



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

August 26, 2009

Mr. E. Carlo White
Penobscot Energy Recovery Company
P.O. Box 160
Orrington, ME 04476
cwhite@percwte.com

**RE: *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023230
Maine Waste Discharge License (WDL) #W006893-5O-F-R
FINALIZED MEPDES Permit/WDL***

Dear Mr. White:

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.*"

If you have any questions regarding the matter, please feel free to call me at 287-7659.

Sincerely,

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality
bill.hinkel@maine.gov

Enc

cc: Tanya Hovell, DEP; Sandy Mojica, USEPA; File #W6893

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

DEPARTMENT ORDER

IN THE MATTER OF

PENOBSCOT ENERGY RECOVERY CO.) MAINE POLLUTANT DISCHARGE
ORRINGTON, PENOBSCOT COUNTY, MAINE) ELIMINATION SYSTEM PERMIT
INDUSTRIAL PROCESS WASTE WATER) AND
#ME0023230) WASTE DISCHARGE LICENSE
#W006893-5O-F-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 Maine Department of Environmental Protection (Department) has considered the application of the PENOBSCOT ENERGY RECOVERY COMPANY (PERC), with its supportive data, agency review comments, and other related material on file and finds the following facts:

APPLICATION SUMMARY

PERC has applied to the Department for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023230 / Maine Waste Discharge License (WDL) #W006893-5O-E-R, which was issued on June 29, 2004 and expired on June 29, 2009. The 6/29/04 permit authorized the daily maximum discharge of up to 0.0225 million gallons per day (MGD) (same as 22,500 gallons per day) of treated process waste water (low volume waste waters from boiler blowdown, cooling tower blowdown, reverse osmosis system reject water, ash handling water and miscellaneous operational waste waters) and an unspecified quantity of storm water runoff from a 25.3-megawatt refused-fired electric power generation facility to the Penobscot River, Class SC, in Orrington, Maine.

On April 10, 2006, the Department amended the 6/29/04 permit through the issuance of a fact sheet pursuant to the *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005).

PERMIT SUMMARY

This permitting action is similar to the 6/29/04 permitting action and 4/10/06 permit amendment in that it is:

1. Carrying forward the daily maximum discharge flow limitation of 0.0225 MGD;
2. Carrying forward the technology-based, monthly average and daily maximum concentration and mass limitations for total suspended solids (TSS);
3. Carrying forward the technology-based, monthly average and daily maximum concentration and mass limitations for oil and grease (O&G);
4. Carrying forward the daily maximum effluent temperature limitation;
5. Carrying forward the technology-based, monthly average and daily maximum concentration limitations for free available chlorine (FAC);
6. Carrying forward the technology-based, daily maximum mass limitation for copper (total);
7. Carrying forward the technology-based, daily maximum concentration and mass limitations for iron (total);
8. Carrying forward the technology-based, daily maximum concentration and mass limitations for zinc (total);
9. Carrying forward the technology-based, daily maximum pH range limitation; and
10. Carrying forward authorization to discharge an unspecified quantity of storm water runoff via Outfall #002A and a requirement to maintain a current storm water pollution prevention plan (SWPPP) for all areas of the facility contributing flows to the storm water outfall.

This permitting action is different from the 6/29/04 permitting action and 4/10/06 permit amendment in that it is:

1. Revising the applicable dilution factors associated with the discharge;
2. Eliminating the monthly average and daily maximum mass limitations for FAC and establishing Special Condition A, Footnote # 4 in accordance with 40 CFR, Part 423.12(b)(8);
3. Revising the daily maximum concentration limitation for copper (total) from a technology-based limit to a water quality-based limit based on changes in applicable dilution factors;
4. Establishing water quality-based, monthly average concentration and mass limitations for copper (total);

PERMIT SUMMARY (cont'd)

5. Establishing technology-based, monthly average concentration and mass limitations for iron (total);
6. Establishing technology-based, monthly average concentration and mass limitations for zinc (total);
7. Establishing a requirement for the person who has the management responsibility over the treatment facility must hold a minimum of a Grade I Physical/Chemical certificate;
8. Establishing an annual certification statement requirement as Special Condition G, *06-096 CMR 530(2)(D)(4) Statement for Reduced/Waived Toxics Testing* of this permit;
9. Establishing technology-based, monthly average and daily maximum concentration and mass limitations for chromium (total) and Special Condition H, *Monitoring Waiver For Certain Guideline-Listed Pollutants*;
10. Eliminating the monitoring and reporting requirements for effluent temperature for all but the months of June, July and August;
11. Revising the minimum monitoring frequency requirements for zinc and temperature; and
12. Establishing Special Condition J, *Storm Water Associated with Industrial Activity – Plans and Monitoring Requirements*, including requirements to comply with *Sector O – Steam Electric Generating Facilities* of Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated October 11, 2005.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 26, 2009, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS.

