



STATE OF MAINE  
Department of Environmental Protection

Paul R. LePage  
GOVERNOR

Patricia W. Aho  
COMMISSIONER

December 3, 2012

Mr. Nick Getchell  
Plant Manager  
True North Maine LLC  
133 Smalls Point Road  
Machiasport, ME. 04655

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0036978  
Maine Waste Discharge License (WDL) Application #W007951-5P-E-R  
**Final Permit**

Dear Mr. Getchell:

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. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

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 287-7693.

Sincerely,

Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Clarissa Trasko, DEP/EMRO  
Sandy Mojica, USEPA

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-3901 FAX: (207) 287-3435  
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PRESQUE ISLE, MAINE 04769-2094  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

**DEPARTMENT ORDER**

**IN THE MATTER OF**

TRUE NORTH MAINE INC.	)	MAINE POLLUTANT DISCHARGE
MACHIASPORT, WASHINGTON COUNTY, ME)		ELIMINATION SYSTEM PERMIT
SEAFOOD PROCESSING FACILITY	)	AND
W007951-5P-E-R	)	WASTE DISCHARGE LICENSE
ME0036978	)	<b>RENEWAL</b>
<b>APPROVAL</b>		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, *et seq.* and *Conditions of Licenses*, 38 M.R.S.A., Section 414-A *et seq.*, and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the TRUE NORTH MAINE INC. (True North/permittee hereinafter) with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

True North has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0024058/Maine Waste Discharge License (WDL) #W007951-5P-C-R (permit hereinafter), which was issued on November 29, 2007, for a five-year term. The permit approved the discharge of up to a maximum of 0.11 million gallons per day (MGD) of salmon processing wastewater to the tidewaters of Machiasport (Bucks Harbor), Class SB, in Machiasport, Maine. The November 29, 2007, permit was issued in the name of Atlantic Salmon of Maine LLC but was subsequently transferred to True North Maine Inc. on February 12, 2012. The November 29, 2007, MEPDES permit number of ME0024058 was replaced with a new number, ME0036879 at the time of the permit transfer and will be utilized as the facility's primary reference number in this permitting action.

**PERMIT SUMMARY**

This permit is carrying forward all the terms and conditions of the previous permitting action except that this permit is:

1. Eliminating schedule of compliance dates for the submission of an Operation and Maintenance Plan and a Bio-Security and Disease Contingency Plan as both requirements have been met.
2. Authorizing the permittee to process blue mussels at the facility. As a result, Special Condition A of the permit now includes a monthly average and a daily maximum reporting requirement for production of blue mussel processing.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated October 24, 2012, 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, 38 MRSA Section 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 natural resource, that water quality will be maintained and protected;
  - (c) The standards of classification of the receiving water body are met or, 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 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.

**ACTION**

THEREFORE, the Department APPROVES the above noted application of TRUE NORTH MAINE INC. to discharge up to a daily maximum of 0.11 MGD from a seafood processing wastewater to Bucks Harbor, Class SB, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

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 the this permit, the terms and conditions of the 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.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective April 1, 2003)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

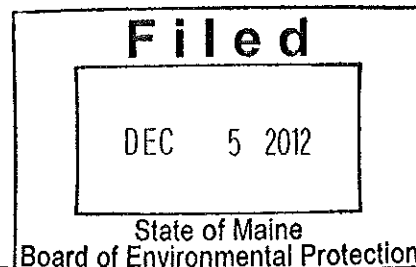
DONE AND DATED AT AUGUSTA, MAINE, THIS 4<sup>th</sup> DAY OF DECEMBER, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn  
For Patricia W. Aho, Commissioner

Date of initial receipt of application: September 18, 2012

Date of application acceptance: October 1, 2012



Date filed with Board of Environmental Protection: \_\_\_\_\_

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- The permittee is authorized to discharge **seafood processing wastewater from Outfall #001A** to Bucks Harbor. Such discharges shall be limited and monitored by the permittee as specified below:

Monitoring Parameter	Discharge Limitations and Reporting Requirements				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow <i>[50050]</i>	Report MGD <i>[03]</i>	0.11 MGD <i>[03]</i>	---	---	Daily <i>[01/01]</i>	Measured <i>[MS]</i>
BOD <i>[00310]</i>	6,954 lbs/day <i>[26]</i>	11,346 lbs/day <i>[26]</i>	38 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	62 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	1 per 5 Days of Discharging <sup>2</sup> <i>[01/05]</i>	24-hour Composite <sup>3</sup> <i>[24]</i>
TSS <i>[00530]</i>	1,391 lbs/day <i>[26]</i>	2,379 lbs/day <i>[26]</i>	7.6 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	13 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	1 per 5 Days of Discharging <sup>2</sup> <i>[01/05]</i>	24-hour Composite <sup>3</sup> <i>[24]</i>
Oil and Grease <i>[00552]</i>	275 lbs/day <i>[26]</i>	769 lbs/day <i>[26]</i>	1.5 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	4.2 lbs/1000 lbs of production <sup>1</sup> <i>[31]</i>	1 per 5 Days of Discharging <sup>2</sup> <i>[01/05]</i>	Grab <i>[GR]</i>
Total Residual Chlorine <sup>4</sup> <i>[50060]</i>	---	---	0.1 mg/L <i>[19]</i>	0.3 mg/L <i>[19]</i>	Daily <i>[01/01]</i>	Grab <i>[GR]</i>
Production <sup>5</sup> <i>[00145]</i> <i>(Atlantic salmon)</i>	Report lbs/day <i>[26]</i>	Report lbs/day <i>[26]</i>	---	---	Daily <i>[01/01]</i>	Measured <i>[MS]</i>
Production <sup>5</sup> <i>[00145]</i> <i>(Blue mussels)</i>	Report lbs/day <i>[26]</i>	Report lbs/day <i>[26]</i>	---	---	Daily <i>[01/01]</i>	Measured <i>[MS]</i>
pH <i>[00400]</i>	---	---	6.0-9.0 S.U. <i>[12]</i>	6.0-9.0 S.U. <i>[12]</i>	1 per 5 Days of Discharging <sup>2</sup> <i>[01/05]</i>	Grab <i>[GR]</i>

The italicized numeric values bracketed in the table above and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMRs). Footnotes are found on Pages 6 and 7.

