

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF WATER RESOURCES 235 Promenade Street, Providence, Rhode Island 02908

July 15, 2020

CERTIFIED MAIL

Mr. Alan Blazar Facilities Manager Greenwich Mills, LLC PO Box 1954 East Greenwich, RI 02818

RE: Final RIPDES Permit for Greenwich Mills, LLC RIPDES No. RI0023639

Dear Mr. Blazar:

Enclosed is your final Rhode Island Pollutant Discharge Elimination System (RIPDES) Permit issued pursuant to the referenced application. State regulations, promulgated under Chapter 46-12 of the Rhode Island General Laws of 1956, as amended, require this permit to become effective on the date specified in the attached permit.

Also enclosed is information relative to hearing requests and stays of RIPDES Permits.

We appreciate your cooperation throughout the development of this permit. Should you have any questions concerning this permit, feel free to contact Samuel Kaplan of the State Permits Staff at (401) 222-4700, extension 7046 or samuel.kaplan@dem.ri.gov.

Sincerely,

Joseph B. Haberek

Joseph B. Haberek, PE Environmental Engineer IV

JBH:sk

Enclosures

ecc: Stephen Gautie. ATC Group Services, LLC Adrienne Kee, ATC Group Services, LLC Traci Pena, DEM-OWR Crystal Charbonneau, DEM-OWR

RESPONSE TO COMMENTS

NO SIGNIFICANT COMMENTS WERE RECEIVED ON THE DRAFT PERMIT THIS FACILITY; THEREFORE, NO RESPONSE WAS PREPARED.

HEARING REQUESTS

If you wish to contest any of the provisions of this permit, you may request a formal hearing within thirty (30) days of receipt of this letter. The request should be submitted to the Administrative Adjudication Division at the following address:

Mary Dalton, Clerk Department of Environmental Management Office of Administrative Adjudication 235 Promenade Street 3rd Floor, Rm 350 Providence, RI 02908

Any request for a formal hearing must conform to the requirements of Rule 49 of the State Regulations.

STAYS OF RIPDES PERMITS

Should the Department receive and grant a request for a formal hearing, the contested conditions of the permit will not automatically be stayed. However, the permittee, in accordance with Rule 50, may request a temporary stay for the duration of adjudicatory hearing proceedings. Requests for stays of permit conditions should be submitted to the Office of Water Resources at the following address:

Angelo S. Liberti, P.E. Chief of Surface Water Protection Office of Water Resources 235 Promenade Street Providence, Rhode Island 02908

All uncontested conditions of the permit will be effective and enforceable in accordance with the provisions of Rule 49.

AUTHORIZATION TO DISCHARGE UNDER THE RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of Chapter 46-12 of the Rhode Island General Laws, as amended,

Greenwich Mills, LLC

P.O. Box 1954 East Greenwich, RI 02818

is authorized to discharge from a facility located at

42 Ladd Street Warwick, RI 02818

to receiving waters named

Greenwich Cove

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

This permit shall become effective on January 1, 2021.

This permit supersedes the permit issued on October 21, 2014.

This permit and the authorization to discharge expire at midnight, five (5) years from the effective date.

This permit consists of 8 pages in Part I including effluent limitations, monitoring requirements, etc. and 10 pages in Part II including General Conditions.

Signed this 15th day of July, 2020.

Joseph B. Haberek

for Angelo S. Liberti, P.E., Administrator for Surface Water Protection Office of Water Resources Rhode Island Department of Environmental Management Providence, Rhode Island

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning on the effective date and lasting through permit expiration, the permittee is authorized to discharge from outfall serial number(s) 100 (effluent from elevator sump groundwater treatment system).

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent	Discharge Limitations			Monitoring Requirement			
Characteristic	Quantity - Ibs./day		Concentration - specify units				
	Average <u>Monthly</u>	Maximum Daily	Average <u>Monthly</u> *(<u>Minimum</u>)	Average <u>Weekly</u> *(<u>Average</u>)	Maximum <u>Daily</u> *(<u>Maximum</u>)	Measurement Frequency	Sample <u>Type</u>
Flow	gpm	6048 gal/day				Continuous	Recorder
Tetrachloroethylene			ug/l		5 ug/l	2/Year	Grab
cis-1,2 –Dichloroethene			ug/l		2.5 ug/l	2/Year	Grab
Bis(2-Ethyl-hexyl)Phthalate			ug/l		5 ug/l	2/Year	Grab
рН			(6.5 S.U.)		(8.5 S.U.)	2/Year	Grab

() Values in parentheses represent the minimum and maximum values.

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

¹ Midpoint and effluent samples shall be taken at a minimum frequency of once every six (6) months, one sample January 1 – June 30 and one sample July 1 – December 31. Influent samples should be taken annually and analyzed using EPA methods 624 and 625.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: Internal Outfall 100 (elevator shaft sump groundwater treatment system midpoint and effluent sample locations).

- 2. a. The pH of the effluent shall not be less than 6.5 nor greater than 8.5 standard units at any time, unless these values are exceeded due to natural causes or as a result of the approved treatment processes.
 - b. The discharge shall not cause visible discoloration of the receiving waters.
 - c. The effluent shall contain neither a visible oil sheen, foam, nor floating solids at any time.
- 3. All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director 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":
 - (1) One hundred micrograms per liter (100 ug/l);
 - (2) 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-dinitro-phenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21(g)(7); or
 - (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and the RICR (Rhode Island Code of Regulations).
 - b. That any activity has occurred or will occur which would result in the discharge, on a non routine or infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - (1) Five hundred micrograms per liter (500 ug/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21(g)(7); or
 - (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and the RICR (Rhode Island Code of Regulations).
 - c. That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit application.