1. The discharge, either individually or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either individually or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding 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 water 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 application of PENOBSCOT ENERGY RECOVERY COMPANY (PERC) to discharge a daily maximum of up to 0.0255 million gallons per day (same as 22,500 gallons per day) of treated process waste water (low volume waste waters from boiler blowdown, cooling tower blowdown, reverse osmosis system reject water, ash handling water and miscellaneous operational waste waters) and an unspecified quantity of storm water runoff to the Penobscot River, Class SC, in Orrington, 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. The expiration date of this permit is five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: May 26, 2009
Date of application acceptance: May 29, 2009

This Order prepared by William F. Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

1. The permittee is authorized to discharge treated low volume waste waters from boiler blowdown, cooling tower blowdown, reverse osmosis system reject water, ash handling water and miscellaneous operational waste waters via **OUTFALL #001A** to the Penobscot River. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾⁽²⁾:

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]	---	---	---	0.0225 MGD [03]	Continuous [99/99]	Meter [MT]
Total Suspended Solids [00530]	5.6 lbs./day [26]	18.8 lbs./day [26]	30 mg/L [19]	100 mg/L [19]	1/Quarter [01/90]	Grab [GR]
Oil & Grease [00552]	2.8 lbs./day [26]	3.8 lbs./day [26]	15 mg/L [19]	20 mg/L [19]	1/Quarter [01/90]	Grab [GR]
Effluent Temperature [00011]	---	---	---	100°F [15]	1/Month ⁽³⁾ [01/30]	Grab [GR]
Free Available Chlorine ⁽⁴⁾ [50064]	---	---	0.2 mg/L [19]	0.5 mg/L [19]	1/Quarter [01/90]	Grab [GR]
Copper (Total) [01042]	0.2 lbs./day [26]	0.2 lbs./day [26]	0.29 mg/L [19]	0.29 mg/L [19]	When Discharging ⁽⁵⁾ [WH/DS]	Grab [GR]
Iron (Total) [01045]	0.2 lbs./day [26]	0.2 lbs./day [26]	1.0 mg/L [19]	1.0 mg/L [19]	When Discharging ⁽⁵⁾ [WH/DS]	Grab [GR]
Zinc (Total) [01067]	0.2 lbs./day [26]	0.2 lbs./day [26]	1.0 mg/L [19]	1.0 mg/L [19]	1/Year ⁽⁶⁾ [01/YR]	Grab [GR]
Chromium (Total) [01034]	0.04 lbs./day [26]	0.04 lbs./day [26]	0.2 mg/L [19]	0.2 mg/L [19]	--- ⁽⁷⁾	---
pH [00400]	---	---	---	6.0-9.0 SU [12]	1/Quarter [01/90]	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 Pages 7-8 of this permit for the applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

1. **Sampling** – All effluent monitoring for Outfall #001A shall be conducted from the sampling tap located after the MonoScour Recovery Filter, or other Department-approved location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Sampling and analysis must be conducted in accordance with; a) methods approved by 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the actual 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. Compliance with this permit will be evaluated based on whether or not a compound is detected at or above the Department's RL.

2. **Priority Pollutants** – Pursuant to 40 CFR Part 423.13(d)(1), there shall be no detectable levels of the 126 priority pollutants as specified in *Appendix A to Part 423 – 126 Priority Pollutants*.
3. **Temperature Monitoring** – Temperature monitoring for Outfall #001A is required during the months of June, July, and August of each year only.
4. **Free available chlorine** – Pursuant to 40 CFR Part 423.12(b)(8), neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available chlorine nor total residual chlorine at any time unless the utility can demonstrate to the Department that the units cannot operate at or below this level of chlorination.
5. **Monitoring for Copper and Iron** – Monitoring for total copper and total iron shall be conducted each time the facility discharges metals cleaning rinse water. For the purposes of this permit, one grab sample is required per discharge event.

SPECIAL CONDITIONS

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

FOOTNOTES:

6. **Monitoring for Zinc** – The monitoring requirement for total zinc shall become effective on January 1, 2010, although the limits are in effect upon issuance of this permit.
7. **Total Chromium Monitoring** – See Special Condition H of this permit for monitoring waiver conditions for chromium.

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. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only: 1) in accordance with the permittee's General Application for Waste Discharge License, accepted for processing on May 29, 2009; 2) in accordance with the terms and conditions of this permit; 3) via Outfall #001A; and 4) storm water via Outfall #002A. Discharges from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

D. TREATMENT PLANT OPERATOR

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

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENT

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

1. Any substantial change (realized or anticipated) in the volume or character of pollutants being introduced into the waste water collection and treatment system.
2. For the purposes of this section, adequate notice shall include information on:
 - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and
 - b. Any anticipated change in the quality and quantity of the waste water to be discharged from the treatment system.

F. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department. If you are receiving hard-copy DMR forms by mail, the completed, returned forms must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that the DMR's 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 shall be submitted to the Department assigned inspector (unless otherwise specified by the Department) at the following address:

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

Alternatively, if you are submitting an electronic Discharge Monitoring Report (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory **not later than close of business on the 15th day of the month** following the completed reporting period. **Hard copy documentation** submitted in support of the eDMR must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **not later than close of business on the 15th day of the month** following the completed reporting period.

