



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

AVERY T. DAY
ACTING COMMISSIONER

January 11, 2016

Mr. Michael Harris
Winter Harbor Utilities District
P.O. Box 141
Winter Harbor, ME 04693
mharris@ellsworthmaine.gov

*Sent via electronic mail
Delivery confirmation requested*

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100731
Maine Waste Discharge License (WDL) Application #W000562-6C-F-R
Finalized MEPDES Permit Renewal**

Dear: Mike Harris

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.*"

Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333-0017
Aaron.A.Dumont@maine.gov

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

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

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

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

If you have any questions regarding the matter, please feel free to call me at (207)-592-7161.

Sincerely,

A handwritten signature in dark ink, appearing to read "Aaron Dumont", with a stylized flourish at the end.

Aaron Dumont
Division of Water Quality Management
Bureau of Water Quality
Aaron.A.Dumont@maine.gov
Phone: 207-592-7161

Enclosure

cc: Mike Loughlin, DEP/EMRO
Lori Mitchell, DEP/CMRO
Olga Vergara, USEPA
Sandy Mojica, USEPA
Marelyn Vega, USEPA



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.

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



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

DEPARTMENT ORDER

IN THE MATTER OF

WINTER HARBOR UTILITIES DISTRICT)	MAINE POLLUTANT DISCHARGE
WINTER HARBOR, HANCOCK CTY., MAINE)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS)	AND
ME0100731)	WASTE DISCHARGE LICENSE
W000562-6C-F-R)	RENEWAL
APPROVAL		

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

APPLICATION SUMMARY

On July 14, 2015, the Department accepted as complete for processing, a renewal application from the District for Waste Discharge License (WDL) W000562-6C-F-R/Maine Pollutant Discharge Elimination System (MEPDES) permit ME0100731, which was issued on September 2, 2010, for a five-year term. The 9/2/10 MEPDES permit authorized the District to discharge a monthly average of 0.125 MGD of secondary treated municipal wastewater from a publicly owned treatment works (POTW) to the tidewaters of Henry Cove, Class SB, in Winter Harbor, Maine.

It is noted that the Department made two permit revisions since issuing the 9/2/10 permit. On October 25, 2010, the Department issued a minor permit revision to correct a typographical error and removed the seasonal limitation for biochemical oxygen demand (BOD₅) in Special Condition Table A.1. On February 6, 2012, the permit was modified to reduce mercury monitoring requirements to once per year.

PERMIT SUMMARY

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

1. Reducing the monitoring frequencies for BOD₅ and TSS, from 1/Week to 2/Month based on a statistical evaluation of test results for the five year period;
2. Reducing the monitoring frequency for Fecal Coliform from 1/Week to 2/Month based on a statistical evaluation of test results for the five year period;
3. Reducing the monitoring frequencies for Total Residual Chlorine, from 1/Day to 3/Week based on a statistical evaluation of test results for the five year period;
4. Reducing the monitoring frequency for pH, from 5/Week to 3/Week based on a statistical evaluation for the previous five year period;
5. Eliminating the waiver that allows the percent removal for BOD and TSS to be waived when the monthly average influent concentration is less than 200 mg/L; and

PERMIT SUMMARY (cont'd)

6. Establishing a requirement for the permittee to conduct an Industrial Waste Survey (IWS) any time a new industrial user proposes to discharge within its jurisdiction; an existing user proposes to make a significant change in its discharge; or at an alternative minimum, once every permit cycle, and submit the results to the Department.

CONCLUSIONS

Based on the findings summarized in the attached Fact Sheet dated January 5, 2016, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

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

ACTION

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of the WINTER HARBOR UTILITY DISTRICT to discharge a monthly average of 0.125 MGD of secondary treated wastewater to the Henry Cove, Class SB, in Winter Harbor, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

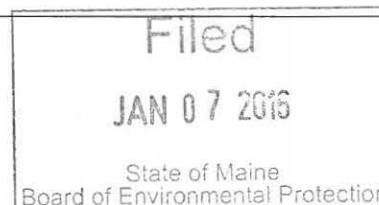
1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable to All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all 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) (amended October 19, 2015)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 7th DAY OF January 2016.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
AVERY T. DAY, Acting Commissioner



Date filed with Board of Environmental Protection _____

Date of initial receipt of application: July 13, 2015

Date of application acceptance: July 14, 2015

This Order prepared by Aaron Dumont, BUREAU OF WATER QUALITY

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **secondary treated municipal sanitary wastewater from Outfall #001** to Henry Cove, Class SB, in Winter Harbor. Such discharges are limited and must be monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
Flow [50050]	0.125 MGD [03]	---	Report MGD [03]	---	---	---	Continuous [99/99]	Recorder [RC]
BOD ₅ [00310]	31 lbs/day [26]	47 lbs/day [26]	52 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	24-Hour Composite [24]
BOD ₅ Percent Removal ⁽²⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	31 lbs/day [26]	47 lbs/day [26]	52 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	24-Hour Composite [24]
TSS Percent Removal ⁽²⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	3/Week [03/07]	Grab [GR]
Fecal Coliform Bacteria ^(3,4) [31616]	---	---	---	15/100 ml ⁽³⁾ [13]	---	50/100 ml [13]	2/Month [02/30]	Grab [GR]
Total Residual Chlorine ⁽⁵⁾ [00665]	---	---	---	0.1 mg/L [19]	---	0.3 mg/L [19]	3/Week [03/07]	Grab [GR]
Mercury (Total) ⁽⁶⁾ [71900]	---	---	---	6.0 ng/L [3M]	---	9.0 ng/L [3M]	1/Year [01/YR]	Grab [GR]
pH [00400]	---	---	---	---	---	6.0 – 9.0 SU [12]	3/Week [03/07]	Grab [GR]

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

FOOTNOTES: See Pages 6 – 9 of this permit for applicable footnotes.

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

- 2. SCREENING LEVEL TESTING:** Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee must conduct screening level testing as follows:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity ⁽⁷⁾ Acute – NOEL <i>Americamysis bahia</i> (Mysid shrimp) [TDM3E]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Chronic – NOEL <i>Arbacia punctulata</i> (Sea urchin) [TBH3A]	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical Chemistry ^(8,10) [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite / Grab [24/GR]
Priority Pollutant ^(9,10) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite / Grab [24/GR]

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

FOOTNOTES: See Pages 6– 9 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES

1. **Sampling** – Influent sampling must be conducted at the Department approved alternate location, which is the Main Street Pump Station. Effluent sampling must be sampled at the end of the chlorine contact chamber but prior to the discharge pipe. Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective April 1, 2010). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
2. **Percent Removal** – The permittee must achieve a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand for all flows receiving secondary treatment. The percent removal is calculated based on influent and effluent concentration values.
3. **Fecal coliform bacteria Limits (May 15 – September 30)** – Fecal coliform bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to reopen this permit in accordance with Special Condition L, *Reopening of Permit for Modifications*, require year-round bacteria limitations to protect the health, safety and welfare of the public.
4. **Bacteria Reporting** – The monthly average fecal coliform bacteria limitation is a geometric mean limitation and sample results must be reported as such.
5. **Total residual chlorine (TRC)** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee must utilize approved test methods that are capable of bracketing the limitations in this permit.

