STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

DARRYL N. BROWN
COMMISSIONER

March 3, 2011

Mr. David Colter
President and Chief Operating Officer
GAC Chemical Corporation
P.O. Box 436
Searsport, ME 04974
dcolter@gacchemical.com

RE: Maine Pollution Discharge Elimination System Permit (MEPDES) #ME0001830
Maine Waste Discharge License (WDL) #W002530-5S-H-R
Via electronic mail

Dear Mr. Colter:

Enclosed, please find a copy of your **final** MEPDES permit and Maine WDL, which was approved by the Department of Environmental Protection. Please read the permit/license 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.*"

Sincerely,

Bill Hinkel

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality
bill.hinkel@maine.gov
ph: 207-485-2281

Enc.

ec: Stacie Beyer; Lori Mitchell, MeDEP
Sandy Mojica, USEPA File #2530

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

DEPARTMENT ORDER

IN THE MATTER OF

GENERAL ALUM NEW ENGLAND CORPORATION	)	MAINE POLUTANT DISCHARGE
CHEMICAL MANUFACTURING FACILITY	)	ELIMINATION SYSTEM PERMIT
SEARSPORT, WALDO COUNTY, MAINE	)	AND
#ME0001830	)	WASTE DISCHARGE LICENSE
#W002530-5S-H-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, §1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) has considered the application of the GENERAL ALUM NEW ENGLAND CORPORATION (GANEC, permittee, or applicant) with its supportive data, agency review comments, and other related materials on file and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The applicant has applied to the Department for renewal of combination Maine Waste Discharge License (WDL) renewal and modification #W002530-5S-G-M / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001830, which was issued to GAC Chemical Corporation by the Department on March 21, 2006 and expired on March 21, 2011. It is noted that General Alum New England Corporation has been the correct legal owner of the facility since calendar year 1994. The facility in Searsport operates as GAC Chemical Corporation. This permitting action is correctly specifying General Alum New England Corporation as the permittee; however, this is not considered a transfer. The March 21, 2006 MEPDES permit authorized the monthly average discharge of up to 0.124 million gallons per day (MGD) of combined water softening system filter backwash wastewater, steam condensate, non-contact cooling water, storm water runoff, neutralized, demineralized water softening system filter backwash wastewater, and neutralized boiler blowdown wastewater from a chemical manufacturing facility to the Atlantic Ocean at Stockton Harbor, Class SB, in Searsport, Maine.

PERMIT SUMMARY

This permitting action is significantly different from the March 21, 2006 permitting action in that it is:

1. Revising the monthly average and daily maximum water quality-based effluent concentration limitations and minimum monitoring frequency requirements for ammonia.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 3, 2011, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.

2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.

3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:

   (a) Existing water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

   (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;

   (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and

   (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of GENERAL ALUM NEW ENGLAND CORPORATION to discharge a monthly average of up to 0.124 million gallons per day of combined water softening system filter backwash wastewater, steam condensate, non-contact cooling water, storm water runoff, neutralized, demineralized water softening system filter backwash wastewater, and neutralized boiler blowdown wastewater from a chemical manufacturing facility to the Atlantic Ocean at Stockton Harbor, Class SB, in Searsport, 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 becomes effective upon the date of signature below and expires at midnight five (5) years thereafter. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

DONE AND DATED AT AUGUSTA, MAINE THIS 3rd DAY OF March, 2011.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Teco Brown for
DARRYL N. BROWN, Commissioner

Filed
MAR - 4 2011
State of Maine
Board of Environmental Protection

Date of initial receipt of application: December 14, 2010
Date of application acceptance: December 21, 2010
This Order prepared by Bill Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge **combined water softening system filter backwash wastewater, steam condensate, non-contact cooling water, storm water runoff, neutralized, demineralized water softening system filter backwash wastewater, and neutralized boiler blowdown wastewater** from **Outfall #004A** to the Atlantic Ocean at Stockton Harbor. Such discharges shall be limited and monitored by the permittee as specified below[1]:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	Daily Maximum as specified	Monthly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	0.124 MGD *[03]*	Report MGD *[03]*	---	---	5/Week *[05/07]*	Measured *[MS]*
TSS *[00530]*	---	---	50 mg/L[2] *[19]*	100 mg/L *[19]*	2/Month *[02/30]*	Grab *[GR]*
Ammonia (as N) *[61574]* ***Surveillance Level***	20.0 lbs./day *[26]*	18.9 lbs./day *[26]*	38,600 µg/L *[28]*	36,600 µg/L *[28]*	2/Year[3] *[02/YR]*	Grab *[GR]*
Ammonia (as N) *[61574]* ***Screening Level***	20.0 lbs./day *[26]*	18.9 lbs./day *[26]*	38,600 µg/L *[28]*	36,600 µg/L *[28]*	1/Quarter[3] *[01/90]*	Grab *[GR]*
Temperature *[00011]*	---	---	---	85^0 F *[15]*	1/Month *[01/30]*	Grab *[GR]*
pH *[00400]*	---	---	---	6.0 – 9.0 SU *[12]*	3/Day *[03/01]*	Grab *[GR]*

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

FOOTNOTES: See page 5 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

1. **Sampling** – Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10-144 CMR 263.

   All analytical test results must be reported to the Department including results which are Detected below the respective reporting limits (RLs) specified by the Department or as specified by other approve test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

   Effluent sampling must be conducted at the discharge end of the mixing/contact chamber. Any change in sampling location(s) must be reviewed and approved by the Department in writing.