SPECIAL CONDITIONS

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

This permitting action establishes waived testing for whole effluent toxicity, analytical chemistry, and priority pollutants. **On or before December 31st of each year** of the effective term of this permit [*PCS Code 95799*], the permittee shall provide the Department with statements describing the following:

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

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

H. MONITORING WAIVER FOR CERTAIN GUIDELINE-LISTED POLLUTANTS

Pursuant to 40 CFR Part 122.44, this permit provides a waiver from monitoring for chromium, which is listed in the effluent guideline limitations at 40 CFR Part 423.13(d)(1). **On or before December 31st of each year** of the effective term of this permit [*PCS Code 95799*], the permittee shall provide the Department with statements describing the following:

- (a) Changes in the number or types of wastes contributed directly or indirectly to the wastewater treatment works that may increase the presence of chromium in the discharge;
- (b) Changes in the operation of the treatment works that may increase the presence of chromium in the discharge; and
- (c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the presence of chromium the discharge.

Further, the Department may require that routine testing for chromium be instituted if it determines that there have been changes in the character of the discharge, if annual certifications described above are not submitted.

SPECIAL CONDITIONS

I. OPERATION & MAINTENANCE (O&M) PLAN

The permittee shall have a current written comprehensive Operation & Maintenance (O&M) Plan for the wastewater treatment system for Outfall #001A. The plan shall provide a systematic approach by which 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.

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 USEPA 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.

J. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS

1. Storm Water Pollution Prevention Plan (SWPPP)
 - a. With respect to areas of the facility contributing stormwater flow subject to this permit, **the permittee shall develop, implement, maintain and annually update a Storm Water Pollution Prevention Plan (SWPPP)** for the facility that is consistent with the SWPPP requirements established in Part IV Sections A-O and shall comply with all conditions of *Sector O – Steam Electric Generating Facilities* (included as Attachment A of this permit) of the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated October 11, 2005. The permittee shall maintain a copy of the SWPPP on-site for Department or USEPA staff inspection.
 - b. **Within 60 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in storm water, the permittee shall amend the SWPPP and note all changes.

SPECIAL CONDITIONS

J. STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS (cont'd)

2. Monitoring Requirements

At a minimum frequency of once per calendar quarter, the permittee shall perform and document a visual examination of a stormwater discharge at the end of the storm water conduit for Outfalls #002A in accordance with Department guidance document #DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities*, including associated Attachments A (*Instructions for Completing the Visual Monitoring Form*) and B (*Visual Monitoring Form*) (all included as Attachment B of this permit). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the expiration date of this permit.

3. Authorized storm water discharge point(s).

Outfall No.	Description	Receiving Water and Location
#002A	Sedimentation Pond	Tributaries to Penobscot River, Class SC, Orrington

K. REOPENING OF PERMIT FOR MODIFICATION

Upon evaluation of the tests results 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 monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

L. SEVERABILITY

In the event that any provision, 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.

ATTACHMENT A

Appendix O

O. Sector O - Steam Electric Generating Facilities

1. Covered Stormwater Discharges. The requirements in Part VI for Sector O apply to stormwater discharges associated with industrial activity from Steam Electric Power Generating Facilities as identified by the Activity Code specified below.

SECTOR O: STEAM ELECTRIC GENERATING FACILITIES	
SE	Steam Electric Generating Facilities

2. Industrial Activities Covered by Sector O. This permit authorizes stormwater discharges from the following industrial activities at Sector O facilities:
 - a. steam electric power generation using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas;
 - b. coal pile runoff, including effluent limitations established by 40 CFR Part 423;
 - c. dual fuel co-generation facilities.
3. Limitations on Coverage.
 - a. *Prohibition of Non-Stormwater Discharges.* Not covered by this permit: non-stormwater discharges subject to effluent limitations guidelines.
 - b. *Prohibition of Stormwater Discharges.* Not covered by this permit: stormwater discharges from ancillary facilities (e.g., fleet centers, gas turbine stations and substations) that are not contiguous to a steam electric power generating facility; and heat capture co-generation facilities.
4. Stormwater Pollution Prevention Plan (SWPPP) Requirements. In addition to the following requirements, the permittee must also comply with the requirements listed in Part IV.
 - a. *Drainage Area Site Map.* (See also Part IV(F)(2)(b)) Identify the locations of any of the following activities or sources which may be exposed to precipitation / surface runoff: storage tanks, scrap yards, general refuse areas; short and long term storage of general materials (including but not limited to: supplies, construction materials, paint equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizer and pesticides); landfills, construction sites; stock pile areas (e.g., coal or limestone piles).
 - b. *Good Housekeeping Measures.* (See also Part IV(F)(7)(b)(i))
 1. Fugitive Dust Emissions. Describe and implement measures that prevent or minimize fugitive dust emissions from coal handling areas. Consider such procedures to minimize the tracking of coal dust offsite as installing specially designed tires, or washing vehicles in a designated area before they leave the site and controlling the wash water.