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

FOOTNOTES

6. **Mercury** – All mercury sampling (1/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) must be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses must be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment A**, *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

Compliance with the monthly average limitation established in Special Condition A.1 of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Methods 1669 and analysis Method 1631E on file with the Department for this facility.

7. **Whole Effluent Toxicity (WET)** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 3.8% and 0.6% respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOELC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematical inverse of the applicable acute and chronic dilution factors of 26:1 and 160:1, respectively. See **Attachment B** of this permit for a copy of the Department's WET reporting form.
- a. **Surveillance level testing** – Surveillance level testing is waived pursuant to *Surface Water Toxics Control Program*, 06-096 CMR 530(2)(D)(3)(b) (effective March 12, 2012).
- b. **Screening level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level WET testing at a minimum frequency of once per year (1/Year). For screening level tests, one test must be conducted in the calendar period between January and June and the other test conducted six months later. Acute tests must be conducted on the mysid shrimp (*Americamysis bahia*); chronic tests must be conducted on the sea urchin (*Arbacia punctulata*).

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

FOOTNOTES

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee must evaluate test results being submitted and identify to the Department possible exceedances of the critical acute and chronic water quality thresholds of 3.8% and 0.6%.

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following United States Environmental Protection Agency (USEPA) methods manuals.

- a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002, EPA-821-R-02-013.
- b. Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA-821-R-02-012.

Results of WET tests must be reported on the “*Whole Effluent Toxicity Report Fresh Waters*” form included as **Attachment B** of this permit each time a WET test is performed. Each time a WET test is performed, the permittee must sample and analyze for the parameters in the WET Chemistry and the Analytical Chemistry sections of the Department form entitled, *Maine Department of Environmental Protection, WET and Chemical Specific Data Report Form* included as **Attachment C** of this permit.

8. Analytical chemistry – Refers to a suite of chemicals in **Attachment C** of this permit.

- a. **Surveillance level testing** – Surveillance level testing is not required pursuant to 06-096 CMR 530(2)(D)(3)(b).
- b. **Screening level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

SPECIAL CONDITIONS

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

9. **Priority pollutant testing** – Priority pollutants are those parameters listed in **Attachment C** of this permit.
 - a. **Surveillance level testing** – Surveillance level testing is not required pursuant to 06-096 CMR 530(2)(D)(3)(b).
 - b. **Screening level testing** – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee must conduct screening level priority pollutant testing at a minimum frequency of once per year (1/Year). It is noted Chapter 530 does not require routine surveillance level priority pollutant testing in the first four years of the term of this permit.
10. **Analytical chemistry and priority pollutant** – Testing must be conducted on samples collected at the same time as those collected for whole effluent toxicity tests when applicable. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee must evaluate test results being submitted and identify to the Department, possible exceedances of the acute, chronic or human health AWQC as established in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "N-9" monitoring not required this period.

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not contain a visible oil sheen, foam or floating solids at any time which would impair the uses designated by the classification of the receiving waters.
2. The permittee must not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated by the classification of the receiving waters.
3. The permittee must not impart color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.
4. The permittee 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.

SPECIAL CONDITIONS

C. TREATMENT PLANT OPERATOR

The person who has management responsibility over the treatment facility must hold a minimum of a **Grade II** certificate (or Registered Maine Professional Engineer) pursuant to *Sewerage Treatment Operators*, 32 M.R.S.A. §§ 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

D. LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the wastewater collection and treatment system by a non-domestic source (user) must not pass through or interfere with the operation of the treatment system. The permittee must conduct an Industrial Waste Survey (IWS) any time a new industrial user proposes to discharge within its jurisdiction; an existing user proposes to make a significant change in its discharge; or at an alternative minimum, once every permit cycle and submit the results to the Department. The IWS must identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of the federal *Clean Water Act*, 40 CFR Part 403 (general pretreatment regulations) or *Pretreatment Program*, 06-096 CMR 528 (last amended March 17, 2008).

E. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on July 14, 2015; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, of this permit.

F. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.
3. For the purposes of this section, notice regarding substantial change must include information on:
 - a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
 - b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

SPECIAL CONDITIONS

G. WET WEATHER MANAGEMENT PLAN

The treatment facility staff must have a current written Wet Weather Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. A specific objective of the plan must be to maximize the volume of wastewater receiving secondary treatment under all operating conditions. The revised plan must include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures for before, during and after the events.

The permittee must review their plan at least annually and record any necessary changes to keep the plan up to date. The Department may require review and update of the plan as it is determined to be necessary.

H. OPERATIONS AND MAINTENANCE (O&M) PLAN

The permittee must maintain a current written comprehensive Operation & Maintenance (O&M) Plan for the facility. The plan must provide a systematic approach by which the permittee must at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

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

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

I. PUMP STATION EMERGENCY BYPASSES

Discharges from emergency bypass structures in pump stations are not authorized by this permit. The permittee must monitor the overflow points identified below via an electronic flow estimation system to record frequency, duration and estimation of flow discharged.

<u>Outfall Number</u>	<u>Outfall Location</u>	<u>Receiving Water and Class</u>
002	Main Street Pump Station	Henry Cove, Class SB
003	School Street Pump Station	Henry Cove, Class SB
004	Sergeant Street Pump Station	Henry Cove, Class SB
005	Beach Street Pump Station	Henry Cove, Class SB

The permittee must report any discharges from the pump station(s) in accordance with Standard Condition D(1)(f), *Twenty-four hour reporting*, and Special Conditions E, *Authorized Discharges*, of this permit.

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to **receive** and **introduce** into the treatment process or solids handling stream up to a daily maximum of **1,250 gallons per day, to a monthly maximum of 37,500 gallons**, of transported wastes, subject to the following terms and conditions:

1. "Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater strength than the influent described on the facility's application for a waste discharge license. Such wastes may include, but are not limited to septage, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.
2. Of the 1,250 gpd authorized by this permit, **the permittee may receive and introduce into the treatment process or solids handling stream up to a daily maximum of 1,250 gpd of septage wastes.**
3. The character and handling of all transported wastes received must be consistent with the information and management plans provided in application materials submitted to the Department.
4. At no time must the addition of transported wastes cause or contribute to effluent quality violations. Transported wastes may not cause an upset of or pass through the treatment process or have any adverse impact on the sludge disposal practices of the wastewater treatment facility. Wastes that contain heavy metals, toxic chemicals, extreme pH, flammable or corrosive materials in concentrations harmful to the treatment operation must be refused. Odors and traffic from the handling of transported wastes may not result in adverse impacts to the surrounding community. If any adverse effects exist, the receipt or introduction of transported wastes into the treatment process or solids handling stream must be suspended until there is no further risk of adverse effects.
5. The permittee must maintain records for each load of transported wastes in a daily log which must include at a minimum the following:
 - (a) The date;
 - (b) The volume of transported wastes received;
 - (b) The source of the transported wastes;
 - (d) The person transporting the transported wastes;
 - (e) The results of inspections or testing conducted;
 - (f) The volumes of transported wastes added to each treatment stream; and
 - (g) The information in (a) through (d) for any transported wastes refused for acceptance.

These records must be maintained at the treatment facility for a minimum of five years.