- 4. The permittee shall conduct a primary carbon bed change out within 48 hours of detecting breakthrough of pollutants greater than the limits in Part I.A.1 at the midfluent sample point (between GAC units) of the elevator shaft sump groundwater treatment system (outfall 100) or at a minimum frequency of once every 12 months.
- 5. Midpoint (between GAC units) and effluent samples (after GAC units) shall be taken at a frequency of twice per year and analyzed for the pollutants listed in Part I.A.1. Influent samples (before the bag filters) shall be taken at a frequency of once per year and should be analyzed using EPA methods 624 and 625. The results of the influent analysis shall be submitted to the Department of Environmental Management with the last DMR for the monitoring year. All sampling and analysis shall be done in accordance with EPA Regulations, including 40 CFR, Part 136.
- 6. A flow log that includes a summary of total flow, operations and maintenance activities, and a description of all carbon replacement activities performed during the monitoring period must be submitted with the Discharge Monitoring Reports required under Part I.C. of the permit.
- 7. Discharge shall cease and the Office shall be notified immediately if any of the contaminants listed, are found in the effluent (after the GAC units) above the limits listed in Part I.A.1 of the permit. At a minimum, the notification shall include a summary of total flow, operation and maintenance activities, and any laboratory results from the last time the carbon filters were replaced to the present. Also, the notification shall include a description of the steps that have or will be taken to prevent future violations, as well as justification as to the appropriateness of such steps. Written documentation of the immediate notification required above shall be submitted to the Office within five (5) days. The discharge may recommence once steps have been taken to ensure the limits will not be exceeded again, and following approval by DEM. At a minimum, these steps shall include replacement of the first activated carbon filter.
- 8. This permit serves as the State's Water Quality Certificate for the discharges described herein.

B. DETECTION LIMITS

All analyses of parameters under this permit must comply with the *National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting* rule. Only sufficiently sensitive test methods may be used for analyses of parameters under this permit. The permittee shall assure that all testing required by this permit, is performed in conformance with methods listed in 40 CFR 136. In accordance with 40 CFR 136, EPA approved analysis techniques, quality assurance procedures and quality control procedures shall be followed for all reports required to be submitted under the Rhode Island Pollutant Discharge Elimination System (RIPDES) program. These procedures are described in "Methods for the Determination of Metals in Environmental Samples" (EPA/600/4-91/010) and "Methods for Chemical Analysis of Water and Wastes" (EPA/600/4-79/020).

If after conducting the complete Method of Standard Additions analysis, the laboratory is unable to determine a valid result, the laboratory shall report "could not be analyzed". Documentation supporting this claim shall be submitted along with the monitoring report. If valid analytical results are repeatedly unobtainable, DEM may require that the permittee determine a method detection limit (MDL) for their effluent or sludge as outlined in 40 CFR 136, Appendix B.

When calculating sample averages for reporting on discharge monitoring reports (DMRs):

- 1. "could not be analyzed" data shall be excluded, and shall not be considered as failure to comply with the permit sampling requirements;
- results reported as less than the MDL shall be included as zeros in accordance with the DEM's DMR Instructions, provided that all appropriate EPA approved methods were followed.

Therefore, all sample results shall be reported as: an actual value, "could not be analyzed", or zero. The effluent or sludge specific MDL must be calculated using the methods outlined in 40 CFR 136, Appendix B. Samples which have been diluted to ensure that the sample concentration will be within the linear dynamic range shall not be diluted to the extent that the analyte is not detected. If this should occur the analysis shall be repeated using a lower degree of dilution.

LIST OF TOXIC POLLUTANTS

The following list of toxic pollutants has been designated pursuant to Section 307(a)(1) of the Clean Water Act. The Method Detection Limits (MDLs) represent the required Rhode Island MDLs.

Volatiles	- EPA Method 624	MDL ug/l (ppb)
1V	acrolein	10.0
2V	acrylonitrile	5.0
3V	benzene	1.0
5V	bromoform	1.0
6V	carbon tetrachloride	1.0
7V	chlorobenzene	1.0
8V	chlorodibromomethane	1.0
9V	chloroethane	1.0
10V	2-chloroethylvinyl ether	5.0
11V	chloroform	1.0
12V	dichlorobromomethane	1.0
14V	1,1-dichloroethane	1.0
15V	1,2-dichloroethane	1.0
16V	1,1-dichloroethylene	1.0
17V	1,2-dichloropropane	1.0
18V	1,3-dichloropropylene	1.0
19V	ethylbenzene	1.0
20V	methyl bromide	1.0
21V	methyl chloride	1.0
22V	methylene chloride	1.0
23V	1,1,2,2-tetrachloroethane	1.0
24V	tetrachloroethylene	1.0
25V	toluene	1.0
26V	1.2-trans-dichloroethylene	1.0
27V	1.1.1-trichloroethane	1.0
28V	1.1.2-trichloroethane	1.0
29V	trichloroethylene	1.0
31V	vinvl chloride	1.0
• • •		
Acid Con	npounds - EPA Method 625	MDL ug/l (ppb)
1A	2-chlorophenol	1.0
2A	2,4-dichlorophenol	1.0
3A	2,4-dimethylphenol	1.0
4A	4.6-dinitro-o-cresol	1.0
5A	2.4-dinitrophenol	2.0
6A	2-nitrophenol	1.0
7A	4-nitrophenol	1.0
8A	p-chloro-m-cresol	2.0
9A	pentachlorophenol	1.0
10A	phenol	1.0
11A	2.4.6-trichlorophenol	1.0
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Pesticide	s - EPA Method 608	MDL ug/l (ppb)
1P	aldrin	0.059
2P	alpha-BHC	0.058
3P	beta-BHC	0.043
4P	gamma-BHC	0.048
5P	delta-BHC	0.034
6P	chlordane	0.211
7P	4,4 ' -DDT	0.251
8P	44'-DDF	0.049
		0.040
96	4,4 -000	0.139
10P	dieldrin	0.082
11P	alpha-endosultan	0.031
12P	beta-endosulfan	0.036
13P	endosulfan sulfate	0.109
14P	endrin	0.050
15P	endrin aldehyde	0.062
16P	heptachlor	0.029
17P	heptachlor epoxide	0.040