2. Delivery Vehicles. Describe and implement measures that prevent or minimize contamination of stormwater runoff from delivery vehicles arriving at the plant site. Consider the following: procedures to inspect delivery vehicles arriving at the plant site and ensure overall integrity of the body or container; and procedures to deal with leakage / spillage from vehicles or containers.
3. Fuel Oil Unloading Areas. Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from fuel oil unloading areas. Consider, at a minimum (or their equivalents): using containment curbs in unloading areas; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks / spills are immediately contained and cleaned up; using spill and overflow protection (e.g., drip pans, drip diapers or other containment devices placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors).
4. Chemical Loading / Unloading. Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from chemical loading / unloading areas. Consider, at a minimum (or their equivalents): using containment curbs at chemical loading / unloading areas to contain spill; having personnel familiar with spill prevention and response procedures present during deliveries to ensure that any leaks / spills are immediately contained and cleaned up; and load / unload in covered areas and store chemicals indoors.
5. Miscellaneous Loading / Unloading Areas. Describe and implement measures that prevent or minimize contamination of precipitation / surface runoff from loading / unloading areas. Consider, at a minimum (or their equivalents): covering the loading area; grading, berming, or curbing around the loading area to divert run-on; or locating the loading / unloading equipment and vehicles so leaks are contained in existing containment and flow diversion systems.
6. Liquid Storage Tanks. Describe and implement measures that prevent or minimize contamination of surface runoff from above ground liquid storage tanks. Consider using, at a minimum (or their equivalents): protective guards around tank; containment curbs; spill and overflow protection; and dry cleanup methods.
7. Large Bulk Fuel Storage Tanks. Describe and implement measures that prevent or minimize contamination of surface runoff from large bulk fuel storage tanks. Consider, at a minimum, using containment berms (or its equivalent). The permittee must also comply with other applicable local, State and Federal laws, including Spill Prevention Control and Countermeasures (SPCC).
8. Spill Reduction Measures. Describe and implement measures to reduce the potential for an oil / chemical spill or reference the appropriate Part of the SPCC plan. At a minimum, visually inspect on a monthly basis, the

structural integrity of all above ground tanks, pipelines, pumps and other related equipment, and affect any necessary repairs immediately.

9. Oil Bearing Equipment in Switchyards. Describe and implement measures that prevent or minimize contamination of surface runoff from oil bearing equipment in switchyard areas. Consider using level grades and gravel surfaces to retard flows and limit the spread of spills or collecting runoff in perimeter ditches.
 10. Residue Hauling Vehicles. Inspect all residue hauling vehicles for proper covering over the load, adequate gate sealing and overall integrity of the container body. Repair as soon as practicable, vehicles without load covering or adequate gate sealing, or with leaking containers or beds.
 11. Ash Loading Areas. Describe and implement procedures to reduce or control the tracking of ash / residue from ash loading areas. Where practicable, clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before departure of each loaded vehicle.
 12. Areas Adjacent to Disposal Ponds or Landfills. Describe and implement measures that prevent or minimize contamination of surface runoff from areas adjacent to disposal ponds or landfills. Develop procedures to reduce ash residue that may be tracked on to access roads traveled by residue handling vehicles, and reduce ash residue on exit roads leading into and out of residue handling areas.
 13. Landfills, Scrap yards, Surface Impoundments, Open Dumps, General Refuse Sites. Address these areas in the SWPPP and include appropriate BMPs as referred to in Part IV.
 14. Vehicle Maintenance Activities. For vehicle maintenance activities performed on the plant site, use the applicable BMPs outlined in the Appendix.
 15. *Material Storage Areas.* Describe and implement measures that prevent or minimize contamination of stormwater runoff from material storage areas (including areas used for temporary storage of miscellaneous products and construction materials stored in lay-down areas). Consider using (or their equivalents): flat yard grades; collecting runoff in graded swales or ditches; erosion protection measures at steep outfall sites (e.g., concrete chutes, riprap, stilling basins); covering lay-down areas; storing materials indoors; and covering materials temporarily with polyethylene, polyurethane, polypropylene or hypalon. Stormwater run-on may be minimized by constructing an enclosure or building a berm around the area.
- c. *Comprehensive Site Compliance Evaluation.* (See also Part IV(K)(3) As part of the evaluation, inspect the following areas on a monthly basis: coal handling areas, loading / unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance

areas, liquid storage tanks, and long term and short term material storage areas.

5. Monitoring and Reporting Requirements. (See also Part V)

NUMERIC LIMITATIONS FOR COAL PILE RUNOFF			
Parameter	Limit	Monitoring Frequency	Sample Type
Total Suspended Solids (TSS)	50 mg/L, max	1/year	Grab.
pH	6.0-9.0 min. and max	1/year	Grab.

ATTACHMENT B



Standard Operating Procedure
Bureau of Land and Water Quality
Date: April 20, 2006
Doc num: DEPLW0768

**Bureau of Land and Water Quality
Division of Watershed Management
Industrial Stormwater Program**

Standard Operating Procedure
Guidelines For Visual Monitoring of Stormwater Discharges Associated With
Industrial Activities.