2. **TSS twelve-month rolling average** – Compliance with the average concentration limitation of 50 mg/L will be based on a 12-month rolling average basis. For the purposes of this permitting action, the twelve-month rolling average calculation is based on the test results for the most recent twelve-month period. The permittee shall submit all TSS data used in calculating the rolling average with the monthly DMRs.

3. **Ammonia monitoring** – Ammonia monitoring is as follows:

   Surveillance level testing – Beginning upon issuance of this permit and lasting through 12 months prior to expiration of the permit, the permittee shall conduct surveillance level ammonia (as N) testing at a minimum frequency of twice per year (2/Year) with one test in January to June and one test 6 months later. For surveillance tests, different months will be used in 4 successive years.

   Screening level testing – Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level ammonia (as N) testing at a frequency of once per calendar quarter(1/Quarter) for four consecutive calendar quarters.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.

2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.

3. The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated by the classification of the receiving waters.

4. Notwithstanding specific conditions of this permit, the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a **Grade I Physical/Chemical (P/C) Certificate** (or higher) certificate or must be a Maine Registered 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 licensee may engage the services of the contract operator.

D. 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 December 21, 2010; 2) the terms and conditions of this permit; and 3) only from Outfall #004A. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

E. NOTIFICATION REQUIREMENT

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

1. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system. For the purposes of this condition, notice regarding substantial change shall 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

F. OPERATION & MAINTENANCE (O&M) PLAN

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

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

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

G. 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 a Department 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 following address:

Maine Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Land and Water Quality
Division of Water Quality Management
104 Hogan Road
Bangor Maine 04401

Alternatively, if you are submitting an electronic DMR (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the **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.

SPECIAL CONDITIONS

H. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

The permittee shall maintain and periodically update a Storm Water Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated October 11, 2005. As the site or any operations conducted on it have changed or are expected to change materially or substantially, the permittee shall modify its SWPPP as necessary to include such changes and notify the Department within 90 days of such modifications to the plan. The permittee shall maintain a copy of the SWPPP and any subsequent revisions at the terminal and shall make the plan available to any Department or USEPA representative upon request.

The SWPPP requirements are intended to facilitate a process whereby the permittee thoroughly evaluates potential pollution sources at the facility and selects and implements appropriate measures to prevent or control the discharge of pollutants in storm water runoff. The process involves the following four steps: (1) formation of a team of qualified facility personnel who will be responsible for preparing the SWPPP and assisting the appropriate facility staff in its implementation; (2) assessment of potential storm water pollution sources; (3) selection and implementation of appropriate management practices and controls; and (4) periodic evaluation of the effectiveness of the plan to prevent storm water contamination and comply with the terms and conditions of the permit.

I. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in the Special Conditions of this permitting action, new site-specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to; 1) include effluent 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 effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **MARCH 3, 2011**

MEPDES PERMIT NUMBER: **#ME0001830**
WASTE DISCHARGE LICENSE NUMBER: **#W002530-5S-H-R**

NAME AND ADDRESS OF APPLICANT:

GENERAL ALUM NEW ENGLAND CORPORATION
P.O. BOX 436
SEARSPORT, MAINE 04974

COUNTY: **WALDO COUNTY**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

GAC CHEMICAL CORPORATION
KIDDER POINT ROAD
SEARSPORT, MAINE 04974

RECEIVING WATER/CLASSIFICATION: **ATLANTIC OCEAN AT STOCKTON HARBOR / CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MR. DAVID COLTER, PRESIDENT&COO**
(207) 548-2525
dcolter@gacchemical.com

1. APPLICATION SUMMARY

a. Application: GENERAL ALUM NEW ENGLAND CORPORATION (GANEC, applicant or permittee) has applied to the Department of Environmental Protection (Department) for renewal of combination Maine Waste Discharge License (WDL) renewal and modification #W002530-5S-G-M / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0001830, which was issued to GAC Chemical Corporation by the Department on March 21, 2006 and expired on March 21, 2011. It is noted that General Alum New England Corporation has been the correct legal owner of the facility since calendar year 1994. The facility in Searsport operates as GAC Chemical Corporation. This permitting action is correctly specifying General Alum New England Corporation as the permittee; however, this is not considered a transfer. The March 21, 2006 MEPDES permit authorized the monthly average discharge of up to 0.124 million gallons per day (MGD) of combined water softening system filter backwash wastewater, steam condensate, non-contact cooling water, storm water runoff, neutralized, demineralized water softening system filter backwash wastewater, and neutralized boiler blowdown wastewater from a chemical manufacturing facility to the Atlantic Ocean at Stockton Harbor, Class SB, in Searsport, Maine.

2. PERMIT SUMMARY

a. Terms and conditions: **This permitting action is significantly different from the March 21, 2006 permitting action in that it is:**

1. Revising the monthly average and daily maximum water quality-based effluent concentration limitations and minimum monitoring frequency requirements for ammonia.

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

September 29, 1995 – The U.S Environmental Protection Agency (USEPA) issued a renewal of National Pollutant Discharge Elimination System (NPDES) permit #ME0001830 to GANEC for a five-year term.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0001830 has been utilized for GANEC's Searsport facility.

March 21, 2006 – The Department issued WDL #W002530-5S-G-M /MEPDES Permit #ME0001830 to GAC Chemical Corporation for a five-year term. The March 21, 2006 MEPDES permit authorized GAC Chemical Corporation to combine the discharge of storm water and wastewater from two separate outfall pipes to one consolidated outfall structure, which was assigned a new outfall identifier of Outfall #004A. The March 21, 2006 MEPDES permit superseded WDL #W002530-5S-F-R /MEPDES Permit #ME0001830

2. PERMIT SUMMARY (cont'd)

issued on December 29, 2004, and all previous WDLs dating back to the initial WDL issued for this facility (under different ownership) on November 29, 1978.