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS ,

#### Footnotes:

**Effluent sampling** - Sampling and analysis must be conducted in accordance with; a) methods approved in 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 shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 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 February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

**All waste waters and materials that have been in contact with fish or fish eggs during transport, storage, and processing must be subject to proper wastewater treatment and disinfection or solid waste treatment to remove any potential for transfer of diseases or pathogens prior to discharge to the receiving water or the environment.**

1. **Production Based Limits:** The effluent concentrations of the pollutants noted are limited in pounds of pollutant per 1,000 pounds of fish live weight, processed per day at the facility.
2. **Once per Five Days:** Sampling shall be conducted at a minimum frequency of one sample for each five days of processing / discharging. Sampling shall be conducted on periods of less than five days of processing / discharging as necessary to complete and start monitoring periods within calendar months.
3. **Composite Samples:** The permittee shall manually composite a minimum of four grab samples collected at one to two-hour intervals during the working day at the facility.

## SPECIAL CONDITIONS

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

#### Footnotes:

4. **Total Residual Chlorine (TRC)** – Limitations and monitoring requirements for TRC are applicable any time elemental chlorine or chlorine based compounds are being used at the facility to disinfect the discharge or in any way in which they may enter the waste-stream and receiving water. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility shall report "NODI-9" for this parameter on the monthly DMR. The permittee shall utilize approved test methods that are capable of bracketing the TRC limitation in this permit.
5. **Production:** Production refers to the pounds of fish live weight, processed per day at the facility.

### B. NARRATIVE EFFLUENT LIMITATIONS:

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.
3. The discharges shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

### C. DISINFECTION

If chlorination is used in any facility processes (pathogen control, disinfection etc.) such that chlorine may be discharged to the receiving water, an approved chlorine contact tank providing the proper detention time consistent with good engineering practice must be utilized, followed by a de-chlorination system if the Total Residual Chlorine (TRC) effluent limits cannot be met by dissipation in the detention tank. The total residual chlorine in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters.

## SPECIAL CONDITIONS

### D. TREATMENT PLANT OPERATOR

The wastewater treatment system shall be operated at all times by a person(s) with sufficient knowledge and expertise in the operation of the wastewater treatment system to ensure proper functioning of the system and compliance with all permitting requirements.

### E. NOTIFICATION REQUIREMENT:

In accordance with Standard Condition D, the permittee shall notify the Department of the following:

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system.
2. For the purposes of this section, adequate notice shall include information on:
  - a. The quality or quantity of wastewater introduced to the waste water 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. UNAUTHORIZED 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 October 1, 2012; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

### G. OPERATION & MAINTENANCE (O&M) PLAN:

The permittee shall submit maintain a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which 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.

**By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades, the permittee shall 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 shall be kept on-site at all times and made available to Department and EPA personnel upon request. Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility, the permittee shall submit the updated O&M Plan to their Department inspector for review and comment.**



## **SPECIAL CONDITIONS**

### **H. DISEASE AND PATHOGEN CONTROL AND REPORTING:**

True North's Machiasport processing facility must comply with appropriate sections of the Maine Department of Inland Fisheries and Wildlife and Maine Department of Marine Resources salmonid fish health rules (12 MRSA, §6071; 12 MRSA, §§7011, 7035, 7201, and 7202, or revised rules). The cited rules include requirements for notification to the appropriate agency within 24-hours of pathogen detection, which is only applicable to the extent that ASM Machiasport detects pathogens and that they are different than anticipated in the Biosecurity and Disease Contingency Plan described below. In the event of a catastrophic pathogen occurrence, the permittee shall submit to the Department for review, information on the proposed treatment including materials/chemicals to be used, material/chemical toxicity to aquatic life, the mass and concentrations of materials/chemicals as administered, and the concentrations to be expected in the effluent. The Department will address such occurrences through administrative modifications of the permit. Based on concerns of the potential for disease transmission from the Machiasport facility to Bucks Harbor and impacts to Atlantic salmon contained therein outlined in Fact Sheet Section 9, this permitting action requires:

### **I. DISINFECTING/SANITIZING AGENTS:**

Records of all disinfectants and/or sanitizing agents used that have the potential to enter the waste-stream or receiving water, their volumes and concentrations as used shall be maintained at the facility for a period of three years. This permitting action only authorizes the discharge of those materials applied for, evaluated by the Department, and either regulated or determined to be de minimus in this permitting action or in subsequent Department actions.

### **J. MONITORING AND REPORTING:**

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to a Department regional office such that the DMR's are received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein, shall be submitted to the Department's assigned compliance inspector (unless otherwise specified) at the following address:

Department of Environmental Protection  
Bureau of Land and Water Quality  
Division of Water Quality Management  
106 Hogan Road  
Bangor, Maine 04401

## **SPECIAL CONDITIONS**

### **J. MONITORING AND REPORTING (cont'd)**

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15<sup>th</sup> day of the month following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month following the completed reporting period. Documentation in support of the eDMR must be submitted not later than close of business on the 15<sup>th</sup> day of the month following the completed reporting period.

### **K. REOPENING OF PERMIT FOR MODIFICATIONS**

Upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, new water quality monitoring data or modeling information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to; 1) include effluent limits 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.