- 1. APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under the Maine Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity regardless of the facility's industrial sector code. All permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges associated with industrial activity as part of their Stormwater Pollution Prevention Plans (SWPPP) in order to achieve compliance with the Multi-Sector General Permit.
- 2. PURPOSE.** To provide guidelines for standardized methods for sample collection and visual examination of industrial stormwater discharges for indicators of stormwater pollution as defined in Part V of the Maine MSGP. To provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data. These guidelines are described in Part 5 of the MSGP.
- 3. DEFINITIONS.**
 - 3.1. **Multi-Sector General Permit (MSGP)** A general permit for Stormwater Discharges Associated with Industrial Activities. Authorizes the direct discharge of stormwater associated with industrial activity to waters of the State other than groundwater, provided the discharge meets the requirements stated in this permit. This permit is effective October 11, 2005 and expires October 11, 2010. It replaces EPA's MSGP for Industrial Activities issued October 30, 2000.
 - 3.2. **SWPPP.** Stormwater Pollution Prevention Plan. A plan developed and implemented by each industrial facility. It outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State. The Plan identifies in writing a SWPPP team of facility personnel as well as a SWPPP team leader who is ultimately responsible for SWPPP implementation.
 - 3.3. **GRAB SAMPLE.** Sample of stormwater discharge taken as a single uninterrupted event (i.e., grabbed at one time) from a single stormwater outfall from the industrial facility. The sample may be collected manually or with an automatic sampler.
 - 3.4. **OUTFALL.** Any location such as a ditch, rill, pipe, storm drain, boat ramp, or detention pond exit where shallow concentrated flow of stormwater leaves an industrial facility.
 - 3.5. **MEASURABLE STORM EVENT.** Any storm event that yields at least 0.1 inch of precipitation.



4. RESPONSIBILITIES.

- 4.1. **MONITORING PROGRAM IMPLEMENTATION.** The schedule for performing visual examinations should be clearly documented in the facility's SWPPP. The permittee must perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.
- 4.2. **OUTFALL IDENTIFICATION.** The permittee must identify each industrial stormwater outfall at the facility. All outfalls shall be clearly identified on the facility site map which is part of the facility's SWPPP and also listed in the written text of the SWPPP.
- 4.3. **EMPLOYEE TRAINING.** The permittee is responsible for ensuring that all facility personnel involved in stormwater sampling are properly trained to do so. Staff involved in sampling should:
- Be familiar with the site map and outfall locations
 - Walk the site to physically identify each sampling location
 - Become familiar with local rainfall and drainage patterns
 - Learn proper procedures for measuring rainfall
 - Become competent with proper sample collection procedures

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. Where practicable the same individual should carry out the collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be maintained onsite with the SWPPP.

- 4.4. **SAMPLE COLLECTION FREQUENCY.** Visual examinations of industrial stormwater discharges must be performed once per monitoring quarter. If no measurable storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided the permittee documents in the monitoring records that no runoff occurred. Schedule of monitoring quarters is listed below.
- First: October 1 to December 31
 - Second: January 1 to March 31
 - Third: April 1 to June 30
 - July 1 to September 30

All other time specific sampling requirements are to be performed in accordance with the parameters outlined in the procedures section of this document.

- 4.5. **RECORD KEEPING AND REPORTING.** The permittee must maintain reports of all visual examinations conducted onsite with the SWPPP. The permittee is not required to submit visual examination results to DEP unless specifically asked to do so. Requirements for recording visual examination data are outlined in the procedures section of this document.

5. PROCEDURES



- 5.1. **MEASURING RAINFALL.** All facilities required to perform visual monitoring of industrial stormwater discharges should have a rain gauge on site for measuring rainfall. The rain gauge may be a standard rain gauge, tipping bucket gauge, weighing type gauge, float recording gauge, or any other National Weather Service approved device for measuring rainfall to the nearest 0.1 inch. To minimize measurement errors, the gauge should be placed on a level surface that is not windswept and is away from trees or buildings that might interfere with the path of rainfall. The gauge should be regularly inspected by sampling personnel to ensure that it is in good working order and capable of accurately measuring rainfall to the nearest 0.1 inch.
- 5.2. **SAMPLE COLLECTION TIMING.** A grab sample must be collected from each facility outfall once per monitoring quarter during a measurable storm event that occurs at least 72 hours from the previously measurable storm event. The 72 hour interval is waived when the preceding measurable storm did not yield a measurable discharge. During a measurable storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours of when runoff begins discharging from areas of exposed industrial activity. During monitoring quarters when snowmelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snowmelt (within the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours) of when snowmelt begins discharging from areas of exposed industrial activity. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.
- 5.3. **SAMPLE CONTAINER CLEANING AND PREPARATION.** The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue by the container manufacturer, or cleaned according to the following procedure.
 - 5.3.1. Wash containers in a non-phosphate detergent and tap water wash.
 - 5.3.2. Thoroughly fill and rinse containers with tap water at least three (3) times.
 - 5.3.3. Store containers closed, and in an area free of dust and other potential sample contaminants.
 - 5.3.4. If additional containers are needed to collect samples from less accessible outfalls (i.e. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.
- 5.4. **SAMPLE COLLECTION.** Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.



