



STATE OF MAINE  
Department of Environmental Protection

Paul R. LePage  
GOVERNOR

Patricia W. Aho  
COMMISSIONER

June 15, 2012

Mr. Chris Higgins  
Boothbay Harbor Sewer District  
P.O. Box 531  
Boothbay Harbor, ME 04538

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100064  
Maine Waste Discharge License (WDL) Application #W002750-6C-G-M  
**Minor Revision**

Dear Chris:

Enclosed please find a copy of your **final** Maine MEPDES/WDL **minor revision** which was approved by the Department of Environmental Protection. Please read the minor revision 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 this matter, please feel free to call me at 287-7693.

Sincerely,

A handwritten signature in cursive script, appearing to read 'G. Wood'.

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

Enc. Denise Behr, DEP/CMRO  
Sandy Mojica, USEPA



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

**DEPARTMENT ORDER**

**IN THE MATTER OF**

BOOTHBAY HARBOR SEWER DISTRICT	)	MAINE POLLUTANT DISCHARGE
BOOTHBAY HARBOR,	)	ELIMINATION SYSTEM PERMIT
LINCOLN COUNTY, MAINE	)	
PUBLICLY OWNED TREATMENT WORKS	)	AND
ME0100064	)	WASTE DISCHARGE LICENSE
W002750-6C-G-M	)	MINOR REVISION
		APPROVAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et seq. and Maine Law, 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered a request by the BOOTHBAY HARBOR SEWER DISTRICT, (District/permittee hereinafter) to modify Maine Pollutant Discharge Elimination System (MEPDES) permit #ME01000064/Maine Waste Discharge License #W002750-6C-F-R, dated August 5, 2010, with its supportive data, agency review comments, and other related materials on file, and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

The District has requested the Department modify MEPDES permit #ME0100064/WDL #W002750-6C-F-R, (permit hereinafter) to incorporate the list of new reporting limits (RLs) published by the Department on April 25, 2012, as Attachment A of said permit.

**PERMIT SUMMARY**

This minor revision incorporates the list of new reporting limits (RLs) published by the Department on April 25, 2012, as Attachment A of the permit.

## CONCLUSIONS

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 M.R.S.A., 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. The discharge will be subject to effluent limitations that require application of best practicable treatment.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

**ACTION**

THEREFORE, the Department APPROVES the request by the BOOTHBAY HARBOR SEWER DISTRICT to modify MEPDES permit #ME0100064/WDL #W002750-6C-F-R, to incorporate the list of new reporting limits (RLs) published by the Department on April 25, 2012, as Attachment A of said permit, 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 to MEPDES permit #ME0100064/ WDL #W002750-6C-F-R, issued on August 5, 2010.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All terms and conditions of MEPDES permit #ME0100064/WDL #W002750-6C-F-R, issued by the Department on August 5, 2010, not modified by this permitting action remain in effect and enforceable.
4. This minor revision becomes effective upon the date of signature below and expires on August 5, 2015, concurrent with MEPDES permit #ME0100064/WDL #W002750-6C-F-R. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this minor revision, the terms and conditions of the this minor revision 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)].

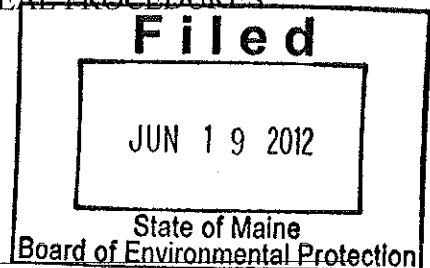
DONE AND DATED AT AUGUSTA, MAINE, THIS 18<sup>th</sup> DAY OF June, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Keenan  
For Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: June 14, 2012  
Date of application acceptance: June 15, 2012



Date filed with Board of Environmental Protection \_\_\_\_\_  
This order prepared by Gregg Wood, BUREAU OF LAND AND WATER QUALITY  
ME0100064 MR 2012 6/15/12

# ATTACHMENT A

Maine Department of Environmental Protection  
WET and Chemical Specific Data Report Form

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

Facility Name \_\_\_\_\_ MEPDES # \_\_\_\_\_ Facility Representative Signature \_\_\_\_\_  
 Pipe # \_\_\_\_\_ To the best of my knowledge this information is true, accurate and complete.