6. The addition of transported wastes into the treatment process or solids handling stream must not cause the treatment facilities design capacity to be exceeded. If, for any reason, the treatment process or solids handling facilities become overloaded, introduction of transported wastes into the

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY (cont'd)

- treatment process or solids handling stream must be reduced or terminated in order to eliminate the overload condition.
7. Holding tank wastewater from domestic sources to which no chemicals in quantities potentially harmful to the treatment process have been added must not be recorded as transported wastes but should be reported in the treatment facility's influent flow.
 8. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current Wet Weather Flow Management Plan approved by the Department pursuant to Special Condition G that provides for full treatment of transported wastes without adverse impacts.
 9. In consultation with the Department, chemical analysis is required prior to receiving transported wastes from new sources that are not of the same nature as wastes previously received. The analysis must be specific to the type of source and designed to identify concentrations of pollutants that may pass through, upset or otherwise interfere with the facility's operation.
 10. Access to transported waste receiving facilities may be permitted only during the times specified in the application materials and under the control and supervision of the person responsible for the wastewater treatment facility or his/her designated representative.

K. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING

By December 31 of each calendar year, the permittee must provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [*ICIS Code 75305*]. See **Attachment D** of the permit for an acceptable certification form to satisfy this Special Condition.

- a. Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- b. Changes in the operation of the treatment works that may increase the toxicity of the discharge;
- c. Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge;

In addition, in the comments section of the certification form, the permittee must provide the Department with statements describing;

- d. Changes in stormwater collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and
- e. Increases in the type or volume of transported (hauled) wastes accepted by the facility.

The Department may require that annual testing be re-instated if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

SPECIAL CONDITIONS

L. MONITORING AND REPORTING

Monitoring results obtained during the previous month must 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 (13th) day of the month or hand-delivered to the Department's Regional Office such that the DMRs are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein must be submitted to the Department assigned inspector (unless otherwise specified by the Department) at the following address:

Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME 04401

Alternatively, if you are submitting an electronic Discharge Monitoring Report (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 15th 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 (13th) 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 (15th) day of the month** following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15th day of the month following the completed reporting period.

M. REOPENING OF PERMIT FOR MODIFICATION

In accordance with 38 M.R.S.A. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent 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.

N. SEVERABILITY

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

ATTACHMENT A

Maine Department of Environmental Protection
Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Purpose of this test: ☐ Initial limit determination
☐ Compliance monitoring for: year _____ calendar quarter _____
☐ Supplemental or extra test

SAMPLE COLLECTION INFORMATION

Sampling Date:	<input type="text"/>	<input type="text"/>	<input type="text"/>	Sampling time:	<input type="text"/>	AM/PM
	mm	dd	yy			
Sampling Location:						
Weather Conditions:						
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:						
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:						
Suspended Solids _____ mg/L Sample type: _____ Grab (recommended) or _____ Composite						

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____	
Date of analysis: _____	Result: _____ ng/L (PPT)
Please Enter Effluent Limits for your facility	
Effluent Limits: Average = _____ ng/L	Maximum = _____ ng/L
Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.	

CERTIFICATION

I certify that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.	
By: _____	Date: _____
Title: _____	

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT B

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS**

Facility Name _____ MEPDES Permit # _____
Pipe # _____

Facility Representative _____ Signature _____

By signing this form, I attest that to the best of my knowledge that the information provided is true, accurate, and complete.

Facility Telephone # _____ Date Collected _____ Date Tested _____
mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results	% effluent		Effluent Limitations	
	mysis shrimp	sea urchin	A-NOEL	
A-NOEL			C-NOEL	
C-NOEL				

Data summary	mysis shrimp	sea urchin
	% survival	% fertilized
QC standard	>90	>70
lab control		
receiving water control		
conc. 1 (%)		
conc. 2 (%)		
conc. 3 (%)		
conc. 4 (%)		
conc. 5 (%)		
conc. 6 (%)		
stat test used		

Salinity Adjustment	
brine	
sea salt	
other	

place * next to values statistically different from controls

Reference toxicant	mysis shrimp	sea urchin
	A-NOEL	C-NOEL
toxicant / date		
limits (mg/L)		
results (mg/L)		

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

Report WET chemistry on DEP Form "ToxSheet (Marine Version), March 2007."

ATTACHMENT C

**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) _____	Flow for Day (MGD) ⁽¹⁾ _____	Flow Avg. for Month (MGD) ⁽²⁾ _____	
Acute dilution factor _____	Date Sample Collected _____	Date Sample Analyzed _____	
Chronic dilution factor _____			
Human health dilution factor _____			
Criteria type: M(arine) or F(resh) <u> m </u>	Laboratory _____	Telephone _____	
	Address _____		
	Lab Contact _____	Lab ID # _____	

Last Revision - April 24, 2014

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)			
WHOLE EFFLUENT TOXICITY							
		Effluent Limits, %			WET Result, %	Reporting Limit Check	Possible Exceedence ⁽⁷⁾
		Acute	Chronic		Do not enter % sign		Acute Chronic
Mysid Shrimp							
Sea Urchin							
WET CHEMISTRY							
pH (S.U.) ⁽⁹⁾							
Total Organic Carbon (mg/L)				NA			
Total Solids (mg/L)				NA			
Total Suspended Solids (mg/L)				NA			
Salinity (ppt)							
ANALYTICAL CHEMISTRY ⁽³⁾							
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 ⁽⁷⁾
			Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Acute Chronic Health
	TOTAL RESIDUAL CHLORINE (mg/L) ⁽⁹⁾	0.05			NA		
	AMMONIA	NA			(8)		
M	ALUMINUM	NA			(8)		
M	ARSENIC	5			(8)		
M	CADMIUM	1			(8)		
M	CHROMIUM	10			(8)		
M	COPPER	3			(8)		
M	CYANIDE, TOTAL	5			(8)		
	CYANIDE, AVAILABLE ^(3a)	5			(8)		
M	LEAD	3			(8)		
M	NICKEL	5			(8)		
M	SILVER	1			(8)		
M	ZINC	5			(8)		

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.

PRIORITY POLLUTANTS ⁽⁴⁾		Effluent Limits				Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
		Reporting Limit	Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Acute	Chronic	Health
M	ANTIMONY	5							
M	BERYLLIUM	2							
M	MERCURY ⁽⁵⁾	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-TRICHLOROBENZENE	5							
BN	1,2-(O)DICHLOROBENZENE	5							
BN	1,2-DIPHENYLHYDRAZINE	20							
BN	1,3-(M)DICHLOROBENZENE	5							
BN	1,4-(P)DICHLOROBENZENE	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							

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

[illegible]

**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.

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									
	TETRACHLOROETHYLENE										
V	(Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
	TRICHLOROETHYLENE										
V	(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.



(3a) Cyanide, Available (Cyanide Amenable to Chlorination) is not an analytical chemistry parameter, but may be required by certain discharge permits.

(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.

Printed 5/5/2014

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.

Comments:

ATTACHMENT D

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

MEPDES# _____ Facility Name _____

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	<input type="checkbox"/>	<input type="checkbox"/>
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
4	Increases in the type or volume of hauled wastes accepted by the facility?	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

Name (printed): _____

Signature: _____ Date: _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

Scheduled Toxicity Testing for the next calendar year

Test Conducted	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
WET Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Priority Pollutant Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analytical Chemistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other toxic parameters ¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.

