 – The Department issued WDL #W007876-5S-E-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five year term. The 9/24/01 permit superseded WDL Modification #W007876-57-C-M issued on May 22, 1997 and previous WDLs and WDL Transfers.

October 31, 2005 – Pioneer Plastics submitted to the Department, for review and acceptance, a Notice of Intent (NOI) to Comply with the Maine Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activity. The NOI was assigned #MER05B360.

December 11, 2006 –The Department issued WDL #W007876-5S-F-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five-year term.

December 5, 2011 –The Department issued WDL #W007876-5S-G-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five-year term.

May 10, 2016 – The permittee submitted a timely and complete General Application to the Department for renewal of the December 5, 2011 permit (including subsequent minor permit revisions and permit modifications). The application was accepted for processing on the same day and was assigned WDL #W007876-5S-H-R / MEPDES #ME0000540.

September 12, 2016 –The Department issued WDL #W007876-5S-H-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five-year term.

2. PERMIT SUMMARY (cont'd)

September 9, 2021 – The permittee submitted a timely and complete General Application to the Department for renewal of the September 12, 2016 permit (including subsequent minor permit revisions and permit modifications). The application was accepted for processing on September 10, 2021 and was assigned WDL #W007876-5S-I-R / MEPDES #ME0000540.

- c. **Source Description:** The permittee manufactures high pressure decorative laminates, treated papers and specialty resins. The manufacturing process requires cooling waters to cool critical plant equipment. The permittee utilizes a 130-foot by 160-foot by 8-foot deep concrete structure as a reservoir for a closed loop cooling system. Water is drawn from the Little Androscoggin River and pumped to the cooling water pond and then distributed to various manufacturing processes for cooling presses in the press room and reactor vessels and scrubber rollers in the specialty resins room. In addition to river water, municipal water is utilized for product manufacturing and make-up water for steam production in the facility boilers. Cooling waters are recycled through the cooling water pond and distributed through a series of spray nozzles in the pond to dissipate the heat in the water to the atmosphere.

Daily cooling water sources include: river make-up water for the cooling pond reservoir; blowdown and make-up waters from the facility's boilers; steam condensate from presses/reactors; and from critical equipment components such as mechanical seals and optical sensors. Although the facility cooling water system is a closed loop system, the cooling water pond and internal cooling system must be periodically taken off-line for inspection or routine maintenance. Intermittent cooling waters associated with the shutdown include bleeding off internal systems that include steam condensate and hot water from the accumulators, make-up water from the boilers, reactors, and presses, and waters from the chilled water system.

Approximate volumes are as follows:

Contributing Flow	Volume (gallons)
Stream condensate/hot water from the accumulators	66,300
Water discharged from boilers	8,820
Water discharged from reactors and presses	10,000
Water discharged from closed cooling loop	10,000
Water discharged from chilled water system	1,000

In order to maintain heat transfer efficiency in the facility's boilers, the permittee adds chemicals to the make-up water for neutralization, oxygen scavenging, scaling prevention and maintaining the proper levels of alkalinity. The permittee also utilizes a biocide and corrosion inhibitors to prevent biological growth and corrosion in the system.

2. PERMIT SUMMARY (cont'd)

All manufacturing process and sanitary wastewaters generated are conveyed to the Lewiston-Auburn Water Pollution Control Authority (LAWPCA) located in Lewiston, Maine. It is noted that in the past, the permittee reported that their request to convey cooling pond wastewater to LAWPCA as an alternative to direct discharge to the river was not accepted. Cooling pond discharges are typically performed in the spring of the year which coincides with periods of high flows to publicly owned treatment facilities, and for certain facilities, discharges from combined sewer overflow points.

A map showing the location of the facility and the receiving water is included as Fact Sheet **Attachment A**.

- d. Wastewater Treatment: The permittee does not provide a formal level of treatment to the wastewater. Rather, the facility implements operational constraints before discharging to the receiving water.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S. § 414 A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with applicable state law, and ensure that the receiving waters attain the State water quality standards as described in Maine's Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (amended February 16, 2020), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of major river basins, 38 M.R.S. § 467(1)(B)(1)(b) classifies the Little Androscoggin River (From the Maine Central Railroad bridge in South Paris to its confluence with the Androscoggin River) at the point of discharge as Class C waters. *Standards for classification of fresh surface waters*, 38 M.R.S. § 465(4) describes the standards for Class C waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2018/2020/2022 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the 24.49-mile-long main stem segment of the Little Androscoggin River from below the Route 121 bridge in Oxford (Assessment Unit ID ME0104000209_417R_01) as, "Category 2: Rivers and Streams Attaining Some Designated Uses – Insufficient Information for Other Uses."

