

**RESPONSE TO PUBLIC COMMENTS  
NPDES PERMIT MA0101150  
Town of Merrimac  
Merrimac, MA**

On August 17, 2006, the U.S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection (MassDEP) released for public notice and comment a draft National Pollutant Discharge Elimination System (NPDES) permit pursuant to an application from the Town of Merrimac, Massachusetts for the reissuance of its permit to discharge treated wastewater to the Merrimack River. The public comment period for this draft permit ended on September 16, 2006.

Comments were submitted by the following organizations:

1. The Massachusetts Division of Marine Fisheries
2. The Massachusetts Department of Fish and Game- Riverways Program

After review of the comments received, EPA has made a final decision to issue the permit authorizing the discharge. The following are the comments and EPA's response to those comments. The comment letters are part of the administrative record and are paraphrased herein. A copy of the final permit may be obtained by writing or calling Suproakash Sarker, EPA NPDES Permits Program [CMP], 1 Congress Street, Suite 1100, Boston, MA 02114-2023; telephone: [617] 918-1693.

**A. The following comments were received from the Massachusetts Division of Marine Fisheries:**

Comment A.1.

“Recently Marine Fisheries re-classified the Merrimack River from prohibited to conditional status for the purpose of harvesting shellfish. This re-classification is the result of reductions in fecal coliform levels in the receiving waters. In order to remain aware of potential sources of fecal coliform bacteria that may effect this new classification, Marine Fisheries requests to be notified under Part I.E “Monitoring and Reporting” within twenty four hours when a permit excursion for fecal coliform or plant failure occurs. A twenty four hour notification of a permit excursion or plant failure should be sent to the following:”

Division of Marine Fisheries  
Shellfish Management Program  
30 Emerson Avenue, Gloucester, MA 01930  
Phone number: (978) 282-0308 extension 160  
Email address: [shellfish.newburyport@state.ma.us](mailto:shellfish.newburyport@state.ma.us)

Response

EPA agrees and the requirements have been included in Part I.E of the final permit.

**B. The following comments were received by the Massachusetts Department of Fish and Game – Riverways Program:**

Comment B.1.

“The draft permit has no nutrient monitoring or reporting requirements or limitations. The Fact Sheet did not discuss nutrients. We feel strongly nitrogen and phosphorus should be monitored. While the Merrimack facility has a relatively small flow and high dilution, the facility is just one of many point discharges into the Merrimack River. The Merrimack River not only influences water quality in Plum Island Sound, it is a dominant contribution to Mass Bay. Having information on nutrient loading for all of the facilities discharging to this river would provide invaluable information to managers and regulators. With information on point source loadings, regulators can better understand the contributions of point and nonpoint source pollution. This information is needed to better address remediation and management measures.”

Response

The segments of the Merrimack River downstream of the treatment plant are not listed on the 303(d) list as impaired for nutrients (see Massachusetts Year 2004 Integrated List of Waters). Some upstream segments are listed as impaired for nutrients. For discharges to these upstream segments EPA has required monitoring of phosphorus. No nutrient monitoring requirements or effluent limits have been established for this discharge because there are no downstream impairments and the discharge does not have the reasonable potential to cause or contribute to an impairment given the high dilution factor.

Comment B.2

“The discharge monitoring data shows some building flow issues at this facility. The inclusion in the permit of both infiltration and inflow control requirements and the requirement in Footnote I.A.1.f to develop a plan to submit to DEP when average annual flows exceed 80% of the design capacity are key to preventing unacceptable impacts to the receiving. The data shows the facility is already well above 80% of the design flow, (for at least 2004 and 2005) and the maximum daily flow suggests I&I is an issue for this facility given there are instances when maximum daily flows have been more than double average monthly flows and design flow. The draft permit does not supply a time line for the completion of the report to DEP detailing how the facility will continue to meet permit limits. We would like to suggest firm deadlines and milestones be established for completing this report. We believe the same is necessary for I&I removal as the draft permit only establishes a time frame for the submittal of the I&I control plan but does not require a reasonable level of I&I removal be implemented within a set number of months.

We feel establishing concrete milestones and deadlines is needed since excessive I&I and average flows well above 80% of design have been in existence at the facility for years.”

Response

EPA agrees that the annual average flow discharged from the facility during 2004 and 2005 exceeded 80 percent of the annual average flow limit, and also agrees that the draft permit did not specify a submittal date for the required report if the flow threshold is exceeded. Accordingly, EPA has revised Part I.A.1.f as follows:

“The permittee is required, when the average annual flow in any calendar year exceeds 80% of the facilities design flow, to submit a report to MassDEP on how the permittee will remain in compliance with the limitations in the permit, specifically flow. The report shall be submitted by March 31 of the following calendar year.”

EPA has not established a fixed schedule for I/I reduction in the final permit. However, EPA or MassDEP may initiate enforcement action against violations of permit conditions. If such violations are found to have been caused by I/I, then an enforcement order could be issued with more specific requirements.