December 14, 2010 – GANEC timely submitted a General Application to the Department for a renewal of the March 21, 2006 MEPDES permit. The application was accepted for processing on December 21, 2010 and was assigned WDL #W002530-5S-H-R.

c. Source Description: General Alum New England Corporation, doing business as GAC Chemical Corporation, is located on a 152-acre parcel located off Kidder Road in Searsport, Maine. A map showing the location of the facility is included as Fact Sheet Attachment A. GANEC manufactures industrial-grade chemicals including: 1) aluminum sulfate (alum); 2) ammonium sulfate; 3) sodium aluminate; 4) aqueous ammonia; and 5) sodium hypochlorite (bleach). In addition, GANEC 1) purchases sulfuric acid in bulk transported to the facility by railcars and distributes it to customers primarily by transfer to tank trucks; 2) oxidizes several different non-petroleum oils, such as fish oil and neats foot oil for use in the leather tanning industry; and 3) purchases a variety of other chemical products in bulk and either distributes them in the same formulation as purchased or blended and sold in different concentrations or forms for their use as flocculants, coagulants and defoamers.

The sources of wastewater conveyed for discharge via Outfall #004A are water softening system backwash wastewater, steam condensate, non-contact cooling water, neutralized, demineralized water softening system backwash wastewater, neutralized boiler blowdown, and storm water runoff.

Water Softening System Backwash Wastewater

GANEC utilizes municipal (potable) water in the ammonium sulfate, sodium aluminate, aqua ammonia, and liquid bleach manufacturing processes and to feed the industrial boiler system. The municipal water supply is demineralized using water softening systems to ensure quality assurance of the manufactured products. The water softening systems are similar to those used in domestic water treatment applications and use an ion exchange media to remove minerals from the municipal water supply. Periodically, the ion exchange media must be cleaned and regenerated through a backwash and brine injection process.

The ammonium sulfate production plant operates on an intermittent basis of once every three weeks; therefore, the generation of wastewater from this dedicated softening system is intermittent. GANEC performs two backwash/regeneration cycles during each ammonium sulfate production cycle, which generates approximately 1,000 gallons of wastewater including approximately 150 gallons of brine solution. This process generates approximately 2,000 gallons of backwash wastewater per month.

2. PERMIT SUMMARY (cont'd)

The aluminum sulfate and sodium aluminate production plants operate continuously. GANEC performs one backwash/regeneration cycle per month on each of two dedicated water softening systems, which generates approximately 1,000 gallons of wastewater including approximately 150 gallons of brine solution. These two processes generate approximately 2,000 gallons of backwash wastewater per month.

The aqua ammonia water softening system operates continuously. GANEC performs one to two backwash/regeneration cycles per week, on average, for this dedicated water softening system and each cycle generates approximately 1,000 gallons of wastewater. This process generates up to approximately 8,000 gallons of backwash wastewater per month.

The liquid bleach production process operates continuously. GANEC performs one backwash/regeneration cycle per week, on average, for this dedicated water softening system and each cycle generates approximately 1,000 gallons of wastewater, including 150 gallons of brine solution. This process generates approximately 4,000 gallons of backwash wastewater per month.

GANEC stated that the purpose of using demineralized water for the boiler system is to minimize the generation of boiler blowdown. GANEC performs two backwash/regeneration cycles per week for the boiler house water softening system during cold weather months and one cycle per week during warm weather months. Each backwash/regeneration cycle generates approximately 1,000 gallons of wastewater, including 150 gallons of brine solution. This process generates up to 8,000 gallons of backwash wastewater per month during the cold season and up to 4,000 gallons per month during the warm season.

Steam Condensate Wastewater

GANEC generates an undetermined quantity of steam condensate wastewater from various sources in the ammonium sulfate, aluminum sulfate and sodium aluminate manufacturing plants.

Boiler Blowdown

GANEC generates an undetermined quantity of wastewater from two discrete boiler blowdown processes. GANEC performs a bottom blowdown process once per day to remove sediments from the bottom of the boiler, and a continuous surface blowdown process to maintain efficiency of the boiler.

Storm Water

GANEC generates an undetermined quantity of storm water runoff from facility access roads, manufacturing buildings, office buildings, and material handling areas, including, but not limited to loading and unloading areas for raw and final products. Storm water is captured by catch basins located on facility grounds, and is commingled with the other sources of wastewater as described above. GANEC maintains a current Storm Water

2. PERMIT SUMMARY (cont'd)

Pollution Prevention Plan (SWPPP) to minimize storm water runoff to the extent practicable and to map and identify potential sources of storm water pollution from the industrial site. GANEC most recently updated its Storm Water Pollution Prevention Plan (SWPPP) as required by Special Condition H of the March 21, 2006 MEPDES permit in December 2010.

Sanitary wastewater generated by GANEC is conveyed to a subsurface wastewater disposal system in accordance with applicable State and local laws.

A schematic of the facility is included as Fact Sheet Attachment B.

d. Wastewater Treatment: Wastewater generated by GANEC receives the following treatment:

Backwash wastewater from the aqua ammonia softening system is conveyed to a 1,000-gallon holding tank, and boiler blowdown wastewater is conveyed to a 500-gallon holding tank for treatment consisting of pH neutralization with sulfuric acid before these waste streams are commingled with the other sources of wastewater generated by the facility. Sediment that accumulates in the bottom of the holding tanks is removed one to two times per year for disposal at an approved landfill facility.