¹ This only applies to parameters where testing is required at a rate less frequently than quarterly.

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

FACT SHEET

DATE: **January 5, 2016**

PERMIT NUMBER: **ME0100731**
WASTE DISCHARGE LICENSE: **W000562-6C-F-R**

NAME AND ADDRESS OF APPLICANT: **WINTER HARBOR UTILITIES DISTRICT
P.O. BOX 141
WINTER HARBOR, ME 04693**

COUNTY: **HANCOCK**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):
**WINTER HARBOR UTILITIES DISTRICT
39 MEADOW LANE
WINTER HARBOR, ME 04693**

RECEIVING WATER CLASSIFICATION: **HENRY COVE/CLASS SB**

COGNIZANT OFFICIAL CONTACT INFORMATION:
**MICHAEL HARRIS
(207)-664-4404
winterharbor-ud@hotmail.com**

1. APPLICATION SUMMARY

On July 14, 2015, the Department of Environmental Protection (Department) accepted as complete for processing, a renewal application from the Winter Harbor Utilities District (District) for Waste Discharge License (WDL) W000562-6C-D-R /Maine Pollutant Discharge Elimination System (MEPDES) permit ME0100731, which was issued on September 2, 2010, for a five year term. The 9/2/10 MEPDES permit authorized the District to discharge a monthly average of 0.125 million gallons per day MGD of secondary treated municipal wastewater from a publicly owned treatment works (POTW) to the tidewaters of Henry Cove, Class SB, in Winter Harbor, Maine.

It is noted that the Department made two permit revisions since issuing the 9/2/10 permit. On October 25, 2010, the Department issued a minor permit revision to correct a typographical error and removed the seasonal limitation for biochemical oxygen demand (BOD₅) in Special Condition Table A.1. On February 6, 2012, the permit was modified to reduce mercury monitoring requirements to once per year.

2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the previous permitting action and subsequent minor revisions except that it:
1. Reducing the monitoring frequencies for BOD₅ and TSS, from 1/Week to 2/Month based on a statistical evaluation of test results for the five year period;
 2. Reducing the monitoring frequency for Fecal Coliform from 1/Week to 2/Month based on a statistical evaluation of test results for the five year period;
 3. Reducing the monitoring frequencies for Total Residual Chlorine, from 1/Day to 3/Week based on a statistical evaluation of test results for the five year period;
 4. Reducing the monitoring frequency for pH, from 5/Week to 3/Week based on a statistical evaluation for the previous five year period;
 5. Eliminating the waiver that allows the percent removal for BOD₅ and TSS to be waived when the monthly average influent concentration is less than 200 mg/L; and
 6. Establishing a requirement for the permittee to conduct an Industrial Waste Survey (IWS) any time a new industrial user proposes to discharge within its jurisdiction; an existing user proposes to make a significant change in its discharge; or at an alternative minimum, once every permit cycle, and submit the results to the Department.

- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee.

April 6, 1985 – The Department issued WDL #W000562-45-A-R to the permittee.

February 15, 1995 – The Department issued a letter to the permittee advising that the facility was exempt from toxics testing (whole effluent toxicity and chemical-specific) based on the Department's determination that the facility had an effective dilution factor of at least 1,000:1.

November 21, 1985 – The USEPA issued NPDES permit #ME0100731 to the permittee for the discharge of secondary treated sanitary wastewater to Henry Cove.

May 23, 2000 – The Department administratively modified WDL #W000562-45-A-N / MEPDES ME0100731 by establishing interim monthly average and daily maximum mercury concentration limits of 6.0 parts per trillion (ppt) and 9.0 ppt, respectively, and a minimum monitoring frequency requirement of 2 times per year. It is noted the limitations have not been incorporated into Special Condition A, Effluent Limitations And Monitoring Requirements, of this permit as limitations and monitoring frequencies are regulated separately through Maine law, 38 M.R.S.A. §413 and Department rule 06-096 CMR 519.

July 11, 2000 – The Department issued WDL #W000562-5L-B-R / MEPDES ME0100731 to the permittee for the monthly average discharge of up to 0.125 MGD of secondary treated sanitary wastewater to Henry Cove for a five year term.

December 7, 2005 – The Department issued WDL#W000562-5L-C-R / MEPDES ME0100731 permit for a five-year term.

2. PERMIT SUMMARY

April 10, 2006 – The Department issued a permit modification for WDL#W000562-5L-C-R / MEPDES ME0100731 in accordance with the *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005).

September 2, 2010 – The Department issued WDL #W000562 - 5L-C-R / MEPDES ME0100731 for a five year term.

October 25, 2010 – The Department initiated a modification of the 9/2/2010 permit to eliminate the seasonal limitation on BOD₅ in Special Condition Table A.1.

February 6, 2012 – The Department initiated a modification of the 9/2/2010 permit to reduce the monitoring frequency for mercury to once per year.

July 13, 2015 – The District submitted a timely and complete General Application to the Department for renewal of the September 2, 2010, permit (including subsequent minor revisions and permit modifications). The application was accepted for processing on July 14, 2015, and was assigned WDL #W000562-6C-F-R / MEPDES ME0100731.

- c. Source Description: The permittee treats wastewater generated by approximately 280 domestic and commercial users in the town of Winter Harbor, Maine. There are no significant industrial users contributing flows to the treatment facility and no combined sewer overflow points associated with the collection system. The sewer collection system is approximately five (5) miles in length and contains four pump stations. The pump stations are located on Main Street, School Street, Sergeant Street, and Beach Street. Emergency back-up power is provided to the latter three pump stations by a portable generator, while the Main Street pump station is equipped with a permanent back-up generator. The Main Street pump station, which conveys all flows to the treatment plant, was upgraded during the previous permitting cycle. During the last permit cycle the District installed an influent composite sampler at the Main Street pump station.

Septage is received directly from the septage hauler trucks and conveyed to a 10,000-gallon aerated sludge holding tank and aerated for a minimum of four days. The aerated septage is then metered into the influent grit chamber prior to entering the wastewater stream.

This permitting action is carrying forward authorization for the permittee to receive up to 1,250 GPD of transported wastes pursuant to 06-096 CMR 555, *Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities* (last amended March 9, 2009), and based on the permittee's written Septage Management Plan last updated on March 5, 2010 and approved by the Department.

- d. Wastewater Treatment: The permittee provides a secondary level of treatment via an extended aeration activated sludge treatment process. Raw wastewater is conveyed from the Main Street pump station to a grit chamber at the head end of the treatment facility. Grease is periodically removed from the Main Street pump station and applied onto the reed bed. Grit and screenings are applied to the reed bed. Flow is conveyed from the grit chamber to a flow splitter box, combined with return activated sludge and evenly distributed to two (2) 43,900-gallon capacity (24-foot long by 24-foot wide by 10 foot deep) aeration basins fitted with mechanical aerators.