Pesticide	es - EPA Method 608	MDL ug/l (ppb)
18P	PCB-1242	0.289
19P	PCB-1254	0.298
20P	PCB-1221	0.723
21P	PCB-1232	0.387
22P	PCB-1248	0.283
23P	PCB-1260	0.222
24P	PCB-1016	0.494
25P	toxaphene	1.670
Base/Ne	utral - EPA Method 625	MDL ug/l (ppb)
1B	acenaphthene *	1.0
2B	acenaphthylene *	1.0
3B	anthracene *	1.0
4B	benzidine	4.0
5B	benzo(a)anthracene *	2.0
6B	benzo(a)pyrene *	2.0
7B	3,4-benzofluoranthene *	1.0
8B	benzo(ghi)perylene *	2.0
9B	benzo(k)fluoranthene *	2.0
10B	bis(2-chloroethoxy)methane	2.0
11B	bis(2-chloroethyl)ether	1.0
12B	bis(2-chloroisopropyl)ether	1.0
13B	bis(2-ethylhexyl)phthalate	1.0
14B	4-bromophenyl phenyl ether	1.0
15B	butylbenzyl phthalate	1.0
16B	2-chloronaphthalene	1.0
17B	4-chlorophenyl phenyl ether	1.0
18B	chrysene *	1.0
19B	dibenzo (a,h)anthracene *	2.0
20B	1,2-dichlorobenzene	1.0
21B	1,3-dichlorobenzene	1.0
22B	1,4-dichlorobenzene	1.0
23B	3,3 '-dichlorobenzidine	2.0
24B	diethyl phthalate	1.0
25B	dimethyl phthalate	1.0
26B	di-n-butyl phthalate	1.0
27B	2,4-dinitrotoluene	2.0
28B	2,6-dinitrotoluene	2.0
29B	di-n-octyl phthalate	1.0
30B	1,2-diphenylhydrazine (as azobenzene)	1.0
31B	fluoranthene *	1.0
32B	fluorene *	1.0
33B	hexachlorobenzene	1.0
34B	hexachlorobutadiene	1.0
35B	hexachlorocyclopentadiene	2.0
36B	hexachloroethane	1.0
37B	indeno(1,2,3-cd)pyrene *	2.0
38B	isophorone	1.0
39B	naphthalene *	1.0
40B	nitrobenzene	1.0
41B	N-nitrosodimethylamine	1.0
42B	N-nitrosodi-n-propvlamine	1.0
43B	N-nitrosodiphenvlamine	1.0
44B	phenanthrene *	1.0
45B	pyrene *	1.0
46B	1,2,4-trichlorobenzene	1.0

OTHER TOXIC POLLUTANTS

MDL ug/l (ppb)

Antimony Total	5.0
Arcania Total	5.0
Alsenic, Total	5.0
Beryllium, Total	0.2
Cadmium, Total	1.0
Chromium, Total	5.0
Chromium, Hexavalent***	20.0
Copper, Total	20.0
Iron, Total	50
Lead, Total	0.2
Mercury, Total	0.5
Nickel, Total	10.0
Selenium, Total	5.0
Silver, Total	1.0
Thallium, Total	5.0
Zinc, Total	20.0
Asbestos	**
Cyanide, Total	10.0
Phosphorus, Total	10
Phenols, Total***	50.0
TCDD	**
MTBE (Methyl Tert Butyl Ether)	1.0

* Polynuclear Aromatic Hydrocarbons ** No Rhode Island Department of Environmental Management (RIDEM) MDL

*** Not a priority pollutant

NOTE:

The MDL for a given analyte may vary with the type of sample. MDLs which are determined in reagent water may be lower than those determined in wastewater due to fewer matrix interferences. Wastewater is variable in composition and may therefore contain substances (interferents) that could affect MDLs for some analytes of interest. Variability in instrument performance can also lead to inconsistencies in determinations of MDLs.

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C. MONITORING AND REPORTING

1. Monitoring

All monitoring required by this permit shall be done in accordance with sampling and analytical testing procedures specified in 40 CFR Part 136 unless other procedures are explicitly required in the permit.

2. Reporting

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

A. Submittal of DMRs Using NetDMR

The permittee shall continue to submit its monitoring data in discharge monitoring reports (DMRs) electronic to DEM using NetDMR no later than the 15th day of the month after the end of the half year, i.e. January 15 and July 15. When the permittee submits DMRs using NetDMR, it is not required to submit hard copies of DMRs to DEM.

B. Submittal of Reports as NetDMR Attachments

Unless otherwise specified in this permit, the permittee must submit electronic copies of documents in NetDMR that are directly related to the DMR. These include the following:

- DMR Cover Letters
- Below Detection Limit summary tables
- C. Submittal of Reports in Hard Copy Form

The following notifications and reports shall be submitted as hard copy with a cover letter describing the submission. These reports shall be signed and dated originals submitted to DEM.

- A. Written notifications required under Part II
- B. Notice of unauthorized discharges

This information shall be submitted to DEM at the following address:

Rhode Island Department of Environmental Management RIPDES Program 235 Promenade Street Providence, Rhode Island 02908

D. Verbal Reports and Verbal Notifications

Any verbal reports or verbal notifications, if required in Parts I and/or II of this permit, shall be made to the DEM. This includes verbal reports and notifications which require reporting within 24 hours. (See Part II.(I)(5) General Requirements for 24-hour reporting) Verbal reports and verbal notifications shall be made to DEM at (401) 222-4700 or (401) 222-3070 at night

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT OFFICE OF WATER RESOURCES 235 PROMENADE STREET PROVIDENCE, RHODE ISLAND 02908-5767

STATEMENT OF BASIS

RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM (RIPDES) PERMIT TO DISCHARGE TO WATERS OF THE STATE

RIPDES PERMIT NO. RI0023639

NAME AND ADDRESS OF APPLICANT:

Greenwich Mills, LLC P.O. Box 1954 East Greenwich, RI 02818

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

Greenwich Mills, LLC 42 Ladd Street Warwick, RI 02818

RECEIVING WATER: Greenwich Cove

(WBID: RI0007025E-05A)

CLASSIFICATION: SB1

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I. Proposed Action, Type of Facility, and Discharge Location

The above-named applicant has applied to the Rhode Island Department of Environmental Management for reissuance of a RIPDES Permit to discharge into the designated receiving water. The facility is engaged in the treatment of contaminated groundwater infiltrating into an elevator shaft sump. The discharge consists of treated groundwater from a groundwater treatment system consisting of a submersible pump, a bag filter, and two (2) 200-pound granular activated carbon (GAC) vessels in series. The system discharges to an existing catch basin located at 42 Ladd Street, which discharges to Greenwich Cove.