GANEC utilizes an active pH adjustment system, installed between the shoreline of Stockton Harbor and the production facilities and operational since November 2001, to adjust pH prior to discharge. The treatment system is designed to increase the pH of the influent wastewater stream to 7.0 standard units through the controlled addition of caustic (sodium hydroxide) or reduce pH through the addition of acid at the head end of a baffled, concrete mixing/contact chamber. The chamber measures 18-feet long by 17-feet wide by 6-feet deep and also serves to mix the various sources of wastewater generated by the facility. A schematic of the mixing chamber is included as Fact Sheet Attachment C. GANEC continuously monitors the influent pH to ensure proper dosing of caustic. Caustic is introduced in the first baffled section of the chamber and effluent pH is monitored in the last baffled section. A building constructed adjacent to the outfall structure houses the caustic supply, the injection pumps, the controllers, and an alternative power supply. Visual and audible alarms are located at the service building where personnel are stationed 24 hours per day, 7 days per week.

Final effluent is conveyed for discharge to the Atlantic Ocean at Stockton Harbor in Penobscot Bay via Outfall #004A. Outfall #004A measures 20-inches in diameter, extends out into the receiving waters approximately 150 linear feet and is submerged to a depth of approximately 4 feet below the water surface at mean low tide. The pipe is not fitted with a diffuser or other structure that would assist in mixing of the effluent with the receiving waters.

3. CONDITIONS OF PERMITS

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, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Waters Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), 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 the Atlantic Ocean at Stockton Harbor as a Class SB waterway. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A., § 465-B describes standards for classification of Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, (Report) (see: http://www.maine.gov/dep/blwq/docmonitoring/305b/index.htm) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the segment of the Atlantic Ocean at Stockton Harbor that contains the discharge from GANEC as, *"Category 5-B-1: Estuary and Marine Waters Impaired Only By Bacteria (TMDL Required)."* The Report lists sources of the impairment as sewerage treatment plant discharges, overboard discharges, failing septic systems and non-point source pollution. The draft *State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report* lists this waterbody (Waterbody ID #722-24) in "*Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed.*" The 2010 Report is pending USEPA approval. The Report states, *"(A TMDL is complete, but there is insufficient new data to determine if attainment has been achieved. Note: Bacteria may impair either recreational uses (swimming) or shellfish consumption uses, or both. Shell fish consumption impairments only apply to waters naturally capable of supporting the shellfish-harvesting use (i.e., waters of high enough salinity for propagation of shellfish.)* On September 28, 2009, the USEPA approved the Department's *Maine Statewide Bacteria TMDL (Total Maximum Daily Loads)*, dated August 2009, for fresh, marine and estuarine waters impaired by bacteria. (See: http://www.maine.gov/dep/blwq/docmonitoring/tmdl2.htm) The Department has no information that the discharge from GANEC causes or contributes to this non-attainment status.

Additionally, the 2008 Report lists all estuarine and marine waters in *"Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants."* The 2008 Report states, *"All estuarine and marine waters 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."* The 2010 draft Report states, "*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*

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

and other persistent, bioaccumulating substances in lobster tomalley. The Department has no information that the discharge from GANEC causes or contributes to this non-attainment status.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

a. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limitation of 0.124 million gallons per day (MGD), which is considered representative of the anticipated flow for the facility. .

A summary of effluent flow data as reported on the DMRs submitted to the Department for Outfall #004A for the period of April 2006 through August 2010 is as follows:

Effluent Flow	3/26/06 Permit Limit	Range of Effluent Values	Arithmetic Mean of Effluent Values	# DMRs
Monthly Average	0.124 MGD	0.005 - 0.1 MGD	0.04 MGD	53
Daily Maximum	N/A	0.032 - 1.019 MGD	0.26 MGD	53

This permitting action is carrying forward a minimum monitoring frequency requirement of five times per week for effluent flow based on best professional judgment.

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

Based on the location and configuration of the outfall pipe and the permitted discharge flow limit of 0.124 MGD, the Department has determined that dilution factors associated with the discharge from GANEC are as follows:

Acute = 3:1 Chronic = 23:1 Harmonic Mean[1] = 69:1

[1] The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the 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 & MONITORING REQUIREMENTS (cont'd)

c. Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, rolling annual (12-month) average and daily maximum effluent TSS concentration limits of 50 mg/L and 100 mg/L, respectively, based on a Department best professional judgment determination of best practicable treatment for the discharge of suspended solids associated with storm water runoff from this industrial site. Compliance with the average limit of 50 mg/L is based on a 12-month rolling average calculation in consideration of the variability of storm water runoff rates over the course of a calendar year. These limitations and the methodology for determining compliance are consistent with the limits established in permits issued by the Department for bulk fuel storage and transfer facilities located within the State and for other dischargers of storm water from industrial sites.

A summary of effluent TSS data as reported on the DMRs submitted to the Department for Outfall #004A for the period of April 2006 through August 2010 is as follows:

TSS	3/26/06 Permit Limit	Range of Effluent Values	Arithmetic Mean of Effluent Values	# DMRs	Comments
12-Month Rolling Average	50 mg/L	11 - 145 mg/L	40 mg/L	43	2 reported values > 50 mg/L limit
Daily Maximum	100 mg/L	3 - 192 mg/L	51 mg/L	51	1 reported value > 100 mg/L limit

This permitting action is carrying forward the minimum monitoring frequency requirement of twice per month for TSS based on Department best professional judgment.

d. Ammonia (as N): The previous permitting action established monthly average and daily maximum concentration and mass limits for Outfall #004A of 29.0 mg/L and 20.0 lbs./day and 27.5 mg/L and 18.9 lbs./day, respectively, for ammonia (as N).