Licensed Flow (MGD)   
 Acute dilution factor   
 Chronic dilution factor   
 Human health dilution factor   
 Criteria type: M(arine) or F(resh)

Flow for Day (MGD)<sup>(1)</sup>  Flow Avg. for Month (MGD)<sup>(2)</sup>   
 Date Sample Collected  Date Sample Analyzed

Last Revision - April 25, 2012

Laboratory \_\_\_\_\_ Telephone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Lab Contact \_\_\_\_\_ Lab ID # \_\_\_\_\_

ERROR WARNING ! Essential facility information is missing. Please check required entries in bold above.

**MARINE AND ESTUARY VERSION**

Please see the footnotes on the last page.

Receiving Water or Ambient		Effluent Concentration (ug/L or as noted)			WET Result, % Do not enter % sign			Reporting Limit Check			Possible Exceedence <sup>(7)</sup>				
		Effluent Limits, %													
		Acute Chronic													
<b>WHOLE EFFLUENT TOXICITY</b>															
	Mysid Shrimp														
	Sea Urchin														
<b>WET CHEMISTRY</b>															
	pH (S.U.) <sup>(9)</sup>														
	Total Organic Carbon (mg/L)														
	Total Solids (mg/L)														
	Total Suspended Solids (mg/L)														
	Salinity (ppt)														
<b>ANALYTICAL CHEMISTRY <sup>(3)</sup></b>															
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L						Reporting Limit Check	Possible Exceedence <sup>(7)</sup>					
	TOTAL RESIDUAL CHLORINE (mg/L) <sup>(9)</sup>	0.05	Acute <sup>(6)</sup>	Chronic <sup>(6)</sup>	Health <sup>(6)</sup>				Acute	Chronic	Health				
	AMMONIA	NA													
M	ALUMINUM	NA													
M	ARSENIC	5													
M	CADMIUM	1													
M	CHROMIUM	10													
M	COPPER	3													
M	CYANIDE	5													
M	LEAD	3													
M	NICKEL	5													
M	SILVER	1													
M	ZINC	5													

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PRIORITY POLLUTANTS <sup>(4)</sup>		Effluent Limits			Reporting Limit Check	Possible Exceedence <sup>(7)</sup>		
		Reporting Limit	Acute <sup>(6)</sup>	Chronic <sup>(6)</sup>		Health <sup>(6)</sup>	Acute	Chronic
M	ANTIMONY	5						
M	BERYLLIUM	2						
M	MERCURY <sup>(5)</sup>	0.2						
M	SELENIUM	5						
M	THALLIUM	4						
A	2,4,6-TRICHLOROPHENOL	5						
A	2,4-DICHLOROPHENOL	5						
A	2,4-DIMETHYLPHENOL	5						
A	2,4-DINITROPHENOL	45						
A	2-CHLOROPHENOL	5						
A	2-NITROPHENOL	5						
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25						
A	4-NITROPHENOL	20						
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5						
A	PENTACHLOROPHENOL	20						
A	PHENOL	5						
BN	1,2,4-TRICHLOROENZENE	5						
BN	1,2-(O)DICHLOROENZENE	5						
BN	1,2-DIPHENYLHYDRAZINE	20						
BN	1,3-(M)DICHLOROENZENE	5						
BN	1,4-(P)DICHLOROENZENE	5						
BN	2,4-DINITROTOLUENE	6						
BN	2,6-DINITROTOLUENE	5						
BN	2-CHLORONAPHTHALENE	5						
BN	3,3'-DICHLOROBENZIDINE	16.5						
BN	3,4-BENZO(B)FLUORANTHENE	5						
BN	4-BROMOPHENYLPHENYL ETHER	5						
BN	4-CHLOROPHENYL PHENYL ETHER	5						
BN	ACENAPHTHENE	5						
BN	ACENAPHTHYLENE	5						
BN	ANTHRACENE	5						
BN	BENZIDINE	45						
BN	BENZO(A)ANTHRACENE	8						
BN	BENZO(A)PYRENE	5						
BN	BENZO(G,H,I)PERYLENE	5						
BN	BENZO(K)FLUORANTHENE	5						
BN	BIS(2-CHLOROETHOXY)METHANE	5						
BN	BIS(2-CHLOROETHYL)ETHER	6						
BN	BIS(2-CHLOROISOPROPYL)ETHER	6						
BN	BIS(2-ETHYLHEXYL)PHTHALATE	10						
BN	BUTYLBENZYL PHTHALATE	5						
BN	CHRYSENE	5						
BN	DI-N-BUTYL PHTHALATE	5						
BN	DI-N-OCTYL PHTHALATE	5						
BN	DIBENZO(A,H)ANTHRACENE	5						
BN	DIETHYL PHTHALATE	5						
BN	DIMETHYL PHTHALATE	5						