2. PERMIT SUMMARY (cont'd)

The flow is then conveyed to two (2) 18-foot diameter, 8 to 10-foot deep circular secondary clarifiers. Scum from each clarifier is conveyed to scum pits and then pumped back to the aeration basins for further treatment. From the clarifiers, the flow is conveyed to a 13-foot wide by 24-foot long by 9-foot deep chlorine contact chamber. The chamber is segregated into two equal chambers, and both sides are utilized, except that one side may be taken off line for maintenance purposes. The wastewater is treated with sodium hypochlorite for disinfection and with ascorbic acid for dechlorination on a seasonal basis.

Waste sludge is periodically pumped to a reed bed for final disposal. The vegetative portions of the reeds are cut back annually.

Final effluent is conveyed for discharge to the Atlantic Ocean at Henry Cove in Winter Harbor via an 18-inch diameter outfall pipe that extends approximately 1,250 linear feet into the receiving water from the spring high tide level to a measured depth of 8 feet below the surface of the water at mean low tide. The outfall pipe is not fitted with a diffuser or other mechanism to enhance mixing of the effluent with the receiving water. A facility schematic is included as **Attachment A** of this Fact Sheet.

3. CONDITIONS OF PERMIT

Conditions of licenses, 38 M.R.S.A. § 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. § 420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (last amended July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Classification of estuarine and marine waters, 38 M.R.S.A. § 469 classifies all estuarine and marine waters lying within the boundaries of Hancock County and that are not otherwise classified, which includes Henry Cove (Inner Harbor) at the point of discharge, as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B(2), describes the standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters at the permittee's outfall (Waterbody ID 714) as, "Category 2: Estuarine and Marine Waters Attaining Some Designated Uses – Insufficient Information for Other Uses." Attainment in this context is in regard to the designated use of the harvesting of shellfish. The Maine Department of Marine Resources (DMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The DMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality.

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The DMR closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, shellfish harvesting area #51 (A.2) is precautionary closed to the harvesting of shellfish due the location of the Winter Harbor wastewater treatment plant outfall. The shellfish closure area is identified on the map included as Fact Sheet **Attachment B**. The Department is making the determination that compliance with the fecal coliform bacteria and other secondary wastewater treatment limits established in this permitting action ensure that the discharge of secondary treated wastewater from the District will not cause or contribute to the failure of the receiving waters to meet the standards of its designated classification.

Category 5-D: *Estuarine and Marine Waters Impaired by Legacy Pollutants*. All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D, partially supporting fishing ("shellfish" consumption) due to elevated levels of PCBs and other persistent, bioaccumulating substances in lobster tomalley.

6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limit of 0.125 MGD based on the design capacity for the treatment facility, and a daily maximum discharge flow reporting requirement.

The Department reviewed 57 Discharge Monitoring Reports (DMRs) that were submitted for the period August 2010 – August 2015. A review of the data indicates that following:

Flow (DMRs=57)

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	0.125	0.02 – 0.21	0.05
Daily Maximum	Report	0.03 – 0.37	0.125

- b. Dilution Factors: With a permitted flow limitation of 0.125 MGD and the location and configuration of the outfall structure, the Department has established dilution factors as follow:

Acute = 26:1 Chronic = 160:1 Harmonic mean⁽¹⁾ = 480:1

¹The 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 U.S. EPA 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.

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

- c. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, monthly average and weekly average technology-based effluent limits of 30 mg/L and 45 mg/L, respectively, for BOD₅ and TSS pursuant to the secondary treatment regulation at 40 CFR 133.102 and 06-096 CMR 525(3)(III). The previous permit also established daily maximum technology-based effluent limit of 50 mg/L for both BOD₅ and TSS based on a Department best professional judgment of best practicable treatment for secondary treated wastewater.

The previous permitting action established, and this permitting action is carrying forward, monthly average, weekly average and daily maximum technology-based effluent limits of 30 mg/L, 45 mg/L and 50 mg/L respectively. The mass-based limits were calculated as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.125 \text{ MGD}) = 31 \text{ lbs./day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.125 \text{ MGD}) = 47 \text{ lbs./day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.125 \text{ MGD}) = 52 \text{ lbs./day}$

The previous permit established a minimum monitoring frequency for BOD₅ of one time per week (1/Week) and a monitoring frequency for TSS of once per month (1/Month) based on the Department best professional judgement. Although EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 56 months of data (September 2010 – April 2015).

A review of the mass monitoring data for BOD indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as 8.76% respectively. The USEPA has published guidance entitled, *Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies* (USEPA Guidance April 1996). In addition, the Department has supplemented the EPA guidance with its own guidance entitled, *Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996* (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for each parameter regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified. According to Table I of the EPA Guidance and Department Guidance, a 1/Week monitoring requirement can be reduced to 1/2Months. However, Department Guidance states that the reduction must be no greater than 50%. Therefore, this permitting action is reducing the monitoring frequency for BOD from once per week (1/Week) to twice per month (2/Month).

This permitting action is carrying forward a requirement for a minimum of 85% removal of BOD₅ & TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3). The permittee has not demonstrated that it qualifies for special considerations pursuant to 06-096 CMR 525(3)(IV) to maintain a waiver from the 85% removal requirement when influent concentration is less than 200 mg/L, which was established in the previous permit. Therefore, this permitting action is eliminating the waiver from the 85% removal requirement provided in the previous permitting action when influent concentration is less than 200 mg/L.

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

The Department reviewed 57 DMRs that were submitted for the period August 2010 – August 2015. It should be noted that the District did not exceed the limits for BOD₅ and TSS limits for the monitoring period for the past five years. A review of data indicates the following:

BOD₅ Mass (limit lbs./day June 1-May 30) (DMRs=57)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	31	0.50 – 13	3
Weekly Average	47	1 – 25	5
Daily Maximum	52	1 – 25	5

BOD₅ Concentration (DMRs=57)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	1 – 25	7
Weekly Average	45	2 – 43	11
Daily Maximum	50	3 – 43	12

TSS Mass (DMRs=57)

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	31	0.90 – 12	3
Weekly Average	47	1 – 40	6
Daily Maximum	52	1 – 40	6

TSS Concentration (DMRs=57)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	2 – 41	6
Weekly Average	45	2 – 81	11
Daily Maximum	50	2 – 81	11

A review of the monitoring data for TSS indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as 8.1% respectively. The USEPA has published guidance entitled, *Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies* (USEPA Guidance April 1996). In addition, the Department has supplemented the EPA guidance with its own guidance entitled, *Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996* (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for each parameter regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified. According to Table I of the EPA Guidance and Department Guidance, a 1/Week monitoring requirement can be reduced to 1/2Months. However, Department Guidance states that the reduction must be no greater than 50%. Therefore, this permitting action is reducing the monitoring frequency for TSS once per week (1/Week) to twice per month (2/Month).

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

- d. Settleable Solids: The previous permitting action established a daily maximum technology based concentration limit of 0.3 ml/L and the minimum monitoring frequency requirement of 3/Week for settleable solids. An evaluation of data generated August 2010 – August 2015 shows the permittee reported a total of 3 excursions that exceeded the daily maximum of 0.3 ml/L for settleable solids.

Settleable Solids Concentration (DMRs=57)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	0.01 – 7	0.25

- e. Fecal Coliform Bacteria: The previous permitting action established monthly average and daily maximum concentration limits of 15 colonies/100 ml and 50 colonies/100 ml, respectively, for fecal coliform bacteria during the period of May 15 through September 30 of each year, which are consistent with the National Shellfish Sanitation Program.