5. RECEIVING WATER QUALITY CONDITIONS

The Report lists all of Maine's fresh waters as, "Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury." Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "All freshwaters are listed in Category 4A (Total Maximum Daily Load (TMDL) Completed) due to USEPA approval of a Regional Mercury TMDL." Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many fish from any given waters do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption.

The Department has no information that the discharge from the permittee, as conditioned, causes or contributes to non-attainment of applicable Class C water quality standards.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established a daily maximum discharge flow limit of 1.2 MGD based on the maximum discharge rate proposed by the permittee, and utilized this flow limit to calculate applicable discharge limits for total copper, phenols and temperature.

This permitting action also carries forward the condition that discharge from the facility is only allowed when the minimum stream flow of the Little Androscoggin River is 75 cfs as measured at United States Geological Survey (USGS) gauge #01057000, or other method approved in writing by the Department.

The permittee has conducted two discharges from the facility since the issuance of the last permit. All limitations for existing parameters were met without exceedance.

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

- b. Dilution Factors: The acute dilution factor associated with the daily maximum discharge of 1.2 MGD at a minimum stream flow of 75 cubic feet per second (cfs) was derived in accordance with *Surface Water Toxics Control Program*, 06-096 CMR 530 § 4.A. Due to the intermittent nature of the discharge (historically once every 4-5 years) and short discharge duration (historically for less than 48 hours), the Department is regulating the discharge for acute effects on the receiving water. By prohibiting discharges when the river flow is below 75 cfs, this permitting action ensures that, following a reasonable opportunity for dilution with the receiving waters, the permit effluent limits will not exceed the critical acute water quality-based thresholds for the Little Androscoggin River. With a prohibition on discharges when river flow is less than 75 cfs, the acute dilution factor was derived as follows:

$$\text{River Flow} = 75 \text{ cfs} \quad \Rightarrow \quad \frac{(75 \text{ cfs})(0.6464) + 1.2 \text{ MGD}}{1.2 \text{ MGD}} = 41.4:1$$

- c. Temperature: *Regulations Relating To Temperature*, 06-096 CMR 582 limits thermal discharges to an in-stream temperature increase (ΔT) of 0.5°F above the ambient receiving water temperature when the weekly average temperature of the receiving water is greater than or equal to 66° F or when the daily maximum temperature is greater than or equal to 73° F. The temperature thresholds are based on USEPA water quality criteria for the protection of brook trout and Atlantic salmon. The weekly average temperature of 66°F was derived to protect for normal growth of the brook trout and the daily maximum threshold temperature of 73° F protects for the survival of juveniles and adult Atlantic salmon during the summer months. The Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average.

To promote consistency, the Department also interprets the ΔT of 0.5° F as a weekly rolling average criterion when the receiving water temperature is $\geq 66^\circ \text{ F}$ and $< 73^\circ \text{ F}$.

The assimilative capacity of the Little Androscoggin River (thermal load that would cause the stream to increase by 0.5°F) at a stream flow of 75 cfs can be calculated as follows:

$$(75 \text{ cfs})(0.6464)(0.5^\circ \text{ F})(8.34 \text{ lbs./day})(10^6 \text{ gallons}) = 2.0 \times 10^8 \text{ BTU/day}$$

Based on the data cited above, the Department established a best professional judgment daily maximum temperature limit of 78°F in the previous permitting action. Due to the intermittent nature of the discharge and short-term discharge duration, the Department is regulating temperature associated with this discharge as an acute effect.

When the receiving water is $> 73^\circ \text{ F}$, the in-stream temperature difference of 0.5°F is a daily maximum limit thus, the thermal heat load based on a daily maximum flow of 1.2 MGD at 78°F can be calculated as follows:

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

$$(1.2 \text{ MGD})(78^{\circ}\text{F} - 73^{\circ}\text{F})(8.34 \text{ lbs./gal})(10^6) = 5.0 \times 10^7 \text{ BTU/day}$$

The calculated thermal heat load using the maximum discharge flow rate and temperature is lower than the assimilative capacity of the river. Therefore, compliance with the daily maximum effluent temperature limitation of 78°F ensures that the discharge will not cause an in-stream temperature increase (ΔT) of 0.5°F above the ambient receiving water temperature. The calculation above is an example of thermal loading based on worst case scenarios for both the ambient receiving water and discharge from Outfall #002A. It is noted the Department determines compliance based on actual ambient receiving water flows and temperatures and actual discharge flows and temperatures.