Ammonia limits were established in WDL #W002530-5S-F-R issued on December 29, 2004 for Outfall #002A based on a November 23, 2004 statistical evaluation which indicated that the discharge during both the summer season and non-summer season exceeded the chronic ambient water quality criterion (AWQC) for ammonia. The March 21, 2006 MEPDES permit established revised ammonia limits associated with the new discharge flow limitation and dilution factors associated with the new Outfall #004A.

06-096 CMR 530(2)(A) specifies the categories of dischargers subject to the toxics testing requirements of the rule as *"[a]ll licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria."* The discharge from GANEC does not contain process wastewater or domestic wastes. Therefore, the facility is not subject to routine testing requirements under 06-096 CMR 530. Ammonia,

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

however, is a toxic pollutant discharged by the facility and this permitting action is evaluating the discharge of this toxic compound consistent with the approach specified in 06-096 CMR 530.

06-096 CMR 530(4)(C), states:

> *The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations.*

The Department has limited information on the background levels of ammonia for marine waters in the vicinity of the permittee's outfall, including Stockton Harbor. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

06-096 CMR 530(4)(E), states "*In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity.*" Therefore, the Department is reserving 15% of the applicable water quality criteria in the calculations of this permitting action.

06-096 CMR 530(3)(E) states *"... that a discharge contains pollutants or [whole effluent toxicity] at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action."*

Acute and chronic water quality criteria for ammonia vary based on changes in temperature, salinity and pH. Permitting actions for this facility and receiving water have utilized the following assumptions (as required by 06-096 CMR 584 Table II Footnote D) receiving water characteristics to determine applicable acute and chronic AWQC for ammonia.

Temperature = 20 °C Salinity = 30 parts per thousand pH = 8.0 SU

This results in critical acute and chronic AWQC of 7.3 mg/L and 1.1 mg/L, respectively.

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

Ammonia (as N)

End-of-pipe (EOP), water quality-based, monthly average and daily maximum concentration and mass limits for ammonia were calculated as follows in the March 21, 2006 MEPDES permit:

EOP Concentration Threshold = (Dilution Factor)[(0.75)(criterion)] + (0.25)(criterion)

EOP Chronic Concentration Threshold = (23)[(0.75)(1.1 mg/L)] + (0.25)(1.1 mg/L) = 19.3 mg/L
EOP Acute Concentration Threshold = (3)[(0.75)(7.3 mg/L)] + (0.25)(7.3 mg/L) = 18.3 mg/L

EOP Ammonia Mass Limit =
(EOP Conc. Threshold)(8.34 lbs./gallon)(discharge flow limit, MGD)

Monthly Average EOP Ammonia Mass Limit =
(19.3 mg/L)(8.34 lbs./gallon)(0.124MGD) = **20.0 lbs./day**

Daily Maximum EOP Ammonia Mass Limit =
(18.3 mg/L)(8.34 lbs./gallon)(0.124MGD) = **18.9 lbs./day**

06-096 CMR 530(3)(D)(1) states, *"for specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded."* As not to penalize the permittee for operating at flows less than the permitted flow limit, the Department made a best professional judgment determination in the March 21, 2006 MEPDES permit to increase the water quality-based concentration thresholds for ammonia by a factor of 1.5.

Since the adoption of 06-096 CMR 530, the Department has a developed a policy for establishing equitable concentration limits in permits that are greater than calculated end-of-pipe concentrations. In general, most dischargers subject to the 06-096 CMR 530 testing requirements are discharging at or about 50% of the flow limitations established in their permits. This provides the Department with the flexibility to establish higher concentration limits in the permit while still maintaining compliance with the water quality-based mass limitations. With an actual discharge flow at ½ (0.5) of permitted flow rate, a concentration limit of two times (mathematical inverse of 0.5) the calculated end-of-pipe concentration will maintain compliance with water quality-based mass limits. Therefore, this permitting action is establishing concentration limitations that are two (2) times higher than the calculated end-of-pipe concentrations. The permittee shall keep in mind, if flows greater than 50% of the permitted flow are realized, the concentration in the effluent must be reduced proportionally to maintain compliance with the mass limitations.

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

Therefore, revised monthly average and daily maximum ammonia concentration limits may be calculated and are being established in this permitting action as follows.

EOP Ammonia Concentration Limit = (EOP Concentration Threshold)(2.0)

Monthly Average EOP Ammonia Concentration Limit =
(19.3 mg/L)(2.0) = **38.6 mg/L (same as 38,600 µg/L)**
Daily Maximum EOP Ammonia Concentration Limit =
(18.3 mg/L)(2.0) = **36.6 mg/L (same as 36,600 µg/L)**

It is noted that the monthly average concentration and mass limits are higher (less stringent) than the daily maximum limits as a result of the relatively small difference in the applicable acute (7.3 mg/L) and chronic (1.1 mg/L) water quality criteria for ammonia as compared to the acute and chronic dilution factors of 3:1 and 23:1, respectively.

Ammonia Mass

Ammonia	3/26/06 Permit Limit	Range of Effluent Values	Arithmetic Mean of Effluent Values	# DMRs	Comments
Monthly Average	20.0 lbs./day	0.01 – 6.7 lbs./day	1.7 lbs./day	53	No mass-based exceedences
Daily Maximum	18.9 lbs./day	0.01 – 6.9 lbs./day	2.0 lbs./day	53	No mass-based exceedences

Ammonia Concentration

Ammonia	3/26/06 Permit Limit	New Permit Limit	Range of Effluent Values	Arithmetic Mean of Effluent Values	# DMRs	Comments
Monthly Average	29.0 mg/L	38.6 mg/L	0.7 - 40 mg/L	5.6 mg/L	53	May 2008 value of 40 mg/L is only value > limit
Daily Maximum	27.5 mg/L	36.6 mg/L	0.7 - 41 mg/L	6.6 mg/L	53	May 2008 value of 41 mg/L is only value > limit

06-096 CMR 530 establishes four categories of testing requirements based predominately on the chronic dilution factor. 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

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

06-096 CMR 530(1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for toxic pollutants testing. Based on the 06-096 CMR 530 criteria, the permittee's facility falls into the Level II frequency category as the facility has a chronic dilution factor of ≥20:1 but <100:1. 06-096 CMR 530(1)(D)(1) specifies that default surveillance and screening level testing requirements are twice per year and once per calendar quarter, respectively.