II. Description of Discharge

A quantitative description of the discharge in terms of significant effluent parameters based on DMR data from January 2015 to June 2019 is shown on Appendix A.

III. Permit Limitations and Conditions

The final effluent limitations and monitoring requirements may be found in the permit.

IV. <u>Permit Basis and Explanation of Effluent Limitation Derivation</u>

Variances, Alternatives, and Justifications for Waivers of Application Requirements

No variances or alternatives to required standards were requested or granted. No waivers were requested or granted for any application requirements per 40 CFR §122.21(j) or (q).

Facility Description

Greenwich Mills, LLC is a former mill building located at 42 Ladd Street in Warwick, RI. The mill building has been redeveloped and is now leased to various office tenants and artists. The discharge to Greenwich Cove consists of treated groundwater from an elevator shaft sump at the building. None of the individual tenant's operations have the potential to impact the elevator shaft's sump.

Due to contaminated groundwater seeping into the sump, there are low levels of VOCs and SVOCs in the sump water. The 2019 application indicated that the following pollutants were detected in sampling of the sump water. Values presented in the table represent the maximum value of each of the following contaminants based on (1) treatment system intake values, (2) annual scans of treatment system intake, (3) the facility's 2019 RIPDES permit application, and (4) and additional scan performed by the facility in 2019:

Contaminant	max. influent conc., ug/L
Tetrachloroethylene	1.4
Bis(2-Ethyl-hexyl)Pthalalte	1.9
cis-1,2-Dichloroethene	3
Chloroform	0.35

Table 1 lists the pollutants detected and their corresponding influent concentrations:

An activated carbon treatment system has been installed for the elevator sump discharge. The system includes a submersible pump, a bag filter and two 200 pound carbon vessels arranged in series prior to discharge into Greenwich Cove (see Figure 1A - treatment system layout and Figure 1B - the site location map for details).

Greenwich Mills' most recent RIPDES permit, authorizing discharges from the above-mentioned facility, was issued on October 21, 2014. This permit became effective on January 1, 2015 and expired on January 1, 2020. The facility's consultant, ATC, submitted an application for permit reissuance to the DEM on April 4, 2019. In responses to DEM's comments on May 30, 2019 and June 4, 2019, the facility submitted additional information on June 3, 2019 and July 2, 2019

respectively. On July 15, 2019 the DEM issued an application complete letter to the facility. In accordance with the Rhode Island Pollutant Discharge Elimination System Regulations (RIPDES Regulations - 250-RICR-150-10) Part 1.13, the facility's January 1, 2015 permit remains in effect since the DEM has determined that a timely and complete permit application was submitted. Once this permit is reissued, it will supersede the January 1, 2015 permit.

Receiving Water Description

The water body segment for Greenwich Cove is RI0007025E-05A and is located in East Greenwich and Warwick, RI. This segment is delineated by Greenwich Cove south of Long Point. This segment is listed on DEM's 2016 303(d) impaired waters list for not supporting Fish and Wildlife Habitat due to Nitrogen and Dissolved Oxygen. Given that Greenwich Mills does not discharge Nitrogen, Biological Oxygen Demand, or Chemical Oxygen Demand, the facility would not be the cause of the impairment, therefore limits for these pollutants are not required in the permit. Permit limits for Greenwich Mills were developed to be consistent with the Rhode Island Water Quality Regulations (250-RICR-150-05-1). This segment of Greenwich Cove has a Waterbody Classification of SB1. SB1 waters are designated for primary and secondary contact recreational activities and fish and wildlife habitat. They shall be suitable for compatible industrial processes and cooling, hydropower, aquacultural uses, navigation, and irrigation and other agricultural uses. These waters shall have good aesthetic value.

Permit Limit Development

The requirements set forth in this permit are from the Rhode Island Water Quality Regulations (250-RICR-150-05-1) and the Rhode Island Pollutant Discharge Elimination System Regulations (RIPDES Regulations - 250-RICR-150-10), both filed pursuant to RIGL Chapter 46-12, as amended. RIDEM's primary authority over the permit comes from EPA's delegation of the program in September 1984 under the Federal Clean Water Act (CWA).

Development of RIPDES permit limitations is a multi-step process consisting of: determining if Federal effluent guidelines apply; calculation of allowable water quality-based discharge levels based on background data and available dilution; assigning appropriate Best Professional Judgement (BPJ) based limits; comparing existing and proposed limits; comparing discharge data to proposed limits; performing an antidegradation/antibacksliding analysis to determine the final permit limits; and developing interim limits as appropriate.

Water quality criteria are comprised of numeric and narrative criteria. Numeric criteria are scientifically derived ambient concentrations developed by EPA or the State for various pollutants of concern to protect human health and aquatic life. Narrative criteria are statements that describe the desired water quality goal. A technology-based limit is a numeric limit, which is determined by examining the capability of a treatment process to reduce or eliminate pollutants.

Conventional Pollutant Permit Limitations

Flow Limits

The facility's maximum flow rate limit of 6048 gallons per day was developed by DEM in 2009. The value of 6048 gallons per day was established using a flow rate of 4.2 gallons per minute (which is approximately 150% of the treatment system's 2.81 gallons per minute maximum flow rate) and a 24 hour per day discharge.

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The pH limits for outfall 100, which are the same as the pH limits for outfall 001 in the 2015 permit, are equivalent to the pH criteria from the table from the Water Quality Criteria from the Rhode Island Water Quality Regulations (250-RICR-150-05-1.10.E) "Class-Specific Criteria–Saltwaters", Class SB1 adopted in accordance with Chapter 42-35 pursuant to Chapters 46-12 and 42-17.1 of the Rhode Island General Laws of 1956, as amended.

Toxic Pollutant Limits

The derivation of permit limits in this permit was made with an awareness of the aquatic life and human health criteria specified in the Rhode Island Water Quality Regulations (250-RICR-150-05-1). Aquatic life criteria have been established to ensure the protection and propagation of aquatic life while human health criteria represent the pollutant levels that would not result in a significant risk to public health from ingestion of aquatic organisms. Details concerning the calculation of potential permit limitations, selection of factors which influence their calculation, and the selection of final permit limitations are included below.