### **L. 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 shall remain in full force and effect, and shall be construed and enforced in all respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

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

**FACT SHEET**

Date: **October 24, 2012**

MEPDES PERMIT NUMBER: **ME0036978**  
MAINE WDL NUMBER: **W007951-5P-E-R**

NAME AND ADDRESS OF APPLICANT:

**TRUE NORTH MAINE INC.  
Box 325, Small's Point Road  
Machiasport, Maine 04655**

COUNTY: **Washington County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Box 325, Small's Point Road  
Machiasport, Maine 04655**

RECEIVING WATER / CLASSIFICATION: **Bucks Harbor, Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Nick Getchell  
Plant Manager  
Tel: (207) 255-6714,  
e-mail: nick.getchell@cookeaqua.com**

**1. APPLICATION SUMMARY**

- a. Application - True North Maine Inc. (True North/permittee hereinafter) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0024058/Maine Waste Discharge License (WDL) #W007951-5P-C-R (permit hereinafter), which was issued on November 29, 2007, for a five-year term. The permit approved the discharge of up to a maximum of 0.11 million gallons per day (MGD) of salmon processing wastewater to the tidewaters of Machiasport (Bucks Harbor), Class SB, in Machiasport, Maine. See **Attachment A** of this Fact Sheet for a location map. The November 29, 2007, permit was issued in the name of Atlantic Salmon of Maine LLC but was subsequently transferred to True North Maine Inc. on February 12, 2012. The November 29, 2007, MEPDES permit number of ME0024058 was replaced with a new number, ME0036879 at the time of the permit transfer and will be utilized as the facility's primary reference number in this permitting action.

## 1. APPLICATION SUMMARY (cont'd)

### b. Source Description/ Facility Operation:

True North is one of a number of companies associated with Cooke Aquaculture USA Inc., which owns and operates freshwater hatcheries and rearing facilities, marine aquaculture sites (net pens), and processing facilities for commercially raised Atlantic salmon in Maine and Canada. Farm raised Atlantic salmon are harvested at marine aquaculture sites, then transported to the Machiasport processing plant in a salt/fresh water ice slurry. The fish are cut and bled on barges at the marine sites, with blood captured and transported to the processing plant to avoid the potential for transfer of any diseases or pathogens to the marine environment and native populations. At the processing plant, the fish are automatically and/or manually eviscerated and washed. The fish are then placed in a "chill tank" of ice water and treated with chlorine dioxide to kill any bacteria. The fish are inspected, weighed, sorted by quality, iced, packaged, and stored in the facility cooler room until shipment to consumers. In 2004, approximately 75% of the fish were sold whole, while 25% were further processed into fillets. In 2010 the permittee proposed to increase processing into fillets to 60%, with approximately 40% sold as whole fish. The Machiasport facility contains rooms and equipment for fillet and marinating processes when the market supports these products. The Machiasport facility has five source water wells for supplying processing water.

The previous permitting action established technology based mass limits based on an average daily production of 183,000 pounds of salmon processed predominantly by mechanized means. In 2008, the permittee installed additional wastewater treatment infrastructure to increase the facility's wastewater treatment and discharge design capacity as necessary, up to a maximum of 110,000 gallons per day. True North's Machiasport facility discharges to the tidal waters of Machiasport (Bucks Harbor), a Class SB water. The fish transport slurry, blood captured at the marine sites, and waste materials generated during processing are included in the facility wastewater processes described below.

In the 2012 application for permit renewal, the permittee is seeking approval to process up to 10,000 lbs/day of blue mussels at the facility. It is noted the permittee is not seeking an increase in an technology based limits as a result of the new waste stream.

- c. Wastewater Treatment: "All wastewater and waste materials generated during processing of salmon and facility clean-up are discharged to a 5-foot by 5-foot by 3-foot deep (560 gallon) facility wastewater "pit". Solid matter consisting of viscera, bones, scales, and other materials is separated from liquid wastes through use of a number 750 micron belt filter, routed to a 1.4-foot by 0.67-foot by 1.33-foot (9.4 gallon) "hopper", then pumped to an 8-foot by 8.5-foot by 6-foot (3,000 gallon) holding tank located outside. The contents of the holding tank are transported to an approved landfill for disposal as necessary. After water has gone through the belt filter process it is pumped to a 30,000 gallon holding tank where it is stored to be processed in batches. The water is drawn through a pump where air is added at a rate of 13cfm and the injection of sulfuric acid is

## 1. APPLICATION SUMMARY (cont'd)

monitored by a ph controller to keep the required ph level 5.45 constant and 2 polymers, CP-753 used as a primary coagulant (Polyamine), and JVS 1212 anionic polymer are injected. The processing wastewater is then routed to a 5.4-foot diameter by 7-foot high (1,200 gallon) circular dissolved air flotation (DAF) tank. Correct PH and polymers cause fats and oils to float to the surface for removal. A jar test is taken from the DAF to check the flock of the polymer treated water. The floating materials are removed to the 9.4 gallon hopper that holds the belt filter filtrate and then to the 3,000 gallon solids holding tank. The wastewater is routed to a 4.45-foot diameter by 3-foot high (350 gallon) circular transfer (holding) reservoir, then to a 6.7-foot diameter by 9-foot high (2,350 gallon) circular disinfection tank. From this point the water is then pumped to the disinfection tank where an initial predetermined dose of chlorine is added to achieve a free chlorine level of 50mg/l. The disinfection tank mixes the batch of approximately 2,110 gallons for 15 minutes. During this time the batch is monitored by a ORP controller (oxygen reduction potential) to maintain a free chlorine level of 50 mg/l. The ORP should be kept above 650mv and the PH below 6.5. This done by pumping the water through the 2 ORP meters for the batch time of 15 minutes. If at any time during the cycle the ORP level drops to a minimum set point milli volt, more chlorine is automatically added. If the minimum set point is not achieved the system will shut down and chlorine will have to be added manually and the batch will have to be restarted. The wastewater is then de-chlorinated with sodium sulfite, then discharged to a 15-foot by 6-foot by 6-foot (4,040 gallon) in-ground discharge buffer tank. When the discharge buffer tank is full, a float valve causes it to automatically discharge to the receiving water through a 3.5-inch diameter discharge pipe that outfalls in Bucks Harbor approximately 300-feet beyond mean low water (MLW). The outfall pipe has a 14-inch diameter bucket-type deflector, the top of which is located eight feet below the water surface at MLW. Effluent samples are collected through a manual composite of grab samples at the landward end of the discharge pipe.”

ASM Machiasport's wastewater discharge volume depends upon production levels, as reported in Fact Sheet Section 2d, above.