A summary of effluent fecal coliform bacteria data as reported on the DMRs for the period August 2010 through August 2015 is as follows:

Fecal coliform bacteria (DMR = 57)

Value	Limit (col/100 mL)	Range (col/100 mL)	Mean (col/100 mL)
Monthly Average	15	1 – 9	2
Daily Maximum	50	1 – 300	20

The previous permit established a minimum monitoring frequency for fecal coliform bacterial of one times per week (1/Week) based on the Department best professional judgement. Minimum monitoring frequency requirements in MEPDES permits are prescribed by 06-096 CMR Chapter 523(5)(i). Although EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 56 months of data (September 2010 – April 2015). A review of the data for fecal coliform indicates the ratio (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as 13% respectively. According to Table I of the EPA Guidance and Department Guidance, a 1/Week monitoring requirement can be reduced to 2/Month. Therefore, this permitting action is reducing the monitoring frequency for Fecal Coliform to 2/Month.

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

- f. Total Residual Chlorine (TRC): The previous permitting action established a daily maximum BPT limitation of 0.3 mg/L and a monthly average 0.1 mg/L. For facilities that must dechlorinate the effluent in order to consistently achieve compliance with water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L. This permit is carrying forward a daily maximum 0.3 mg/L and a monthly average 0.1 mg/L.

Acute (A) Criterion	Chronic (C) Criterion	A & C Acute Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	24:1 (A) 160:1 (C)	0.31 mg/L	1.2 mg/L

The daily maximum technology-based standard of 0.3 mg/L is more stringent than the acute water quality-based threshold calculated above, and is therefore being carried forward in this permitting action. The monthly average technology-based threshold of 0.1 mg/L is more stringent than chronic threshold of 1.2 mg/L and is therefore being carried forward in this permitting action. Although bacteria limitations are seasonal and apply between May 15 and September 30 of each year, TRC monitoring must be conducted during any periods that chlorine-based compounds are in use at the facility.

The Department reviewed 23 DMRs that were submitted for the period August 2010 – August 2015. A review of data indicates the following:

Total Residual Chlorine (DMRs=23)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.1	0.01-0.20	0.05
Daily Maximum	0.3	0.04 – 0.93	0.13

The previous permit established the minimum monitoring frequency for TRC of once per day (1/Day) based on Department best professional judgment at that time.

Minimum monitoring frequency requirements in MEPDES permits are prescribed by 06-096 CMR Chapter 523(5)(i). The USEPA has published guidance entitled, *Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies* (USEPA Guidance April 1996). In addition, the Department has supplemented the EPA guidance with its own guidance entitled, *Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996* (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for each parameter regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified.

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

Although EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 23 months of seasonal data (August 2010 – August 2015). A review of the seasonal monitoring data for TRC indicates the ratios (expressed in percent) of the mean of the long term monthly effluent average to the monthly average and daily limits can be calculated as 50% and 43% respectively. According to Table I of the EPA Guidance and Department Guidance, a 1/Day monitoring requirement can be reduced to 3/Week. Therefore, this permitting action is reducing the monitoring frequency for TRC to 3/Week.

- g. **pH:** The previous permitting action established, and this permitting action is carrying forward, a technology-based pH limit of 6.0 – 9.0 standard units (SU), which is based on 06-096 CMR 525(3)(III).

The Department reviewed 60 DMRs that were submitted for the period August 2010 – August 2015. A review of data indicates the following:

pH (DMRs=57)

Value	Limit (SU)	Range (SU)	Maximum (SU)
Monthly Average	6.0 – 9.0	6.00 – 6.90	6.90
Daily Maximum	6.0 – 9.0	6.40 – 7.90	7.90

Minimum monitoring frequency requirements in MEPDES permits are prescribed by 06-096 CMR Chapter 523(5)(i). The USEPA has published guidance entitled, *Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies* (USEPA Guidance April 1996). In addition, the Department has supplemented the EPA guidance with its own guidance entitled, *Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996* (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for each parameter regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified.

Although EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 57 months of seasonal data (August 2010 – August 2015). A review of the seasonal monitoring data for pH indicates the ratios (expressed in percent) of the mean of the long term monthly effluent average to the monthly average and daily limits shows 100% compliance with the limits. According to Table I of the EPA Guidance and Department Guidance, a 5/Week monitoring requirement can be reduced to 3/Week. Therefore, this permitting action is reducing the monitoring frequency for pH to 3/Week.

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

- h. Mercury: Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste Discharge Licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a by establishing interim average and daily maximum effluent concentration limits of 24 parts per trillion (ppt) and 36 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. 38 M.R.S.A. § 420(1-B)(B)(1) provides that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department. A review of the Department's data base for the period June 2010 – June 2015 indicates the permittee has been in compliance with the interim limits for mercury as results have been reported as follows:

Mercury

Value	Limit (ng/L)	Range (ng/L)	Mean (ng/L)
Average	24	0.65 – 16.60	4.92
Daily Maximum	36		

Pursuant to 38 M.R.S.A. § 420(1-B)(F), the Department issued a minor revision on February 6, 2012, to the September 14, 2009, permit thereby revising the minimum monitoring frequency requirement from twice per year to once per year given the permittee has maintained at least 5 years of mercury testing data.

Pursuant to 38 M.R.S.A. § 420(1-B)(F), this permitting action is carrying forward the 1/Year monitoring frequency established in the February 6, 2012, permit modification.

- i. Nitrogen: The permittee has not been conducting total nitrogen testing on its discharge to date. However, the USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards in marine waters, namely dissolved oxygen (DO) and marine life support. The Department has 50 total nitrogen effluent values with an arithmetic mean of 14.3 mg/L collected from various municipally-owned treatment works that discharge to marine waters of the State. None of the facilities whose effluent data were used are specifically designed to remove total nitrogen. For the MEPDES permitting program, the Department considers 14.3 mg/L to be representative of total nitrogen discharge levels for all facilities providing secondary treatment that discharge to marine waters in the absence of facility specific data.

As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for total nitrogen. According to several studies in EPA's Region I, numeric total nitrogen criteria have been established for relatively few estuaries but the criteria that have been set typically fall between 0.35 mg/L and 0.50 mg/L to protect marine life using dissolved oxygen as the indicator. While the thresholds are site-specific, nitrogen thresholds set for the protection of eelgrass habitat range from 0.30 mg/L to 0.39 mg/L.

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

Extrapolating estuarine criteria to an exposed coastal marine environment may result in thresholds that are not appropriate given the lower ambient nutrient concentrations expected in the open ocean. Based on studies in EPA Region I and the Department's best professional judgment of thresholds that are protective of Maine water quality standards, the Department is utilizing a threshold of 0.45 mg/L for the protection of aquatic life in marine waters using dissolved oxygen as the indicator, and 0.32 mg/L for the protection of eelgrass in the vicinity of discharge outfalls. Eelgrass beds of varying percent cover have been mapped to within approximately 120 feet of the outfall as recently as 2008.