Mixing Zones and Dilution Factors

A dilution factor of 1 (i.e. no dilution) was maintained from the 2015 permit for the Greenwich Mills, LLC discharge. A dilution factor of 1 has been selected due to the facility discharging to an estuary via a storm sewer, and no dilution study being available.

Because a dilution factor was not used for this facility, background data for this facility was not evaluated / assessed.

The formulas and data noted above were applied with the following exception:

<u>Pollutants with water quality based monthly average limits in the previous RIPDES permit</u>: The relaxation of monthly average limits from the previous permit was restricted in accordance with the antibacksliding provisions of the Clean Water Act and the Policy on the Implementation of the Antidegradation Provisions of the Rhode Island Water Quality Regulations (250-RICR-150-05-1).

Wasteload Allocation

In accordance with 40 CFR Part 122.4(d)(1)(iii), it is only necessary to establish limitations for those pollutants in the discharge which have the reasonable potential to cause or contribute to the exceedance of the in-stream criteria. In order to evaluate the need for permit limitations, the allowable discharge levels (permit limits, as described below) were compared to Discharge Monitoring Report (DMR) data, Priority Pollutant Scan data, and data provided in the permit application, which included treatment system influent data. An assessment was made to determine if limits were necessary, using the data collected during the previous five (5) years.

Granular activated carbon technology is proven to be able to remove VOCs and SVOCs to a concentration below the Method Detection Limit (MDL). However, experience with systems of mixed contaminants has shown that intermittent slugs of more easily retained contaminants may enter the system and displace less easily adsorbed contaminants like SVOCs. Also, laboratory and field contamination or instrument noise could cause false positives at the method detection limit (MDL). As a result, based on Best Professional Judgement (BPJ) the maintenance of limits of five (5) times the MDL for cis-1,2-Dichloroethene and Tetrachloroethylene are appropriate, and would help to prevent unnecessary non-compliance due to field and/or laboratory contamination. The rationale for maintaining limits for cis-1,2-Dichloroethene is that this parameter was detected above MDL in the effluent since the issuance of the 2015 permit (two hits above MDL). The rationale for maintaining limits for Tetrachloroethylene is the presence of Tetrachloroethylene in the influent, which was detected in treatment system influent in testing data presented in the 2019 permit application. The BPJ limit of 5 times the MDL for Tetrachloroethylene is more stringent than the lower of either the chronic salt water aquatic life criteria or the human health criteria for aquatic organism consumption. Therefore, these BPJ limits are protective of water quality. A limit permit limit for Bis(2-Ethyl-hexyl)Phthalate of five (5) times the MDL of 1.0 ug/L = 5.0 ug/L has been added to the permit based on the presence of Bis(2-Ethyl-hexyl)Phthalate at above detection in the influent in an annual influent priority pollutant scan in December of 2014. The BPJ limit of 5 times the MDL for Bis(2-Ethyl-hexyl)Phthalate is more stringent than the human health criteria for aquatic organism consumption, and chronic salt water aquatic life criteria do not exist for Bis(2-Ethyl-hexyl)Phthalate. Therefore, these BPJ limits are protective of water quality. Appendix B includes a table with this comparison for all pollutants. Note that, although some other contaminants were listed as "believed present" in the application, they were not detected and/or detected in the influent at levels below 50% of potential permit limits. Further, since these contaminants were not detected the effluent,

no permit limits have been assigned. Also note that the limit for cis-1,2 –Dichloroethene has been lowered from 5 ug/L to 2.5 ug/L. The MDL for cis-1,2 –Dichloroethene is 0.5 ug/L, therefore the new permit limit will be five (5) times MDL = 2.5 ug/L.

No Federal Effluent Limitation Guidelines (ELGs) are applicable to dewatering systems.

Antibacksliding

Provided below is a brief introduction to Antibacksliding and Antidegradation; as well as a discussion on how the two policies were used to calculate water quality-based limits.

Antibacksliding restricts the level of relaxation of water quality-based limits from the previous permit. Section 303(d)(4) of the Clean Water Act addresses antibacksliding as the following:

Section 303(d)(4)

- <u>Standards not attained</u> For receiving waters that have not attained the applicable water quality standards, limits based on a TMDL or WLA can only be revised if the water quality standards will be met. This may be done by (i) determining that the cumulative effect of all such revised limits would assure the attainment of such water quality standards; or (ii) removing the designated use which is not being attained in accordance with regulations under Section 303.
- <u>Standards attained</u> For receiving waters achieving or exceeding applicable water quality standards, limits can be relaxed if the revision is consistent with the State's Antidegradation Policy.

Therefore, in order to determine whether backsliding is permissible, the first question that must be asked is whether or not the receiving water is attaining the water quality standard. The Office has determined the most appropriate evaluation of existing water quality is by calculating pollutant levels, which would result after the consideration of all currently valid RIPDES permit limits or historic discharge data (whichever is greater), background data (when available), and any new information (i.e., dilution factors).

Antidegradation

The DEM's "*Policy on the Implementation of the Antidegradation Provisions of the Rhode Island Water Quality Regulations July 2006*" (the Policy) established four tiers of water quality protection:

Tier 1. In all surface waters, existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

Tier 2. In waters where the existing water quality criteria exceeds the levels necessary to support the propagation of fish and wildlife and recreation in and on the water, that quality shall be maintained and protected except for insignificant changes in water quality as determined by the Director and in accordance with the Antidegradation Implementation Policy, as amended. In addition, the Director may allow significant degradation, which is determined to be necessary to achieve important economic or social benefits to the State in accordance with the Antidegradation Policy.

Tier 2¹/₂. Where high quality waters constitute Special Resource Protection Waters SRPWs¹, there shall be no measurable degradation of the existing water quality necessary to protect the characteristics which cause the waterbody to be designated a SRPW. Notwithstanding that all public drinking water supplies are SRPWs, public drinking water suppliers may undertake temporary and short-term activities within the boundary perimeter of a public drinking water supply impoundment for essential maintenance or to address emergency conditions in order to prevent adverse effect on public health or safety. These activities must comply with the requirements set forth in Tier 1 and Tier 2.