This permitting action is revising the minimum monitoring frequency requirement for ammonia from twice per month on a year-round basis to the default screening and surveillance level frequencies prescribed by the toxics rule for consistency with the monitoring requirements established in other MEPDES permits. The revised monitoring frequencies are as follows:

Surveillance level testing – Beginning upon issuance of this permit and lasting through 12 months prior to expiration of the permit, the permittee shall conduct surveillance level ammonia (as N) testing at a minimum frequency of twice per year (2/Year) with one test in January to June and one test 6 months later. For surveillance tests, different months will be used in 4 successive years.

Screening level testing – Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level ammonia (as N) testing at a frequency of once per calendar quarter(1/Quarter) for four consecutive calendar quarters.

e. Temperature: The previous permitting action established a daily maximum temperature limit of 85 degrees Fahrenheit (°F), which is representative of the thermal characteristics of the discharge and was established to prevent adverse thermal impacts on marine life surrounding the outfall pipes as required by *Regulations Relating to Temperature*, 06-096 CMR 582 (last amended February 18, 1989).

A summary of effluent temperature data as reported on the DMRs submitted to the Department for Outfall #004A for the period of April 2006 through August 2010 is as follows:

Temperature	3/26/06 Permit Limit	Range of Effluent Values	Arithmetic Mean of Effluent Values	# DMRs
Daily Maximum	85°F	55°F - 81°F	68°F	53

This permitting action is carrying forward the minimum monitoring frequency requirement of once per month for temperature based on Department best professional judgment.

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

f. pH: The previous permitting action established, and this permitting action is carrying forward, a pH limit of 6.0 – 9.0 standard units (SU), which is based on Department best professional judgment of best practicable treatment, and a minimum monitoring frequency requirement of three times per day based on best professional judgment. A summary of pH data as reported on the monthly DMRs for the period of April 2006 through August 2010 (# DMRs = 53) indicates the facility has exceeded the low end range limit of 6.0 SU on five (5) occasions with a minimum value of 5.1 SU.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected and that the discharge will not cause or contribute to the failure of the Atlantic Ocean at Stockton Harbor to meet standards for Class SB classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the *Republican Journal* newspaper on or about November 17, 2010. 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 shall 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).

9. DEPARTMENT CONTACTS

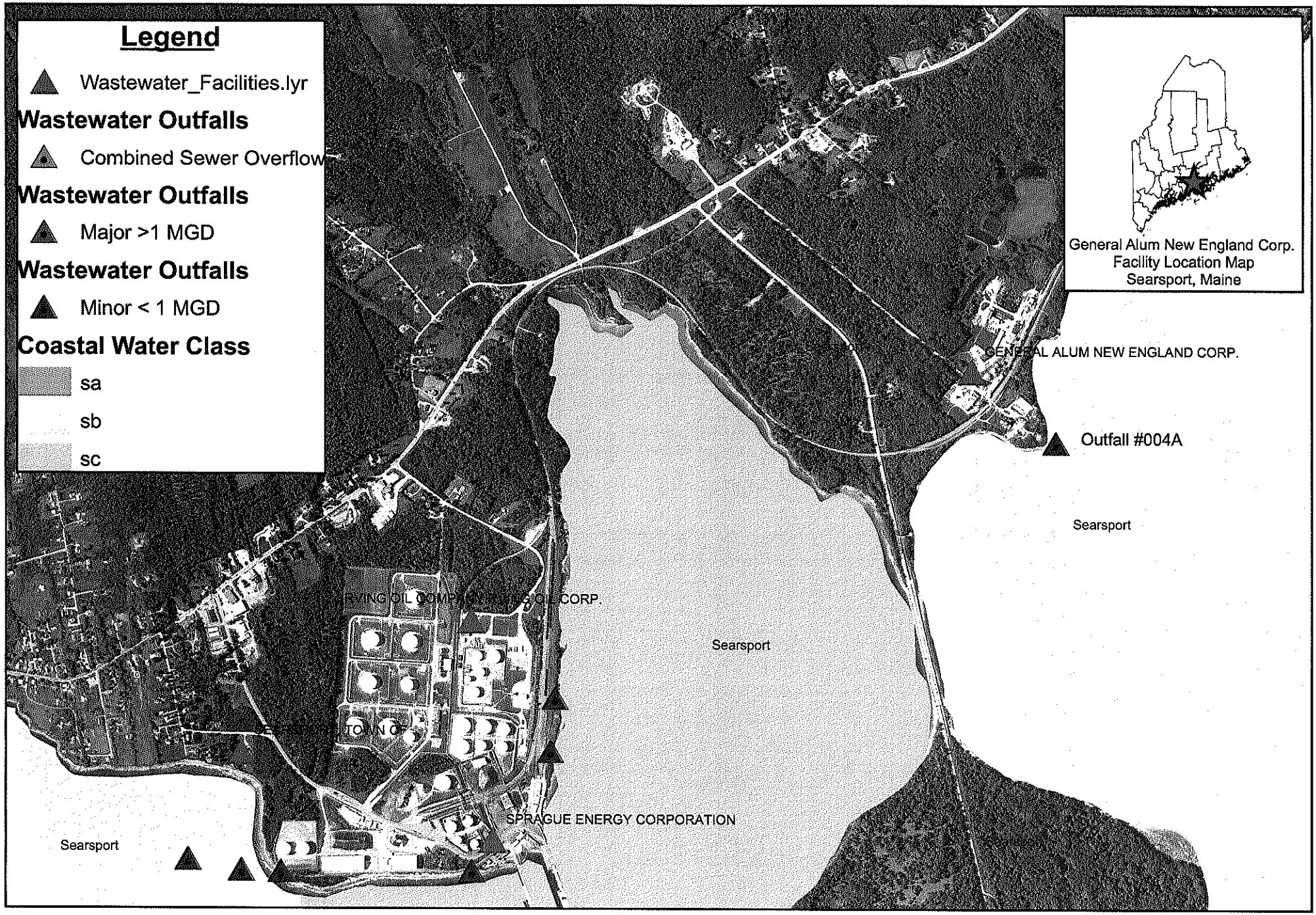
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Bill Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
e-mail: bill.hinkel@maine.gov
Telephone: (207) 485-2281