The Department is considering far-field dilution to be more appropriate when evaluating impacts of total nitrogen to a marine environment. The permittee's facility has a chronic near field dilution of 160:1. Far field dilutions are significantly higher than the near-field dilution, ranging from 100 – 10,000 times higher depending on the location of the outfall pipe. With outfalls located in protected coves or small embayments without significant flushing, far field dilution factors would tend to be on the order of 100 times the near field dilution. With open ocean discharges, far field dilutions would tend to be 1,000 – 10,000 times the near field dilution. The permittee's facility discharges to a small embayment, Henry Cove, at the head of the larger, exposed Winter Harbor, on the western shore of the Schoodic Peninsula, thus the far field dilution would likely be 100 times the near field dilution. Using the most protective far field dilution multiplier of 100 times higher than the near field dilution factor becomes 16,000:1 in the far field.

Total nitrogen concentrations in effluent = 14.3 mg/L

Far Field dilution factor = 16,000:1

In-stream concentration after dilution: $\frac{14.3 \text{ mg/L}}{16,000} = 0.0009 \text{ mg/L}$

The Department has been collecting ambient total nitrogen data in Maine's marine waters to support development of statewide nutrient criteria for marine waters. For the permittee's facility, the Department calculated a mean background concentration of 0.22 mg/L based on ambient data collected in small, shallow embayments directly exposed to the Gulf of Maine (n=10). As a result, after reasonable opportunity for far field mixing, the increase in the concentration of total nitrogen in the receiving water due to the discharge from the permittee's facility will not be measureable based on typical laboratory detection limits; thus, the instream concentration of total nitrogen will remain 0.22 mg/L. This concentration is lower than the Department's and EPA's best professional judgment of a critical threshold of 0.32 mg/L to protect eelgrass in the vicinity of the permittee's outfall pipe. Therefore, the Department is making a best professional judgment determination that the discharge of total nitrogen from the permittee's facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters.

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

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

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in 06-096 CMR 584 and 06-096 CMR 530(2)(B) categorizes dischargers subject to the toxics rule into one of four levels the categories are as follows:

- 1) Level I – chronic dilution factor of <20:1.
- 2) Level II – chronic dilution factor of >20:1 but <100:1.
- 3) Level III – chronic dilution factor >100:1 but <500:1 or >500:1 and Q >1.0 MGD
- 4) Level IV – chronic dilution >500:1 and Q <1.0 MGD

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee's facility falls into the Level III frequency category as the facility has a chronic dilution factor >100:1 but <500:1 or >500:1 and Q >1.0 MGD. 06-096 530(2)(D)(1) specifies that routine screening and surveillance level testing requirements are as follows:

Surveillance level testing – This permitting action is carrying forward the toxics testing waiver for surveillance level testing pursuant to 06-096 CMR 530(2)(D)(3)(b) and Department best professional judgment.

Screening level testing – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
III	1 per year	None required	1 per year

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

A review of the data on file with the Department indicates that to date, the permittee has fulfilled the WET and chemical-specific testing requirements of 06-096 CMR 530. See **Attachment C** of this permit for dates and test results for WET.

WET Evaluation – The previous permitting action established a C-NOEL limit of 3.8% for the sea urchin as a statistical evaluation at that time indicated the discharge had a reasonable potential to exceed critical chronic WET threshold of 3.8%. For this permitting action, a statistical evaluation was conducted on 7/15/15 that indicates the discharge does not have any WET test results that exceed or have a reasonable potential to exceed the critical acute or chronic water quality thresholds of 3.8% and 0.6%.

The previous permitting action established and this permitting action is carrying forward reduced surveillance level testing for WET and analytical chemistry testing. **On or before December 31st of each year** of the effective term of this permit [*ICIS Code 75305*], the permittee must provide the Department with statements describing the following:

- a. Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;
- b. Changes in the operation of the treatment works that may increase the toxicity of the discharge;
and
- c. Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.
- d. Changes in stormwater collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.
- e. Increases in the type or volume of hauled wastes accepted by the facility.

Further, the Department may require that that annual WET testing be instituted if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted. This permitting action carries forward Special Condition J 06-096 CMR 530(2)(D)(4) *Statement for Reduced/Waived Toxics Testing*, pursuant to 06-096 CMR 530(2)(D)(4). Special Condition J of this permit requires the certification to be submitted to the Department annually. See **Attachment D** of this permit for the certification form.

It is noted, however, that if future WET testing indicates the discharge exceeds critical water quality thresholds, this permit will be reopened pursuant to Special Condition L, *Reopening of Permit For Modification*, of this permit to establish applicable limitations and monitoring requirements.

7. DISPOSAL OF SEPTAGE WASTE IN WASTEWATER TREATMENT FACILITY

The previous permitting action authorized the District to receive and introduce up to 1,250 gpd of septage. 06-096 CMR 555, *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities*, limits the quantity of septage received at a facility to 1% of the design capacity of treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may receive more than 1% of the design capacity on a case-by-case basis. In their application for permit renewal, the District has requested the Department carry forward the daily quantity of transported waste it is authorized to receive and treat (up to 1,250 gpd) as it does utilize the side stream/storage method of metering wastes into the facility's influent flow. With a design capacity of 0.125 MGD, 1,250 gpd only represents 1% of said capacity.

8. 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 Henry Cove (Inner Harbor) to meet standards for Class SB classification.

9. PUBLIC COMMENTS

Public notice of this application was made in the *Ellsworth American* newspaper on or about July 17, 2015. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

10. DEPARTMENT CONTACTS

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

Aaron Dumont
Bureau of Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 592-7161
e-mail: Aaron.A.Dumont@maine.gov

11. RESPONSE TO COMMENTS

During the period of November 10, 2015, through the effective date of this final agency action, the Department solicited comments on the draft MEPDES permit. The Department received one substantive comment on the draft permit from the Superintendent of the Winter Harbor Utility District. It is noted that minor typographical and grammatical errors identified in comments were not summarized in this section, but were corrected, where necessary, in the final permit.