¹ SRPWs are surface waters identified by the Director as having significant recreational or ecological uses. Page 4 of 11 Greenwich Mills final statement of basis 2020

Tier 3. Where high quality waters constitute an Outstanding Natural Resource ONRWs², that water quality shall be maintained and protected. The State may allow some limited activities that result in temporary or short-term changes in the water quality of an ONRW. Such activities must not permanently degrade water quality or result in water quality lower than necessary to protect the existing uses in the ONRW.

The formulas previously presented ensure that permit limitations are based upon water quality criteria and methodologies established to ensure that all designated uses will be met.

In terms of the applicability of Tier 2 of the Policy, a water body is assessed as being high quality on a parameter-by-parameter basis. In accordance with Part II of the Policy, "Antidegradation applies to all new or increased projects or activities which may lower water quality or affect existing water uses, including but not limited to all 401 Water Quality Certification reviews and any new, reissued, or modified RIPDES permits." Part VI.A of the Policy indicates that it is not applicable to activities which result in insignificant (i.e., short-term minor) changes in water quality and that significant changes in water quality will only be allowed if it is necessary to accommodate important economic and social development in the area in which the receiving waters are located (important benefits demonstration). Part VI.B.4 of the Policy states that: "Theoretically, any new or increased discharge or activity could lower existing water guality and thus require the important benefits demonstration. However, DEM will: 1) evaluate applications on a case-by-case basis, using BPJ and all pertinent and available facts, including scientific and technical data and calculations as provided by the applicant; and 2) determine whether the incremental loss is significant enough to require the important benefits demonstration described below. [If not then as a general rule DEM will allocate no more than 20%.] Some of the considerations which will be made to determine if an impact is significant in each site specific decision are: 1) percent change in water quality parameter value and their temporal distribution; 2) quality and value of the resource; 3) cumulative impact of discharges and activities on water quality to date; 4) measurability of the change; 5) visibility of the change; 6) impact on fish and wildlife habitat; and 7) impact on potential and existing uses. As a general guide, any discharge or activity which consumes greater than 20% of the remaining assimilative capacity may be deemed significant and invoke full requirements to demonstrate important economic or social benefits."

In terms of a RIPDES permit, an increased discharge is defined as an increase in any limitation, which would result in an increased mass loading to a receiving water. The baseline for this comparison would be the monthly average mass loading established in the previous permit. It would be inappropriate to use the daily maximum mass loading since the Policy is not applicable to short-term changes in water quality.

For the purposes of ensuring that the revised limit is consistent with the requirements of antidegradation, existing water quality must be defined. As explained earlier, DEM evaluates existing water quality by determining the pollutant levels which would result under the design conditions appropriate for the particular criteria (i.e., background water quality, when available and/or appropriate, non-point source inputs; and existing RIPDES permit limitations or recent historical discharge data, whichever is higher). In general, available data would be used to make this determination.

Use the above-mentioned criteria, the present instream water quality C_p is defined as:

$$C_p = \frac{(DF-1) \cdot C_B + (1 \cdot C_d)}{DF}$$

where: C_b = background concentration³ C_d = discharge data⁴ DF = dilution factor

² ONRWs are a special subset of high-quality water bodies, identified by the State as having significant recreational or ecological water uses.

³ Data collected at a location that is unimpacted by significant point source discharges.

⁴ Discharge data refers to the maximum of the permit limit or the historic discharge level. The historic discharge level is determined by calculating the upper 95th confidence interval for the monthly average reported data for the past five (5) years. For specific cases, changes in treatment efficiency or pretreatment limitations may support the use of an alternative period of time.

In this permit, all monthly average limitations are either the same as or more stringent than the limits in the 2015 permit. Therefore, the limits contained in this permit are consistent with the Department's anti-degradation policy.

The remaining general and specific conditions of the permit are based on the RIPDES regulations as well as 40 CFR Parts 122 through 125 and consist primarily of management requirements common to all permits.

Summary of Permit Limits

Table 2. - outfall 100

Parameter	Monthly Average	Daily Maxiumum	Frequency
Flow	gpm	6048 gpm	Continuous
Tetrachloroethylene	ug/l	5 ug/l	2/Year
cis-1,2 Dichloroethene	ug/l	2.5 ug/l	2/Year
Bis(2-Ethyl-	ug/l	5 ug/l	2/Year
hexyl)Phthalate			
pH	(6.5 S.U.)	(8.5 S.U.)	2/Year

() Values in parentheses represent the minimum and maximum values.

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

V. <u>Comment Period, Hearing Requests, and Procedures for Final Decisions</u>

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period, to the Rhode Island Department of Environmental Management, Office of Water Resources, 235 Promenade Street, Providence, Rhode Island, 02908-5767. In accordance with Chapter 46-17.4 of Rhode Island General Laws, a public hearing will be held prior to the close of the public comment period. In reaching a final decision on the draft permit the Director will respond to all significant comments and make these responses available to the public at DEM's Providence office.

Following the close of the comment period, and after a public hearing, the Director will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments, provided oral testimony, or requested notice. Within thirty (30) days following the notice of the final permit decision any interested person may submit a request for a formal hearing to reconsider or contest the final decision. Requests for formal hearings must satisfy the requirements of 250-RICR-150-10-1.50 of the Regulations for the Rhode Island Pollutant Discharge Elimination System.

VI. <u>DEM Contact</u>

Additional information concerning the permit may be obtained between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding holidays from:

Samuel Kaplan, P.E. Environmental Engineer II Department of Environmental Management/ Office of Water Resources 235 Promenade Street Providence, Rhode Island 02908 Telephone: (401) 222-4700, ext: 7046 Email: samuel.kaplan@dem.ri.gov

5/13/2020

Date

oseph B. Haberek

Joseph B. Haberek, P.E. Environmental Engineer IV RIPDES Program Office of Water Resources Department of Environmental Management

Appendix A - Historical Discharge Levels

Data is from January 2015 to June 2019

DESCRIPTION OF DISCHARGE: Effluent from elevator sump groundwater treatment system.