10. RESPONSE TO COMMENTS

During the period of January 21, 2011 through February 21, 2011, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to General Alum New England Corporation for the proposed discharges. The Department did not receive significant comments on the draft permit; therefore, a Response to Comments was not prepared.

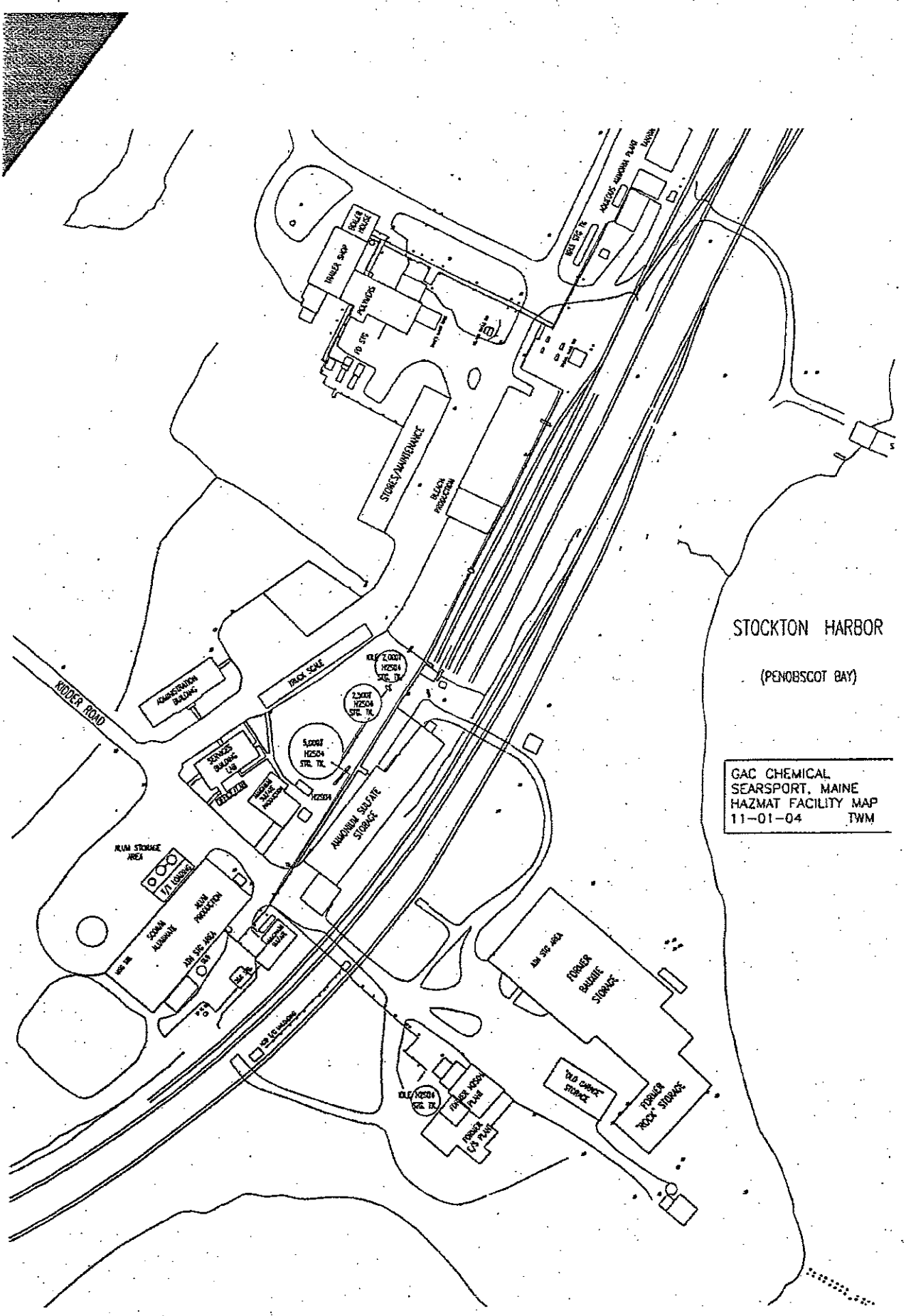
ATTACHMENT A



General Alum New England Corp. d/b/a GAC Chemical Corp.
Searsport, Maine

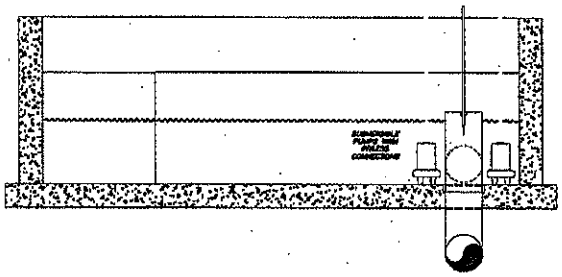
Map created by Maine DEP
December 2010

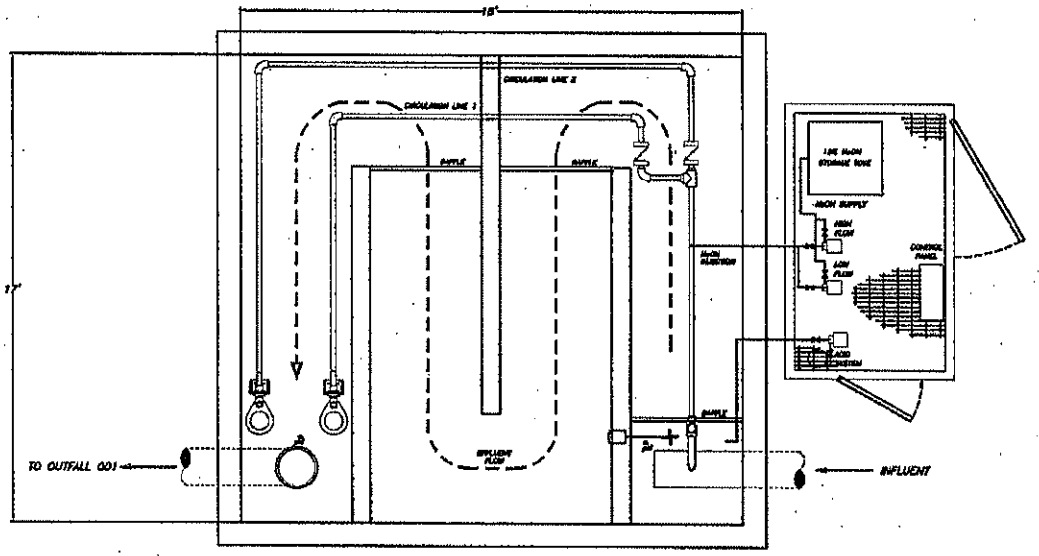
ATTACHMENT B

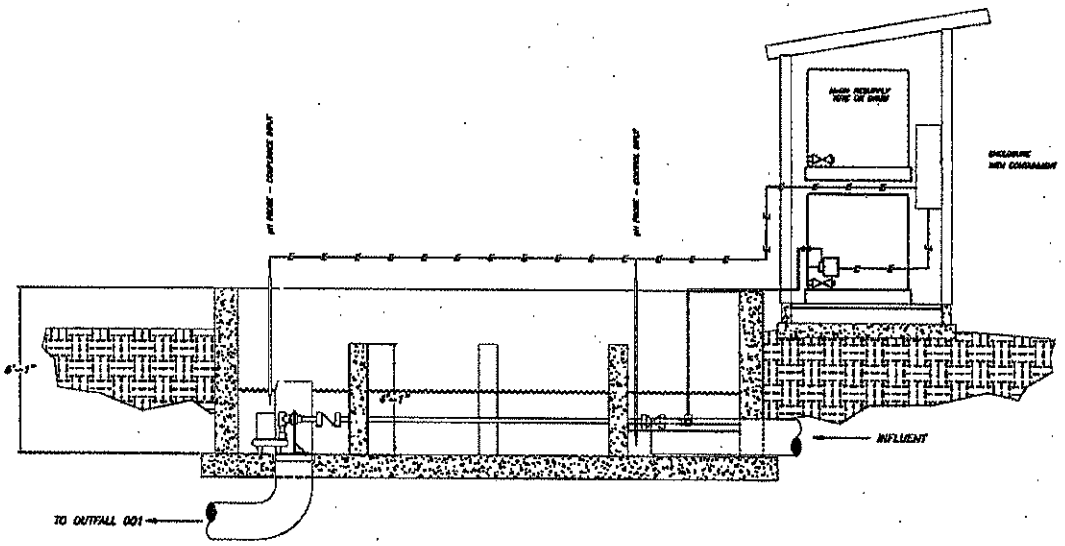


Attachment A 2/2

ATTACHMENT C







DRAWING NO.	REFERENCE DRAWING TITLE	NO.	DATE	REVISION REMARKS	DRN	CHKD	APVD
		2	Aug 1, 2005	ADDED BAFFLES & ACID SYSTEM			
		1	Mar 4, 2004	ADDED ENCLOSURE AND MAIN HEAT SYSTEM			

PROJECT: DE-1077
OUTFALL 001
ACTIVE TREATMENT

SCALE: as noted

DESIGN: JAH 5/10/01

DRAWN: JAH 5/10/01

CHKD:

APVD:

GENERAL ALUM & CHEMICAL
SEARSPORT, MAINE 04974

OUTFALL 001
ACTIVE TREATMENT SYSTEM
GENERAL LAYOUT

1077-G001-0

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

CONTENTS

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).

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 if 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 MAINTENACE 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

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.

(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.

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.

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

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).

(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.

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 contaminates 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.

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.

Point source means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

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

Process wastewater means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works ("POTW") means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

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

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

Toxic pollutant includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

DEP INFORMATION SHEET
Appealing a Commissioner's Licensing Decision

Dated: May 2004 **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. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days 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 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 and the applicant a copy of the documents. All 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

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by 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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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.