Sanitary wastewater is disposed of through an approved on-site septic system. Use of agents for disinfecting/sanitizing purposes are addressed in subsequent Fact Sheet sections titled accordingly

## 2. PERMIT SUMMARY

- a. Terms and Conditions – This permitting action is carrying forward all the terms and conditions of the previous permitting action except that this permit is;
1. Eliminating schedule of compliance dates for the submission of an Operation and Maintenance Plan and a Bio-Security and Disease Contingency Plan as both requirements have been met.
  2. Authorizing the permittee to process blue mussels at the facility. As a result, Special Condition A of the permit now includes a monthly average and a daily maximum reporting requirement for production of blue mussel processing.
- b. History: The most recent licensing/permitting actions include the following:

May 31, 1994 - The Maine Department of Environmental Protection issued Waste Discharge License (WDL) #W-7756-WA-A-N to Atlantic Salmon of Maine, Inc. for the discharge of 5,800 gallons per day of treated process wastewater to a tidal creek in Machiasport. The license was issued for a five-year term. A corrected copy was filed with the Board of Environmental Protection on June 14, 1994.

August 9, 1996 - The Department issued #W-7756-WA-B-T transferring #W-7756-WA-A-N from Atlantic Salmon of Maine, Inc. to Atlantic Salmon of Maine LLC.

February 25, 1997 - The Department issued a new WDL #W-7951-WA-A-N to Atlantic Salmon of Maine, LLC for the discharge of 21,300 gallons per day of treated salmon processing wastewater at maximum production levels from a new processing facility to the tidewaters of Machiasport (Bucks Harbor), Class SB. The license was issued for a five-year term. This and subsequent actions are associated with a new facility and discharge location on Small's Point Road.

May 14, 1997 – The Department issued a certification, #W-7951-68-A-N, under Section 401 of the Federal Water Pollution Control Act certifying that the discharge in a pending NPDES Permit was in compliance with applicable sections of the WPCA and State law.

May 22, 1997 – The USEPA issued NPDES Permit #ME0024058 to Atlantic Salmon of Maine, Ltd. Co. for the discharge of a daily maximum of 21,300 gallons per day of salmon processing wastewater at maximum production levels to Bucks Harbor. The Permit was valid through March 31, 2002. Department files contain no information regarding any subsequent federal permitting actions.

April 9, 1998 – The Department administratively modified #W-7951-WA-A-N to change the effluent sampling frequency requirement for total residual chlorine from once per five production days to once every production day.

**2. PERMIT SUMMARY (cont'd)**

July 1998 – The Department administratively modified #W-7951-WA-A-N to remove requirements for ammonia, nitrite, nitrate, and Total Kjeldahl nitrogen monitoring.

April 27, 2000 – The Department administratively modified #W-7951-WA-A-N to change the flow limit to a flow reporting requirement.

January 12, 2001 – The State of Maine received authorization from the USEPA to administer the MEPDES permit program in Maine.

April 4, 2001 - The Department received application #W-7951-5P-B-M from Atlantic Salmon of Maine, LLC. requesting a modification to increase effluent BOD limits based on projected increases in production. The application was essentially superseded by another application two months later and officially withdrawn on July 29, 2003.

June 29, 2001 - The Department received an application from Atlantic Salmon of Maine, LLC for the discharge of salmon processing wastewater from the Machiasport facility. The application was assigned WDL #W007951-5P-C-R and MEPDES permit #ME0024058.

November 18, 2004 – The Department issued a letter approving a multi-facility process plan to strip, fertilize, and hatch Atlantic salmon eggs and subsequently rear fish involving Cooke Aquaculture / ASM's Starboard Island marine net pen site, the Machiasport salmon processing facility, and Oquossoc and Embden hatcheries and rearing facilities, as part of a Maine Department of Marine Resources Transfer Permit and pursuant to MEPDES Permits and/or Maine WDLs for each facility.

November 15, 2007 – Cooke Aquaculture, the owner of the ASM Machiasport facility, submitted to the Department new projections of the types and levels of production and levels of effluent discharges for the facility, effectively modifying the June 29, 2001 renewal application.

November 29, 2007 – The Department issued combination MEPDES permit #ME0036978 (new number)/Maine WDL W007951-5P-C-R to ASM for a five-year term.

February 10, 2012 – The Department issued a transfer of the November 29, 2007, combination MEPDES/WDL from ASM to True North.

September 18, 2012 – True North submitted a timely and complete application to the Department for the renewal of the MEPDES permit/WDL.

### 3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 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 the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, 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

Maine law, 38 M.R.S.A., Section 469 classifies the tidal waters of Machiasport (Bucks Harbor) at the point of discharge as a Class SB water. Maine law, 38 M.R.S.A., Section 465-B.2, describes the standards for Class SB waters as follows:

*Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.*

*The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.*

*Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection*



#### 4. RECEIVING WATER QUALITY STANDARDS

*for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.*

#### 5. RECEIVING WATER QUALITY CONDITIONS:

The State of Maine 2010 *Integrated Water Quality Monitoring and Assessment Report* (DEPLW0817), prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act includes the receiving water in the designation *Bucks Harbor, Machiasport* (Waterbody ID 709-4, DMR Area 55-B) listed in Category 2, Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses. The listing identifies a 47-acre segment of Class SB waters listed as being monitored as of the time of publication of the report and with a comment noting the presence of overboard wastewater discharges within the segment area. However on December 21, 2011, the DMR modified the closure area by reclassifying Bucks Harbor in Machiasport from “Restricted” to “Approved” due to water quality meeting approved standards.

If it is determined in the future that the Machiasport facility causes or contributes to non-attainment conditions in the receiving water, this permitting action may be reopened pursuant to permit Special Condition K and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements adjusted accordingly.