DISCHARGE:

100

AVERAGE EFFLUENT CHARACTERISTICS AT POINT OF DISCHARGE OF SELECTED POLLUTANTS:

PARAMETER	AVERAGE	MAXIMUM
cis-1,2-Dichloroethene (ug/L)	0.467	0.467
Flow (gal/day)	3304.56	3304.56
рН	6.56	6.64
Tetrachloroethylene (ug/L)	0.556	0.556

Note: Effluent parameter averages and maxima were calculated use MDL values given on Discharge Monitoring reports in cases in which MDLs reported values were below detection (i.e. < MDLs).

Appendix B – Permit Parameters Spreadsheet

exceeded MDLs in influent? (2015 permit chronic saltwater aquatic life criteria (ug annual intake scans (Tab. 2 2019 permit application, "ND" if less than detection) value intake, ug/L (Form aquatic organism consumption human health criteria (ug/L) a midpoint - 2019 scan (7/1/19 report date?)? a exceeded MDLs in effluent? (2015 permit, value given if > MDL) effluent - 2019 scan (7/1/19 report date?)? - 2019 scan (7/1/19 report found in the intake? (2019 permit listed as "n" if < than detection monitored in 2015 permit? date?)? 2019 permit ap value i 2C, Part V.B. & V.C.) reasonable potential? 5*MDL, ug/L MDL, ug/L influent parameter Tetrachloroethylene 5.0 NL V ND 33 1.4 ND ND 0.7 v n n V 1.0 2.5 NL 1.2 ND cis-1,2-Dichloroethene 0.5 NL у 3 ND 2 NA V v n Benzoic Acid 250 NL NL NL NA NA 50 NA NA NL NL NL n n Ethylbenzene 5.0 NL 2100 n NA NA NL ND ND ND NA NA 1.0 n Naphthalene 5.0 NL NL NA NA NL NL NL NA 1.0 n ND n n 25 NL NL NA NA NL NA n-Propylbenzene 5 ND NL NL n n n 5.0 NL NA NA Toluene 1.0 15000 NA NA ND ND ND n ND n 5.0 NL 1,2,4-Trimethylbenzene NL NA NA ND NL NL NL NA NA 1.0 n n 25.0 NL* NL* 5 NA NA ND ND ND ND NA NA Xylenes n n Benzo(a)Anthracene 10.0 NL NL NA NA ND NL NL NL 1.0 n ** 2.0 n y Benzo(a)Pyrene 2.0 10.0 NL NL NA NA NL NL NL 1.0 n ** n ND y 5.0 NL 0.9 n ** Chrysene NL NA NA ND NL NL NL 1.0 n y 5.0 NL 0.9 n Phenanthrene NL NA NA ND NL NL NL ** 1.0 n У 5.0 NL 4000 n NA NA ND NL NL NL 0.9 n ** Pyrene 1.0 V Bis(2-Ethyl-hexyl)Phthalate ** 5.0 NL 22 NA 1.9 NL NL NL 3.0 v 1.0 n NA V 5.0 NL 170 NA 0.35 ND ND NA Chloroform 1.0 n NA ND n n RL listed in Appendix B of the 2014 permit application, parameter not listed in NPDES MDL documents carried over from 2014 permit **1993 Region I RIPDES permit policy** * = Xylene 1993 Region I RIPDES permit policy - corrected based on MDLs listed in 2014 permit ** = permit ap value is less than MDL

NL = not listed

RIPDES

NA = not applicable or not listed on application

Figure 1A: Treatment System Layout



Figure 1B: Site Location Map



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DEFINITIONS

GENERAL REQUIREMENTS

(a) <u>Duty to Comply</u>

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Chapter 46-12 of the Rhode Island General Laws and the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

- (1) The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA 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.
- (2) The CWA provides that any person who <u>violates</u> a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than 1 year, or both.
- (3) Chapter 46-12 of the Rhode Island General Laws provides that any person who violates a permit condition is subject to a civil penalty of not more than \$5,000 per day of such violation. Any person who willfully or negligently violates a permit condition is subject to a criminal penalty of not more than \$10,000 per day of such violation and imprisonment for not more than 30 days, or both. Any person who knowingly makes any false statement in connection with the permit is subject to a criminal penalty of not more than \$5,000 for each instance of violation or by imprisonment for not more than 30 days, or both.

(b) <u>Duty to Reapply</u>

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

(c) <u>Need to Halt or Reduce Not a Defense</u>

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.

(d) <u>Duty to Mitigate</u>

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

(e) <u>Proper Operation and Maintenance</u>

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, and, where applicable, compliance with DEM "Rules and Regulations Pertaining to the Operation and Maintenance of Wastewater Treatment Facilities" and "Rules and Regulations Pertaining to the Disposal and Utilization of Wastewater Treatment Facility Sludge." This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) <u>Permit Actions</u>

This permit may be modified, revoked and reissued, or terminated for cause, including but not limited to: (1) Violation of any terms or conditions of this permit; (2) Obtaining this permit by misrepresentation or failure to disclose all relevant facts; or (3) A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge. 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.

(g) Property Rights

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

(h) <u>Duty to Provide Information</u>

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

(i) Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- (1) 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;
- (2) Have access to and copy, at reasonable times any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

- (4) Sample or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or Rhode Island law.
- (j) Monitoring and Records
 - (1) Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the discharge over the sampling and reporting period.
 - (2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings from 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 5 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
 - (3) 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.
 - (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 and applicable Rhode Island regulations, unless other test procedures have been specified in this permit.
 - (5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than 6 months per violation or by both. Chapter 46-12 of the Rhode Island General Laws also provides that such acts are subject to a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.
 - (6) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
 - (7) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, applicable State regulations, 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.

(k) Signatory Requirement

All applications, reports, or information submitted to the Director shall be signed and certified in accordance with 250-RICR-150-10-1.12 of the Rhode Island Pollutant Discharge Elimination System (RIPDES) Regulations. Rhode Island General Laws, Chapter 46-12 provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.

(l) <u>Reporting Requirements</u>

- (1) <u>Planned changes</u>. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.
- (2) <u>Anticipated noncompliance.</u> The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.
- (3) <u>Transfers.</u> This permit is not transferable to any person except after written notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under State and Federal law.
- (4) <u>Monitoring reports.</u> Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (5) <u>Twenty-four hour reporting.</u> The permittee shall immediately report any noncompliance which may endanger health or the environment by calling DEM at (401) 222-4700 or (401) 222-3070 at night.