5.4.1. **MANUAL GRAB SAMPLE COLLECTION.** Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. Small containers (ideally 250 ml to 750 ml or approximately 8 to 24 ounces in size) are recommended in order to be able to submerge the container opening under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (i.e., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.

5.4.2. **COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER.** Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.

5.5. **SAMPLE EXAMINATION.** Visual examination of all grab samples collected must be performed within the first sixty (60) minutes (or as soon thereafter as practicable, but not to exceed 2.25 hours) of when the runoff or snowmelt begins discharging from the facility. Collect the samples and bring them to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff cone. The cone should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, this assures all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter. It is also recommended that a



sample of tap water be collected in the same type of container used to collect the samples and used as a comparison to aid in evaluating the samples for the criteria stated above.

*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. See section 6 for a list of suppliers.

- 5.6. **SAMPLE DATA RECORDING.** Record all sample data on the visual monitoring form (Attachment B) after examining the sample for all of the criteria listed in the instructions (Attachment A). The form should include the examination date and time, examination personnel, the nature of the discharge (i.e., rain or snowmelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VII (E) of the Maine MSGP. All visual examination reports must be maintained on site with the SWPPP.
- 5.7. **RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS.** Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.
- **PROBLEM:** Sampling where stormwater comingles with process or non process water.
RECOMMENDATION: Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge both during dry and wet weather and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.
 - **PROBLEM:** Numerous small point channels make up an outfall from which it is difficult to collect a sample.
RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic to prevent infiltration and/or high levels of sediment.
 - **PROBLEM:** Inaccessible discharge point (examples include underwater discharges or unreachable discharges (e.g., out of a cliff).
RECOMMENDATION: Go up the pipe to sample (i.e., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.
 - **PROBLEM:** Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.
RECEMMONDATION: Have a sampling crew ready for mobilization when forecasts indicate a measurable storm event is likely to occur. If this is not possible, sample missed outfall locations during other measurable storm events.
 - **PROBLEM:** Commingling of parking lot runoff with discharge associated with industrial activity.



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RECOMMENDATION: The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.

- **PROBLEM:** Sampling in manholes
RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training if manhole has to be entered.
- **PROBLEM:** Run-on from other property.
RECOMMENDATION: If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.
- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.



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6. REFERENCES

- 6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001 (January, 1999)
- 6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)
- 6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-A-N (October 11, 2005)

***Notes: List of Vendors that Supply One Liter (1L) Clear Polycarbonate Imhoff Cones**

Forestry Suppliers Inc.
PO Box 8397
Jackson, MS 39284
(800) 752-8460
www.forestry-suppliers.com

Lab Safety Supply Inc.
PO Box 1368
Janesville, WI 53547-1368
(800) 356-0783
www.labsafety.com

Nalge Nunc International
International Dept.
75 Panorama Creek Dr.
Rochester, NY 14625
(800) 625-4327
www.nalgenelabware.com

Pollard Water
200 Atlantic Ave.
Hyde Park, NY 11040
800-437-1146
www.pollardwater.com



Instructions for Completing the Visual Monitoring Form

1. Completely fill out all required information on the top of the visual monitoring form.
2. Pour the sample into a 1 L clear polycarbonate Imhoff cone. Record the total sample volume measured in the cone to the nearest milliliter. Evaluate the sample for the following parameters according to the following instructions.
 - **Foam:** This must be done first. Examine the sample for foam immediately after pouring it into the cone. Record foam results on the visual monitoring form as they most closely match one of the descriptions listed below.
 - i. **None**-Most bubbles break down within ten (10) seconds of pouring; only a few large bubbles persist longer than ten (10) seconds.
 - ii. **Moderate**-Many small bubbles are present but these bubbles persist for less than two (minutes) after pouring.
 - iii. **High**-Many small bubbles are present and they persist longer than two (2) minutes after pouring.
3. Examine the sample for the following criteria after it has settled for ten (10) minutes. Record the results on the visual monitoring form as they most closely match the descriptions listed below.
 - **Color:** Record the best description of the sample color in the appropriate space on the visual monitoring form.
 - **Odor:** If sample has no odor other than natural rainwater or snowmelt write "normal" on the visual monitoring form. Note the presence of any of the following odors if detected: Gasoline, diesel, oil, solvents (WD-40, other petroleum products, etc.), landfill, fishy, glycol, any other unusual odors not normally present in clean runoff from the area sampled.
 - **Clarity:** Record sample clarity results as they most closely match one of the descriptions listed below.
 - i. **Clear**-Sample doesn't filter out any light, can be seen through regardless of color.
 - ii. **Cloudy**-Sample filters out some light; not clear but objects can still be identified when looking through the cone.
 - iii. **Very Cloudy**-Sample filters out most light; objects are indiscernible when looking through the cone.
 - iv. **Opaque**-Sample doesn't allow any light to pass through; objects cannot be seen when looking through the cone.