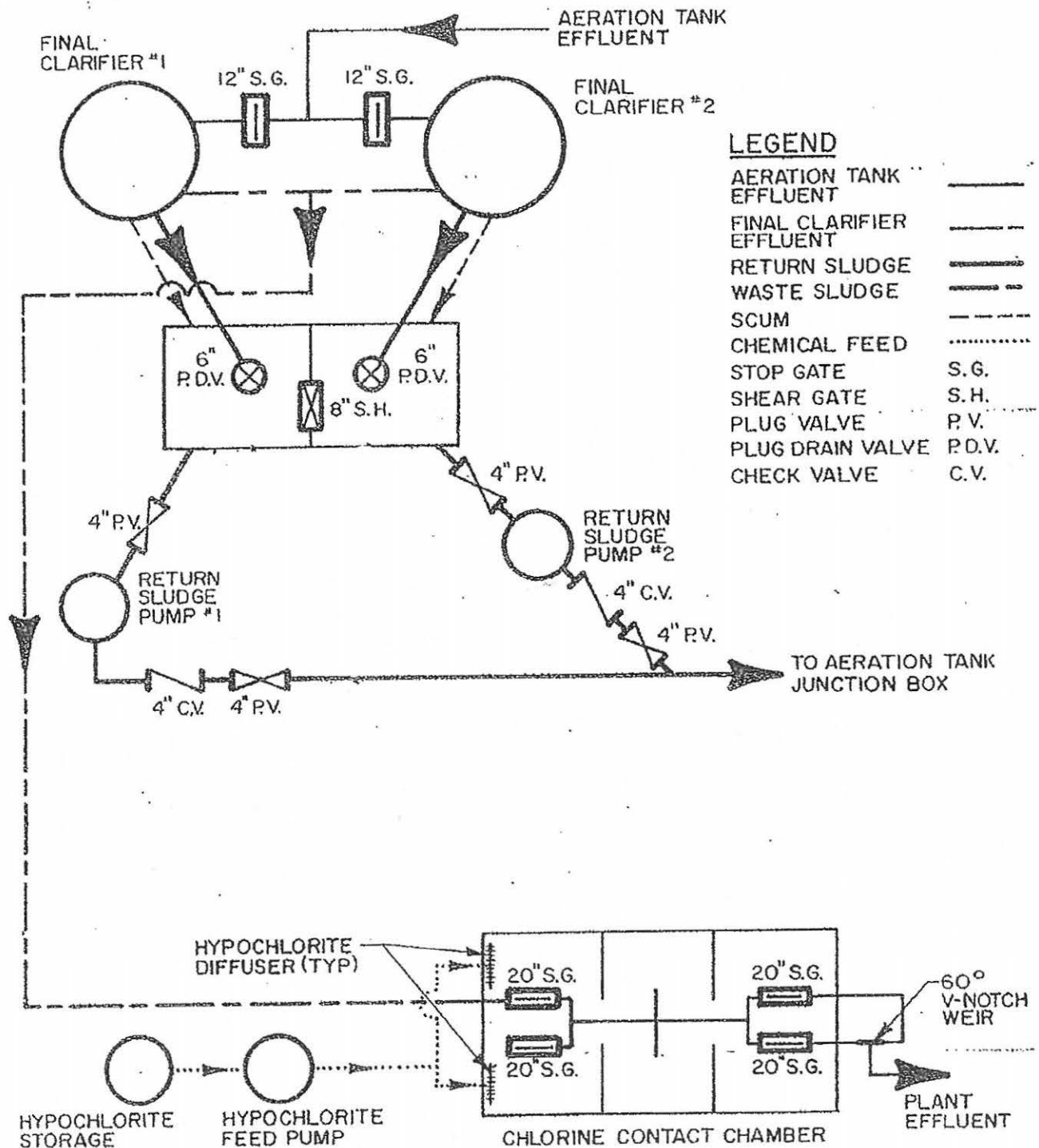
11. RESPONSE TO COMMENTS (cont'd)

Comment #1: During the draft comment period, the District noted that the Permit Footnotes incorrectly stated the influent sampling must be conducted at the headworks building influent channel.

Response #1: The Department has revised the final permit to reflect the correct sampling point which is located at a Department approved alternate location at the Main Street Pump Station.

ATTACHMENT A

WINTER HARBOR FINAL CLARIFIERS, SLUDGE DEWATERING AND DISENFECTION WASTEWATER TREATMENT PLANT



ATTACHMENT B

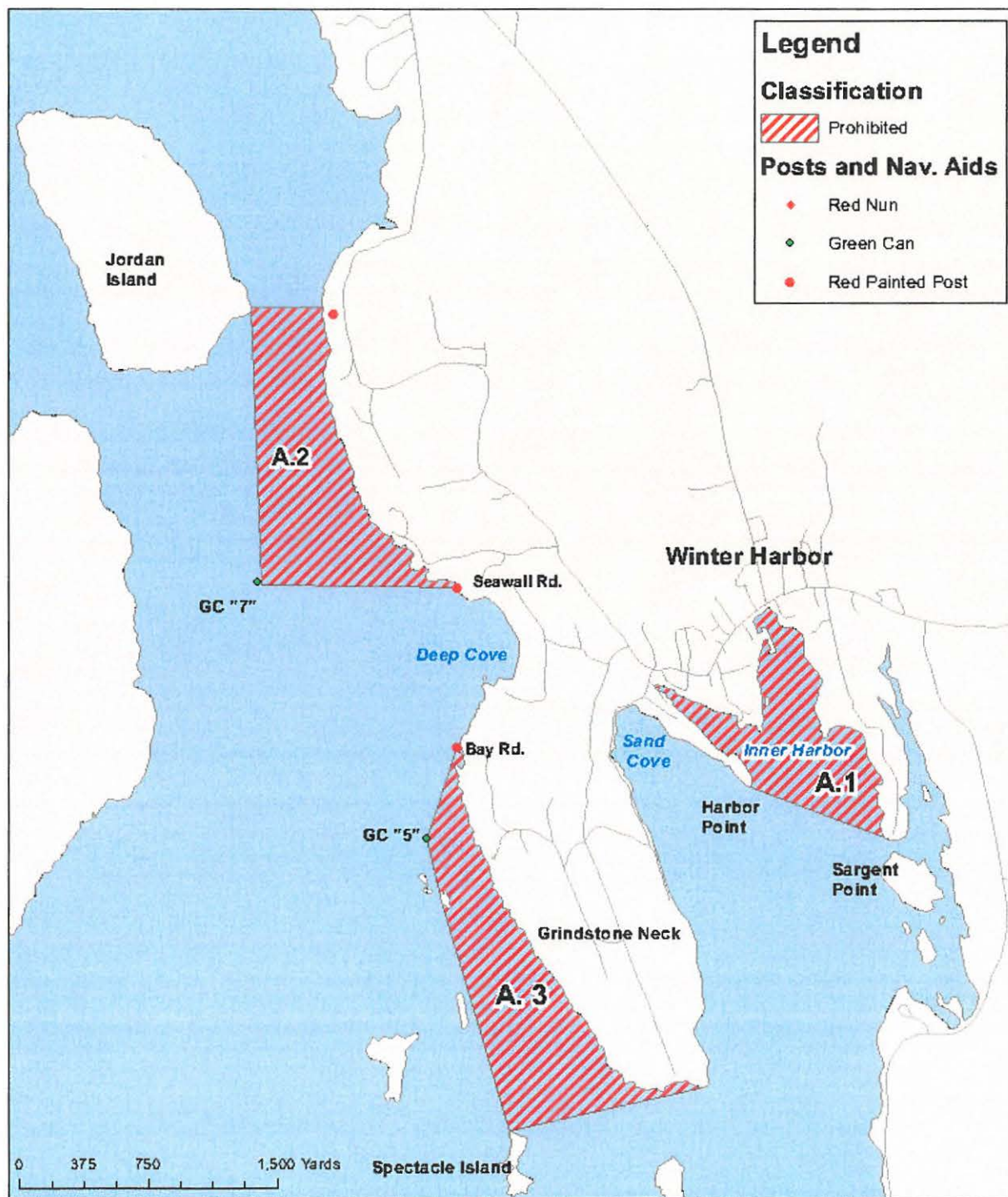
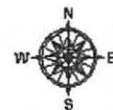
May 29, 2015



Maine Department of Marine Resources

Pollution Closed Area No. 51

Winter Harbor and Grindstone Neck (Winter Harbor)



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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.