A written submission shall also be provided within five (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 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.

The following information must be reported immediately:

- (i) Any unanticipated bypass which causes a violation of any effluent limitation in the permit; or
- (ii) Any upset which causes a violation of any effluent limitation in the permit; or
- (iii) Any violation of a maximum daily discharge limitation for any of the pollutants specifically listed by the Director in the permit.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (6) <u>Other noncompliance.</u> The permittee shall report all instances of noncompliance not reported under paragraphs (1), (2), and (5), of this section, at the time monitoring reports are submitted. The reports shall contain the information required in paragraph (1)(5) of the section.
- (7) <u>Other information.</u> 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 Director, they shall promptly submit such facts or information.
- (m) <u>Bypass</u>

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

- (1) <u>Bypass not exceeding limitations.</u> 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 (2) and (3) of this section.
- (2) <u>Notice.</u>
 - (i) <u>Anticipated bypass.</u> If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.
 - (ii) <u>Unanticipated bypass.</u> The permittee shall submit notice of an unanticipated bypass as required in 250-RICR-150-10-1.14(R) of the RIPDES Regulations.
- (3) <u>Prohibition of bypass.</u>
 - (i) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, where "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) 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 backup 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 (2) of this section.

- (ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (3)(i) of this section.
- (n) <u>Upset</u>

"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.

- (1) <u>Effect of an upset.</u> An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (2) 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.
- (2) <u>Conditions necessary for a demonstration of upset.</u> A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (b) The permitted facility was at the time being properly operated;
 - (c) The permittee submitted notice of the upset as required in 250-RICR-150-10-1.14(R) of the RIPDES Regulations; and
 - (d) The permittee complied with any remedial measures required under 250-RICR-150-10-1.14(E) of the RIPDES Regulations.
- (3) <u>Burden of proof.</u> In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.
- (o) <u>Change in Discharge</u>

All discharges authorized herein shall be consistent with the terms and conditions of this permit. Discharges which cause a violation of water quality standards are prohibited. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different or increased discharges of pollutants must be reported by submission of a new NPDES application at least 180 days prior to commencement of such discharges, or if such changes will not violate the effluent limitations specified in this permit, by notice, in writing, to the Director of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(p) <u>Removed Substances</u>

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner consistent with applicable Federal and State laws and regulations including, but not limited to the CWA and the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§6901 <u>et seq</u>., Rhode Island General Laws, Chapters 46-12, 23-19.1 and regulations promulgated thereunder.

(q) <u>Power Failures</u>

In order to maintain compliance with the effluent limitation and prohibitions of this permit, the permittee shall either:

In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or if such alternative power source is not in existence, and no date for its implementation appears in Part I,

Halt reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(r) Availability of Reports

Except for data determined to be confidential under paragraph (w) below, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the DEM, 235 Promenade Street, Providence, Rhode Island 02908. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA and under Section 46-12-14 of the Rhode Island General Laws.

(s) <u>State Laws</u>

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 established pursuant to any applicable State law.

(t) <u>Other Laws</u>

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

(u) <u>Severability</u>

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

(v) <u>Reopener Clause</u>

The Director reserves the right to make appropriate revisions to this permit in order to incorporate any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA or State law. In accordance with 250-RICR-150-10-1.16 and 250-RICR-150-10-1.24 of the RIPDES Regulations, if any effluent standard or prohibition, or water quality standard is promulgated under the CWA or under State law which is more stringent than any limitation on the pollutant in the permit, or controls a pollutant not limited in the permit, then the Director may promptly reopen the permit and modify or revoke and reissue the permit to conform to the applicable standard.

(w) <u>Confidentiality of Information</u>

- (1) Any information submitted to DEM pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, <u>DEM may make the information available to the public without further notice</u>.
- (2) Claims of confidentiality for the following information <u>will</u> be denied:
 - (i) The name and address of any permit applicant or permittee;
 - (ii) Permit applications, permits and any attachments thereto; and
 - (iii) NPDES effluent data.

(x) <u>Best Management Practices</u>

The permittee shall adopt Best Management Practices (BMP) to control or abate the discharge of toxic pollutants and hazardous substances associated with or ancillary to the industrial manufacturing or treatment process and the Director may request the submission of a BMP plan where the Director determines that a permittee's practices may contribute significant amounts of such pollutants to waters of the State.

(y) <u>Right of Appeal</u>

Within thirty (30) days of receipt of notice of a final permit decision, the permittee or any interested person may submit a request to the Director for an adjudicatory hearing to reconsider or contest that decision. The request for a hearing must conform to the requirements of 250-RICR-150-10-1.50 of the RIPDES Regulations.

DEFINITIONS

- 1. For purposes of this permit, those definitions contained in the RIPDES Regulations and the Rhode Island Pretreatment Regulations shall apply.
- 2. The following abbreviations, when used, are defined below.

cu. M/day or M ³ /day	cubic meters per day
mg/l	milligrams per liter
ug/l	micrograms per liter
lbs/day	pounds per day
kg/day	kilograms per day
Temp. °C	temperature in degrees Centigrade
Temp. °F	temperature in degrees Fahrenheit
Turb.	turbidity measured by the Nephelometric Method (NTU)
TNFR or TSS	total nonfilterable residue or total suspended solids
DO	dissolved oxygen
BOD	five-day biochemical oxygen demand unless otherwise specified
TKN	total Kjeldahl nitrogen as nitrogen
Total N	total nitrogen
NH ₃ -N	ammonia nitrogen as nitrogen
Total P	total phosphorus
COD	chemical oxygen demand
TOC	total organic carbon
Surfactant	surface-active agent
рН	a measure of the hydrogen ion concentration
PCB	polychlorinated biphenyl
CFS	cubic feet per second
MGD	million gallons per day
Oil & Grease	Freon extractable material
Total Coliform	total coliform bacteria
Fecal Coliform	total fecal coliform bacteria
ml/l	milliliter(s) per liter
NO ₃ -N	nitrate nitrogen as nitrogen
NO ₂ -N	nitrite nitrogen as nitrogen
NO ₃ -NO ₂	combined nitrate and nitrite nitrogen as nitrogen
C1 ₂	total residual chlorine