- **Floating Solids:** Give a general description of the type of floating solids present (wood chips, leaf debris, algae, etc) in the general comments section for each sample. Record results for amount floating solids present as they most closely match the descriptions listed below. Record amount data in the appropriate box on page 1 of the visual monitoring form.
 - i. **None-** No floating solids present on the surface of the sample.
 - ii. **Slight-** Only a few floating particles observed on the surface of the sample.
 - iii. **Moderate-** Less than 20% of the surface of the sample is covered with floating solids.
 - iv. **High-** More than 20% of the surface of the sample is covered with floating solids.
 - **Settled Solids:** Give a general description of the type of settled solids present (sand, decayed plant matter, rust particles etc) in the general comments section for each sample. Allow settle for one hour. Measure the settled solids in the bottom of the cone to the nearest milliliter and record the results in the appropriate box on page 1 of the visual monitoring form.
 - **Suspended solids:** In the general comments section for each sample, give a general description of the type of solids present if any are observed suspended below the sample surface. Record whether or not settled solids were present in the appropriate box on page 1 of the visual monitoring form.
 - **Oil Sheen:** Record whether or not an oil sheen is present in the sample.
 - **General Comments Section on Page 2:** Make sure you have described the type of floating, settled and suspended solids observed in the samples in the general comments section provided for each outfall sample. Also note the following conditions at each outfall during the time sampled: General volume of water and flow, algae (if any is present), odor, color, and any other unusual characteristics noticed at the sampling location. Record the number of days since the last known measurable storm or runoff event.
4. Ensure that all visual monitoring forms are filed on site with the Stormwater Pollution Prevention Plan (SWPPP) each time visual monitoring is done.



Visual Monitoring Form

Facility Name _____	Sampler's Name _____
Facility Address _____ _____ _____	MSGP Permit Number _____

OUTFALL NUMBER						
OBSERVATION TIME						
EST. TIME FROM ONSET OF RUNOFF						
DISCHARGE TYPE Rain or Snowmelt						
COLOR						
ODOR						
CLARITY						
FLOATING SOLIDS*						
SETTLED SOLIDS*						
SUSPENDED SOLIDS*						
FOAM						
OIL SHEEN						
Probable source of any observed contamination						

*Enter description of these criteria in the general comments section for each outfall on the back of this page.

Sampler's Signature _____ Date _____

General Comments



In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.

Outfall 1	<u>Comments:</u> _____ _____ _____ _____ _____
Outfall 2	<u>Comments:</u> _____ _____ _____ _____ _____
Outfall 3	<u>Comments:</u> _____ _____ _____ _____ _____
Outfall 4	<u>Comments:</u> _____ _____ _____ _____ _____
Outfall 5	<u>Comments:</u> _____ _____ _____ _____ _____
Outfall 6	<u>Comments:</u> _____ _____ _____ _____ _____

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

FACT SHEET

DATE: AUGUST 26, 2009

**PERMIT NUMBER: #ME0023230
LICENSE NUMBER: #W006893-50-F-R**

NAME AND ADDRESS OF APPLICANT:

**PENOBSCOT ENERGY RECOVERY COMPANY
P.O. BOX 160
ORRINGTON, MAINE 04476**

COUNTY: PENOBSCOT

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

**PENOBSCOT ENERGY RECOVERY COMPANY
29 INDUSTRIAL WAY
ORRINGTON, MAINE 04476**

RECEIVING WATER(S)/CLASSIFICATION: PENOBSCOT RIVER/CLASS SC

**COGNIZANT OFFICIAL AND TELEPHONE NUMBER: E. CARLO WHITE
TECHNICAL MGR.
(207) 825-4566
cwhite@percwte.com**

1. APPLICATION SUMMARY

- a. Application: The Penobscot Energy Recovery Company (PERC) has applied to the Department of Environmental Protection (Department) for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023230 / Maine Waste Discharge License (WDL) #W006893-5O-E-R, which was issued on June 29, 2004 and expired on June 29, 2009. The 6/29/04 permit authorized the daily maximum discharge of up to 0.0225 million gallons per day (MGD) (same as 22,500 gallons per day) of treated process waste water (low volume waste waters from boiler blowdown, cooling tower blowdown, reverse osmosis system reject water, ash handling water and miscellaneous operational waste waters) and an unspecified quantity of storm water runoff from a 25.3-megawatt refused-fired electric power generation facility to the Penobscot River, Class SC, in Orrington, Maine.

On April 10, 2006, the Department amended the 6/29/04 permit through the issuance of a fact sheet pursuant to the *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005).

2. PERMIT SUMMARY

- a. Terms and Conditions: **This permitting action is similar to the 6/29/04 permitting action and 4/10/06 permit amendment in that it is:**
 1. Carrying forward the daily maximum discharge flow limitation of 0.0225 MGD;
 2. Carrying forward the technology-based, monthly average and daily maximum concentration and mass limitations for total suspended solids (TSS);
 3. Carrying forward the technology-based, monthly average and daily maximum concentration and mass limitations for oil and grease (O&G);
 4. Carrying forward the daily maximum effluent temperature limitation;
 5. Carrying forward the technology-based, monthly average and daily maximum concentration limitations for free available chlorine (FAC);
 6. Carrying forward the technology-based, daily maximum mass limitation for copper (total);
 7. Carrying forward the technology-based, daily maximum concentration and mass limitations for iron (total);
 8. Carrying forward the technology-based, daily maximum concentration and mass limitations for zinc (total);

2. PERMIT SUMMARY (cont'd)

9. Carrying forward the technology-based, daily maximum pH range limitation; and
10. Carrying forward authorization to discharge an unspecified quantity of storm water runoff via Outfall #002A and a requirement to maintain a current storm water pollution prevention plan (SWPPP) for all areas of the facility contributing flows to the storm water outfall.