#### 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS:

Pursuant to Maine Law (38 M.R.S.A., §414-A.1), the Department shall only authorize discharges to Maine waters when those discharges, either by themselves or in combination with other discharges, “*will not lower the quality of any classified body of water below such classification*”. Further, “*the discharge will be subject to effluent limitations that require application of the best practicable treatment*”. “*Best practicable treatment (BPT) means the methods of reduction, treatment, control and handling of pollutants, including process methods, and the application of best conventional pollutant control technology or best available technology economically available, for a category or class of discharge sources that the department determines are best calculated to protect and improve the quality of the receiving water and that are consistent with the requirements of the Federal Water Pollution Control Act*” (40 CFR). “*If no applicable standards exist for a specific activity or discharge, the department must establish limits on a case-by-case basis using best professional judgement...*” considering “*...the existing state of technology, the effectiveness of the available alternatives for control of the type of discharge and the economic feasibility of such alternatives...*”. Pursuant to 38 M.R.S.A., §414-A.1 and §464.4, the Department regulates wastewater discharges through establishment of effluent limitations and monitoring requirements that are protective of Maine waters.

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS:**

In November 2007, former owner ASM indicated that processing procedures for both whole fish and fillets at the Machiasport facility would be predominantly mechanized (80% or more). Therefore, the previous permitting action utilized the National Effluent Guidelines (NEGs) contained in 40 CFR, Part 408, Subpart S for West Coast Mechanized Salmon Processing as published in developing BPT technology based effluent limitations for BOD, TSS, oil and grease, and pH. As the Machiasport facility began operation after the promulgation of the NEGs in 1975-76, the facility was considered a new source discharge and performance standards applied accordingly. Monitoring and operational requirements in the previous permit were based on Department BPJ.

The previous permitting action established technology based mass limits based on a salmon production goal for the facility of 183,000 lbs/day. Pursuant to USEPA guidance which specifies use of average production values or estimates in development of NEG based effluent limits, the previous permitting action established a single set of effluent limitations and monitoring requirements based on the permittee's production figures. It is noted the permittee is requesting an increase in any technology based limitations as a result of processing blue mussels at the Machiasport facility.

- a. Flow: The previous permitting action established a daily maximum flow limit of 110,000 gallons per day (0.11 million gallons per day (MGD)) based on projections provided by the permittee. The permit also required the permittee to report the monthly average flow discharged and required the flow to be measured daily.

A review of the flow data as reported on the monthly Discharge Monitoring Reports (DMRs) submitted to the Department for the period November 2008 – March 2012 indicates the permittee has been in compliance with the daily maximum flow limit 100% of the time as values have been reported as follows:

**Flow (DMRs = 41)**

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	Report	0.0087 – 0.029	0.0186
Daily maximum	0.11	0.014 – 0.039	0.0283

The daily maximum limitation and the monthly reporting requirement and the daily monitoring frequency are all being carried forward in this permitting action.

- b. Dilution Factors: Department rule, 06-096 CMR Chapter 530 Section 4.A.2.a, *Surface Water Toxics Control Program*, states that, "For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMLX or another predictive model." Based on the location and configuration of the

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

Machiasport discharge pipe and diffuser, the physical properties and flow patterns of Bucks Harbor, and review of a January 2001 Effluent Dilution Assessment prepared by Woodard and Curran, Inc, the Department has determined the dilution factors for ASM Machiasport's effluent discharge to be as follow:

Acute = 102:1                      Chronic = 650:1                      Harmonic mean<sup>1</sup> = 1,950:1

Footnote:

(1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "*Technical Support Document for Water Quality-Based Toxics Control*" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

- c. Production: The previous permitting action established requirements to report the monthly average and daily maximum pounds of salmon (live weight) processed. This requirement is being carried forward in this permitting action along with a daily measurement frequency as a means to enable both the Department and the permittee to evaluate management practices at the facility and trends in effluent quality and receiving water impacts.

A review of the flow data as reported on the monthly DMRs submitted to the Department for the period November 2008 – March 2012 (except January 09) indicates the permittee has reported production values as follows:

**Production (DMRs = 40)**

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	Report	9,000 - 48,249	28,920
Daily maximum	Report	10,000 – 57,255	41,713

Both production reporting requirements for salmon are being carried forward in this permitting action. Due to the proposal to process blue mussels, Special Condition A of this permit has been modified to incorporate monthly average and daily maximum reporting requirements for blue mussel production figures./

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

- d. Biochemical Oxygen Demand (BOD): - The previous permitting action established BOD effluent mass limits and concentration limits based on the NEG's for West Coast Mechanized Salmon Processing. Federal regulation 40 CFR, Part 408, Subpart S establishes monthly average technology based mass limits of 38 lbs/1,000 lbs of salmon processed and a daily maximum of limit of 62 lbs/1,000 lbs of salmon processed. Pursuant to USEPA guidance for development of NEG based effluent limits, these rates were multiplied by the projected average production value of 183,000 lbs/day to yield conventional mass limits of a monthly average of 6,954 lbs/day and a daily maximum of 11,346 lbs/day. As for concentration limits, the Department applied the NEG production based monthly average and daily maximum limits cited above to ensure BPT was being achieved under all production regimes.

The previous permit also established requirements for 24-hour automatic composite sampling at a minimum frequency of one sample for each five days of processing / discharging. Sampling was to be conducted on periods of less than five days of processing / discharging as necessary to complete and start monitoring periods within calendar months. These requirements are based on the Department's BPJ of monitoring frequencies and types necessary to more accurately characterize facility effluent conditions.

A review of the BOD data as reported on the monthly DMRs submitted to the Department for the period November 2008 – March 2012 indicates the permittee has been in compliance with all of the BOD limits 100% of the time as values have been reported as follows:

**BOD Mass (DMRs = 41)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	6,954	8.4 – 91.6	46
Daily Maximum	11,346	13.7 – 157	67

**BOD Concentration (DMRs = 41)**

Value	Limit (lbs/1,000 lbs)	Range (lbs/1,000 lbs)	Average (lbs/1,000 lbs)
Monthly Average	38	0.5 – 3.3	1.6
Daily Maximum	62	0.6 – 5.3	2.4

All four technology based BOD limitations are being carried forward in this permitting action along with the minimum frequency of one sample for each five days of processing /discharging.