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BN	FLUORANTHENE	5											
BN	FLUORENE	5											
BN	HEXACHLOROENZENE	5											
BN	HEXACHLOROBUTADIENE	5											
BN	HEXACHLOROCYCLOPENTADIENE	10											
BN	HEXACHLOROETHANE	5											
BN	INDENO(1,2,3-CD)PYRENE	5											
BN	ISOPHORONE	5											
BN	N-NITROSDI-N-PROPYLAMINE	10											
BN	N-NITROSODIMETHYLAMINE	5											
BN	N-NITROSODIPHENYLAMINE	5											
BN	NAPHTHALENE	5											
BN	NITROBENZENE	5											
BN	PHENANTHRENE	5											
BN	PYRENE	5											
P	4,4'-DDD	0.05											
P	4,4'-DDE	0.05											
P	4,4'-DDT	0.05											
P	A-BHC	0.2											
P	A-ENDOSULFAN	0.05											
P	ALDRIN	0.15											
P	B-BHC	0.05											
P	B-ENDOSULFAN	0.05											
P	CHLORDANE	0.1											
P	D-BHC	0.05											
P	DIELDRIN	0.05											
P	ENDOSULFAN SULFATE	0.1											
P	ENDRIN	0.05											
P	ENDRIN ALDEHYDE	0.05											
P	G-BHC	0.15											
P	HEPTACHLOR	0.15											
P	HEPTACHLOR EPOXIDE	0.1											
P	PCB-1016	0.3											
P	PCB-1221	0.3											
P	PCB-1232	0.3											
P	PCB-1242	0.3											
P	PCB-1248	0.3											
P	PCB-1254	0.3											
P	PCB-1260	0.2											
P	TOXAPHENE	1											
V	1,1,1-TRICHLOROETHANE	5											
V	1,1,2,2-TETRACHLOROETHANE	7											
V	1,1,2-TRICHLOROETHANE	5											
V	1,1-DICHLOROETHANE	5											
V	1,1-DICHLOROETHYLENE (1,1-dichloroethene)	3											
V	1,2-DICHLOROETHANE	3											
V	1,2-DICHLOROPROPANE	6											
V	1,2-TRANS-DICHLOROETHYLENE (1,2-trans-dichloroethene)	5											
V	1,3-DICHLOROPROPYLENE (1,3-dichloropropene)	5											
V	2-CHLOROETHYL VINYL ETHER	20											



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V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

Notes:

- (1) Flow average for day pertains to WET/PP composite sample day.
- (2) Flow average for month is for month in which WET/PP sample was taken.
- (3) Analytical chemistry parameters must be done as part of the WET test chemistry.
- (4) Priority Pollutants should be reported in micrograms per liter (ug/L).
- (5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.
- (6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).
- (7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.
- (8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.
- (9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

Comments:



# 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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