- d. Whole Effluent Toxicity (WET) and Chemical Specific Testing: 38 M.R.S. § 414-A and 38 M.R.S. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 CMR 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. 06-096 CMR 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

WET and supporting analytical chemistry testing as required by 06-096 CMR 530 are included in this permit to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after the evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater and existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. The 2001 permitting action established acute WET testing to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. (Chronic WET testing is not required due to the intermittent nature and short-term duration of the discharge.) Acute WET tests are performed on the invertebrate water flea (*Ceriodaphnia dubia*).

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

06-096 CMR 530(2)(A) specifies the dischargers subject to the rule as: "All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria."

The Department established acute WET testing at a frequency of once per discharge event based on best professional judgment (BPJ) that the effluent "may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria" and this permitting action is carrying forward acute WET testing on the same BPJ basis.

06-096 CMR 530 §(3)(E) states "For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedance of water quality criteria, appropriate water quality-based limits must be established in any licensing action."

06-096 CMR 530 (3) states, "In determining if effluent limits are required, the Department will consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations."

WET Evaluation

When discharging, a WET analysis is performed to determine effects on receiving water due to the discharge. The permittee has conducted two discharges since the issuance of the last permit without exceedance.

This permitting action carries forward the requirement for the permittee to conduct acute WET tests on the water flea when discharging.

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

Chemical Specific Evaluation

The permittee has conducted two discharges from the facility since issuance of the last permit without exceedance. At this time, the Department does not have information that the discharge contains pollutants at levels that have a reasonable potential to cause or contribute to an exceedance of water quality criteria.

This permitting action addresses all known pollutants consistent with 06-096 CMR 530 § 2.D.5, and the Department has determined that priority pollutant and chronic WET testing for Outfall #002A is not warranted at this time.

- e. pH: Previous permitting action established, and this permitting action carries forward, a BPT-based pH limit of 6.0 – 8.5 standard units and a Twice/Discharge monitoring requirement.
- f. Copper: Previous permitting action established a total copper limitation due to the anticipated presence of this metal in the effluent. Possible sources of copper in the discharge include, the intake water, piping in the facility, and algaecide used in the cooling water pond. The September 2001 permit contained a sliding scale daily maximum concentration limit. The limitation value was based on the discharge duration, dilution, an AWQC of 3.8907 µg/L, and a maximum discharge volume of 1.34 million gallons.

On October 9, 2005, a new Department rule, Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, became effective. Chapter 584 established an acute, freshwater ambient water quality criterion of 3.07277 µg/L for copper. The December 2006 permit established both mass and concentration daily maximum limitations for total copper based on the new AWQC, a flow rate of 1.2 MGD, and an acute dilution factor of 41.4:1. The calculations also took into consideration a background concentration of 10% of the AWQC and a reserve of 15%.

The 2001 and 2006 copper limitation calculations can be viewed in detail within their respective permits.

Due to the permittees record of compliance with the total copper AWQC, the September 2016 permitting action eliminated the numerical mass and concentration limitations for total copper and established mass and concentration reporting limitations.

In February 2020, Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, was amended and site-specific copper criteria were adopted for the Little Androscoggin River. The ambient water quality criteria (AWQC) for copper from the outfall of the Paris Utility District in Paris, to the confluence of the Little Androscoggin River with the main stem Androscoggin River in Auburn is 10.85 micrograms per liter (µg/L) for acute exposure and 6.78 µg/L for chronic exposure.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and the discharge will not cause, contribute, or have a reasonable potential to cause or contribute to the failure of the water body to meet standards for Class C classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Lewiston Sun Journal* newspaper on or about September 10, 2021. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 C.M.R. 522 (effective January 12, 2001).