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

e. Total Suspended Solids (TSS):

The previous permit establishing TSS effluent mass limits and concentration limits based on the NEG's for West Coast Mechanized Salmon Processing. 40 CFR, Part 408, Subpart S establishes monthly average technology based mass limits of 7.6 lbs/1,000 lbs of salmon processed and a daily maximum of 13 lbs/1,000 lbs salmon processed. Pursuant to USEPA guidance for development of NEG based effluent limits, these rates are multiplied by the projected average production value of 183,000 lbs/day to yield conventional mass limits of a monthly average of 1,391 lbs/day and a daily maximum of 2,379 lbs/day. As for concentration limits, the Department applied the NEG production based monthly average and daily maximum limits above to ensure BPT was being achieved under all production regimes.

The previous permit established requirements for 24-hour automatic composite sampling at a minimum frequency of one sample for each five days of processing / discharging. Sampling were to be conducted on periods of less than five days of processing / discharging as necessary to complete and start monitoring periods within calendar months. These requirements are based on the Department's BPJ of monitoring frequencies and types necessary to more accurately characterize facility effluent conditions.

A review of the TSS data as reported on the monthly DMRs submitted to the Department for the period November 2008 – March 2012 indicates the permittee has been in compliance with all of the TSS limits 100% of the time as values have been reported as follows:

**TSS Mass (DMRs = 41)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	1,391	2.6 – 58	23
Daily Maximum	2,379	3.2 - 81	33

**TSS Concentration (DMRs = 41)**

Value	Limit (lbs/1,000 lbs)	Range (lbs/1,000 lbs)	Average (lbs/1,000 lbs)
Monthly Average	7.6	0.13 – 2.3	0.8
Daily Maximum	13	0.16 – 4.2	1.2

All four technology based TSS limitations are being carried forward in this permitting action along with the minimum frequency of one sample for each five days of processing /discharging.

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

- f. Oil and Grease (O&G): The previous permit established oil and grease effluent mass limits and concentration limits based on the NEG's for West Coast Mechanized Salmon Processing. 40 CFR, Part 408, Subpart S establishes technology based mass limits of a monthly average of 1.5 lbs/1,000 lbs of salmon processed and a daily maximum of 4.2 lbs/1,000 lbs of salmon processed. Pursuant to USEPA guidance for development of NEG based effluent limits, these rates are multiplied by the projected average production value of 183,000 lbs/day to yield conventional mass limits of a monthly average of 275 lbs/day and a daily maximum of 769 lbs/day. As for concentration limits, the Department applied the NEG production based monthly average and daily maximum limits above to ensure BPT was being achieved under all production regimes.

The permit establishes requirements for grab sampling at a minimum frequency of one sample for each five days of processing / discharging. Sampling was to be conducted on periods of less than five days of processing / discharging as necessary to complete and start monitoring periods within calendar months. These requirements are based on the Department's BPJ of monitoring frequencies and types necessary to more accurately characterize facility effluent conditions.

A review of the oil & grease data as reported on the monthly DMRs submitted to the Department for the period November 2008 – March 2012 indicates the permittee has been in compliance with all of the oil & grease limits 100% of the time as values have been reported as follows:

**Oil & Grease Mass (DMRs = 41)**

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	275	0.22 – 6.8	1.8
Daily Maximum	769	0.3 - 11	3.5

**Oil & Grease Concentration (DMRs = 41)**

Value	Limit (lbs/1,000 lbs)	Range (lbs/1,000 lbs)	Average (lbs/1,000 lbs)
Monthly Average	1.5	0.009 – 0.37	0.09
Daily Maximum	4.2	0.01 – 1.4	0.14

All four technology based oil & grease limitations are being carried forward in this permitting action along with the minimum frequency of one sample for each five days of processing /discharging.

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

g. Total Residual Chlorine (TRC): The previous permit established BPT monthly average and daily maximum concentration limits of 0.1 mg/L and 0.3 mg/L respectively that are being carried forward in this permitting action. Limits on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits. With the dilution factors calculated by the Department in Section 6(b) of this Fact Sheet, end-of-pipe water quality based thresholds for TRC may be calculated as follows:

Acute (a) Criterion	Chronic (c) Criterion	Dilution Factors	Calculated	
			Acute Limit	Chronic Limit
0.013 mg/L	0.0075 mg/L	102:1 (a) 650:1 (c)	1.3 mg/L	4.9 mg/L

The Department establishes daily maximum and monthly average BPT limitations of 0.3 mg/L and 0.1 mg/L respectively, for facilities that need to de-chlorinate their effluent which the permittee does do. The BPT limitations are more stringent than the calculated water quality based TRC limits of 1.3 mg/L (acute) and 4.9 mg/L (chronic), and were therefore established as the TRC limits. The sampling type and minimum monitoring frequency of one grab sample per discharge day are being carried forward from the previous permit based on the Department's BPJ of monitoring types and frequencies necessary to ensure that ambient water quality standards are maintained and to more accurately characterize facility effluent conditions.

A review of the TRC data as reported on the monthly DMRs submitted to the Department for the period November 2008 – March 2012 indicates the permittee has been in compliance with both of the TRC limits 100% of the time as values have been reported as follows:

**TRC Concentration (DMRs = 41)**

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	0.1	0.0 - <0.02	0.0
Daily Maximum	0.3	0.01 – 0.3	0.0

The technology based concentration limits for TRC are being carried forward in this permitting action along with the minimum frequency of one sample for each five days of processing /discharging.

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

h. pH: The previous permit established a pH range limit of 6.0 to 9.0 standard units as both monthly average and daily maximum values, consistent with pH limits established in the NEGs. The permit established a requirement for grab sampling at a minimum frequency of one sample for each five days of processing / discharging. Sampling was to be conducted on periods of less than five days of processing / discharging as necessary to complete and start monitoring periods within calendar months. These requirements were based on the Department's BPJ of monitoring frequencies and types necessary to more accurately characterize facility effluent conditions.

**pH (DMRs = 41)**

Value	Limit (su)	Range (su)	Average (su)
Monthly Minimum	6.0	6.1 – 6.6	6.4
Daily Maximum	9.0	6.4 – 7.0	6.6

The technology based limits for pH are being carried forward in this permitting action along with the minimum frequency of one sample for each five days of processing /discharging.

**7. DISEASE AND PATHOGEN CONTROL AND REPORTING:**

The US Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) formally listed the Atlantic salmon as an endangered species on November 17, 2000. The MEPDES Permit / Maine WDL program for fish hatcheries and rearing facilities has incorporated requirements to prevent impacts to native fish populations and aquatic habitats, which were based on requirements in regulatory programs administered by the Maine Departments of Environmental Protection and Marine Resources related to marine aquaculture sites. The MEPDES Permit / Maine WDL for one freshwater rearing facility that discharges directly to a Gulf of Maine Distinct Population Segment of Atlantic salmon (DPS water) also contained requirements for Biosecurity and Disease Contingency Plans based on additional concerns by NOAA Fisheries and USFWS. As Atlantic salmon are received at the Machiasport facility may encounter marine waters in which diseases and pathogens of concern are present, this permitting action establishes requirements for Disease and Pathogen Control and Reporting as well as Biosecurity and Disease Contingency Plans as described below.

Maine Department of Inland Fisheries and Wildlife (MDIFW) Rules (Chapter 2.03-A) and Maine Department of Marine Resources (MeDMR) Rules (Chapter 24.21) state that *"the transfer and/or introduction of organisms fall within the jurisdiction of the Department of Marine Resources (12 MRSA, §6071) into coastal waters within the State of Maine and the Department of Inland Fisheries and Wildlife (12 MRSA, §§7011, 7035 and 7201, 7202) into public and/or private waters within the State of Maine. These rules are intended to protect wild and farmed salmonid fish populations and shall be applicable to all individuals involved*



**7. DISEASE AND PATHOGEN CONTROL AND REPORTING (cont'd):**

*in the culture and movement of live salmonids and gametes.*” Though the Machiasport facility is a processing facility that does not handle live fish, the handling of fish, blood, and other materials may present opportunities for transfer of diseases and/or pathogens to ambient life and habitats if not properly conducted.

Both agencies' rules define Diseases of Regulatory Concern as “...*infectious agents that have been demonstrated to cause a significant increase in the risk of mortality among salmonid populations in the State of Maine. Diseases of Regulatory Concern are classified by the Commissioner into three (3) disease categories: exotic, endemic (limited distribution) and endemic based on an annual review and analysis of epidemiological data.*” In this permitting action, ASM Machiasport must comply with appropriate sections of the Maine Department of Inland Fisheries and Wildlife and Maine Department of Marine Resources salmonid fish health rules (12 MRSA, §6071; 12 MRSA, §§7011, 7035, 7201, and 7202, or revised rules). The cited rules include requirements for notification to the appropriate agency within 24-hours of pathogen detection, which is only applicable to the extent that permittee's Machiasport facility detects pathogens and that they are different than anticipated in the Biosecurity and Disease Contingency Plan described below. In the event of a catastrophic pathogen occurrence, the permittee shall submit to the Department for review, information on the proposed treatment including materials/chemicals to be used, material/chemical toxicity to aquatic life, the mass and concentrations of materials/chemicals as administered, and the concentrations to be expected in the effluent. The Department will address such occurrences through administrative modifications of the permit.

Based on concerns of the potential for disease transmission from the permittee's Machiasport facility to Bucks Harbor and impacts to Atlantic salmon contained therein outlined above, this permitting action requires the permittee to maintain Biosecurity and Disease Contingency Plans. The plan shall generally identify rules/requirements, operational practices and procedures to be identified and/or developed to ensure the significant reduction in, or elimination of, the threat of disease transmission from permittee's Machiasport facility to Bucks Harbor. The plans shall, at a minimum, identify opportunities for disease transmission and introductions of new pathogens, address appropriate practices for facility wastewater disinfection, identify initial steps for managing outbreaks of diseases of concern, address practices for handling affected fish, and methods for the isolation, containment, and treatment of contaminated water prior to its disposal or discharge to the receiving water. As of the effective date of this permitting action, all waste waters and materials that have been in contact with fish or fish eggs during transport, storage, and processing must be subject to proper wastewater treatment and disinfection or solid waste treatment to remove any potential for transfer of diseases or pathogens prior to discharge to the receiving water or the environment.

#### **8. DISINFECTING/SANITIZING AGENTS:**

This permitting action requires the permittee to maintain records of all disinfectants and/or sanitizing agents used that have the potential to enter the waste stream or receiving water, their volumes and concentrations as used and concentrations at the point of discharge, at the facility for a period of three years. This permitting action only authorizes the discharge of those materials applied for, evaluated by the Department, and either regulated or determined to be de minimis in this permitting action or in subsequent Department actions. The discharges of any other agents or waste products not specifically included in this permitting action are considered unauthorized discharges pursuant to permit Special Condition F.

In the previous application for permit renewal, the permittee indicated that two products, F-25 liquid sanitizer and Foam Safe liquid chlorinated alkaline foam cleaner, are used at the facility according to label instructions and discharged in the facility wastewater flow. Both products are used at concentrations of approximately 200 parts per million, rinsed with approximately 7,000-gallons of fresh water, then discharged through Outfall 001A, where the wastewater is diluted in the receiving water by factors of 102:1 (acute) and 650:1 (chronic) during low flow conditions, as described in Fact Sheet Section 6b, *Dilution Factors*. Based on this information and analysis of these and similar products in use at other types of facilities, the Department considers the labeled use and discharge of these products to constitute de minimis discharges of pollutants. If the permittee's cleaning materials, amounts, or practices significantly change from what is presented, the permittee must contact the Department for review of this determination. Additionally, if adverse impacts are observed, suspected, or if additional toxicity information becomes available, the Department may reopen this permitting action pursuant to Permit Special Condition K and establish / revise effluent limitations and monitoring requirements as appropriate.

#### **9. 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 or contribute to the failure of the tidewaters of Machiasport (Bucks Harbor) to meet standards for Class SB classification.