9. DEPARTMENT CONTACTS

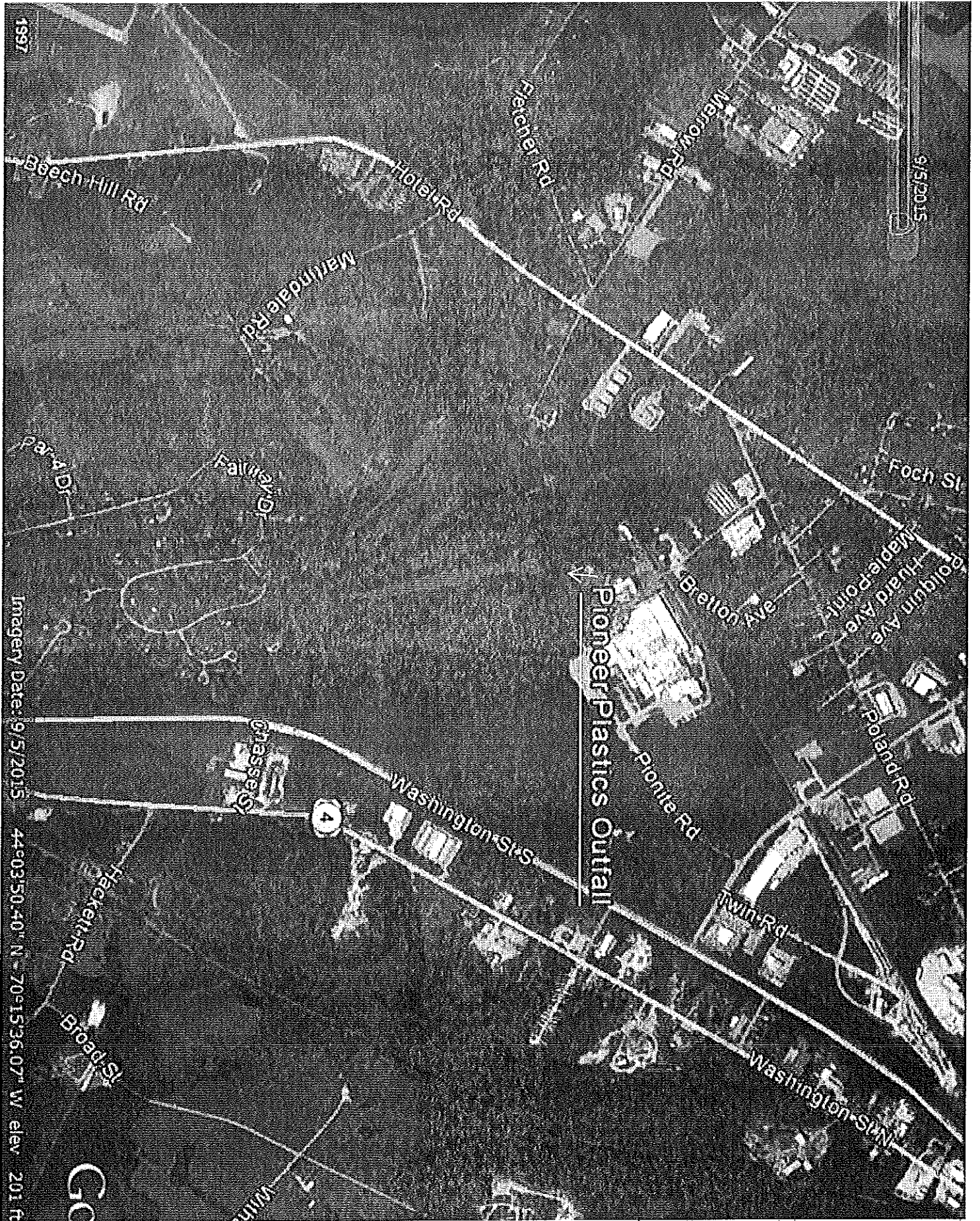
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Rodney Robert
Division of Water Quality Management - Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 446-1875
e-mail: rodney.robert@maine.gov

10. RESPONSE TO COMMENTS

During the period of May 31, 2022, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

ATTACHMENT A



1997

9/5/2015

Imagery Date: 9/5/2015

44°03'50.40" N - 70°15'36.07" W elev 201 ft

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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A. GENERAL PROVISIONS

1. **General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. **Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
 - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
 - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

3. **Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water 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, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

4. **Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department 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 Department upon request, copies of records required to be kept by this permit.

5. **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 condition.

6. **Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

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

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. 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.

11. Other laws. The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA 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.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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- maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
 - (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
 - (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
 - (e) The permittee shall install flow measuring facilities of a design approved by the Department.
 - (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. 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.

3. Need to halt or reduce activity 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.

4. 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.

5. Bypasses.

- (a) Definitions.
 - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - (ii) 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.
 - (i) 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.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
 - (i) Bypass is prohibited, and the Department 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 preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (c) of this section.
 - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

- (a) Definition. Upset means an exceptional incident in which there is 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 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 (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:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated; and
 - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
 - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. 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 five years, 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 Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) 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 CFR 122.29(b); or
 - (ii) 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 under Section D(4).
 - (iii) 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 Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) 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.
- (f) Twenty-four hour reporting.
 - (i) 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 submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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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.

- (ii) 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.

- (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 Department in the permit to be reported within 24 hours.

- (iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- (i) One hundred micrograms per liter (100 ug/l);

- (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

- (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
 - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) 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.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

3. Removed substances. Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

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. Except, however, bacteriological tests may be calculated as a geometric mean.

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 State. 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.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

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 other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 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 measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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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.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

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

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) 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 Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

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.

Pass through means a discharge which exits the POTW into waters of the State 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).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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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 or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

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 any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

Septage means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

Time weighted composite means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

Toxic pollutant includes 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. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water 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 means the aggregate toxic effect of an effluent measured directly by a toxicity test.