If monitoring conducted pursuant to this permitting action and/or other monitoring efforts indicate that non-attainment conditions exist in the receiving water and that the permittee's Machiasport causes or contributes to those conditions, this permitting action may be reopened pursuant to permit Special Condition K and effluent limitations, monitoring and operational requirements, and/or wastewater treatment requirements adjusted accordingly.

#### **10. PUBLIC COMMENTS:**

Public notice of this application was made in the Machias Valley News newspaper on or about September 19, 2012. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

**11. DEPARTMENT CONTACTS:**

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

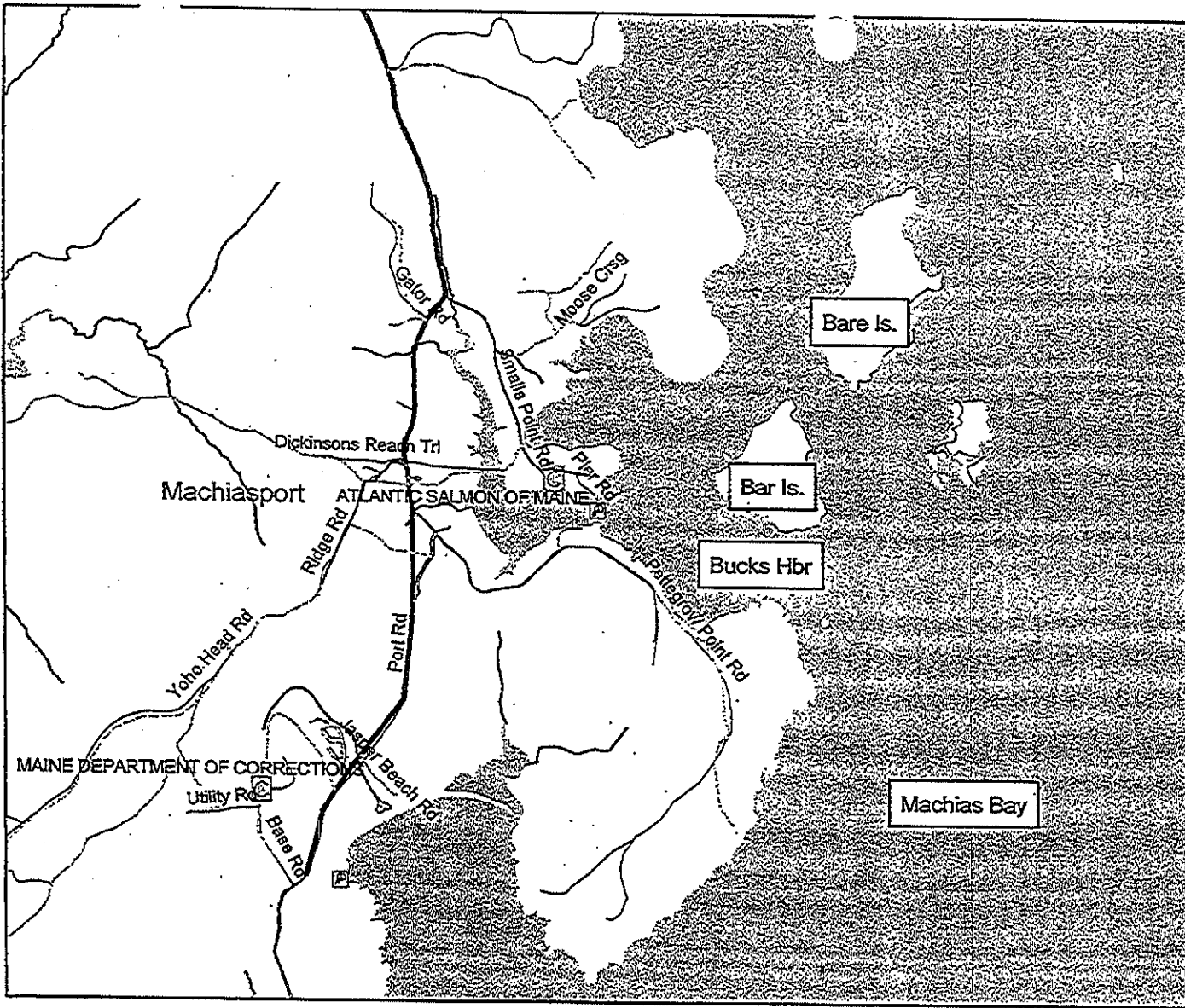
Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017

Telephone: (207) 287-7693  
Fax: (207) 287-3435  
email: [gregg.wood@maine.gov](mailto:gregg.wood@maine.gov)

**12. RESPONSE TO COMMENTS:**

During the period October 24, 2012 through the issuance date of the permit, the Department solicited comments on the proposed draft permit for 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



**Legend**

**Streams**

- AA
- A
- B
- C

Ponds and Lakes



Wastewater\_Facilities



Wastewater\_Outfalls

**Roads**

**JURISDICTION**

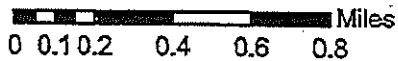
- Town Road
- Town Road - Summer
- Town Road - Winter
- State-aided Highway
- State Highway
- Toll Highway
- Private Road
- Reservation Road
- Seasonal Parkway
- SA
- SB
- S
- S
- S



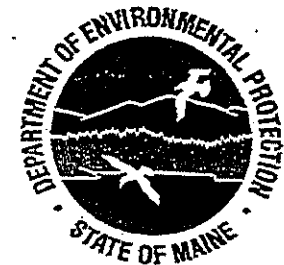
Exhibit #1

Map created by:  
Bob Stratton

Division of Water Quality Management  
Maine Department of Environmental Protection



**ASM Salmon Processing**  
**Machiasport, Maine**



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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



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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.

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**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.



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

### 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) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in 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.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 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.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

#### HOW LONG YOU HAVE 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 after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

#### HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal 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.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
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 arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

#### **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, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide 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 questions regarding applicable requirements.
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. 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, including 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, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. 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, a 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.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & 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. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

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.A. § 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.

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**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.**

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