This permitting action is different from the 6/29/04 permitting action and 4/10/06 permit amendment in that it is:

1. Revising the applicable dilution factors associated with the discharge;
2. Eliminating the monthly average and daily maximum mass limitations for FAC and establishing Special Condition A, Footnote # 4 in accordance with 40 CFR, Part 423.12(b)(8);
3. Revising the daily maximum concentration limitation for copper (total) from a technology-based limit to a water quality-based limit based on changes in applicable dilution factors;
4. Establishing water quality-based, monthly average concentration and mass limitations for copper (total);
5. Establishing technology-based, monthly average concentration and mass limitations for iron (total);
6. Establishing technology-based, monthly average concentration and mass limitations for zinc (total);
7. Establishing a requirement for the person who has the management responsibility over the treatment facility must hold a minimum of a Grade I Physical/Chemical certificate;
8. Establishing an annual certification statement requirement as Special Condition G, *06-096 CMR 530(2)(D)(4) Statement for Reduced/Waived Toxics Testing* of this permit;
9. Establishing technology-based, monthly average and daily maximum concentration and mass limitations for chromium (total) and Special Condition H, *Monitoring Waiver For Certain Guideline-Listed Pollutants*;

2. PERMIT SUMMARY (cont'd)

10. Eliminating the monitoring and reporting requirements for effluent temperature for all but the months of June, July and August;
 11. Revising the minimum monitoring frequency requirements for zinc and temperature; and
 12. Establishing Special Condition J, *Storm Water Associated with Industrial Activity – Plans and Monitoring Requirements*, including requirements to comply with *Sector O – Steam Electric Generating Facilities* of Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated October 11, 2005.
- b. History – This section provides a summary of recent, relevant licensing/permitting actions that have been completed for PERC facility.

June 27, 1986 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0023230 to PERC 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 that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0023230 has been utilized as the primary reference number for PERC.

June 29, 2004 – The Department issued combination MEPDES permit #ME0023230 / WDL #W006893-5O-E-R to PERC for a five-year term. The 6/29/04 permit superseded WDL #W006893-5O-D-R issued on March 18, 1999, WDL #W006893-42-A-N issued on January 24, 1986, and the 6/27/86 NPDES permit issued by the USEPA.

April 10, 2006 – The Department amended the 6/29/04 permit through the issuance of a fact sheet pursuant to the *Surface Water Toxics Control Program*. It is noted that the Department did not categorically include PERC in the toxics program; however the fact sheet specified minimum monitoring requirements (1/quarter) for total zinc that were equivalent to the frequency prescribed in the 6/29/04 permit.

May 26, 2009 – PERC submitted a timely and complete General Application to the Department for renewal of the 6/29/04 MEPDES permit. The application was accepted for processing on May 29, 2009, and was assigned WDL #W006893-5O-F-R / MEPDES #ME0023230.

2. PERMIT SUMMARY (cont'd)

- c. Source Description and Wastewater Treatment: Penobscot Energy Recovery Company (PERC) is a 25.3-megawatt waste-to-energy electric power generating station fueled by municipal solid waste and is operated by ESOCO Orrington, LLC. The facility is located along the Penobscot River in Orrington, Maine. A map of the project area is included as Attachment A of this fact sheet.

Outfall #001A: The Power House waste streams, mainly floor drains, are combined in an equalization holding tank (EQH). Occasionally boiler blowdown or reverse osmosis (RO) reject water may be diverted to the EQH tank. Waste streams in the floor drains, including quench tank overflows, flow through an ash settling tank and an oil/water separator, then are pumped into the EQH tank. Cooling water blowdown may also be occasionally diverted into the wastewater system, but is pumped directly to the EQH tank.

The treatment plant operates in batch mode. Wastewater is pumped from the EQH tank to a flash/floc tank. A coagulant is added in the flash tank. Caustic is also added in the flash tank to raise pH to optimize metal precipitation. A flocculant is added in the floc tank before the water flows into a lamella clarifier. Sludge is collected at the bottom of the lamella for collection and disposal in a special waste landfill. The clarified water from the lamella flows into the clarified water transfer tank (CWT) where it is pumped to the mono scour recovery filter (MSR). The effluent is filtered by the MSR. Acid is injected in the filter effluent for pH neutralization as it flows into the clearwell compartment above the MSR. The final effluent overflows the clearwell through a flowmeter into a lift station. The effluent is then pumped from the lift station through Outfall #001A, which is a 6-inch diameter pipe submerged to a depth of approximately 4 feet at mean low water, to a tidally influenced segment of the Penobscot River.

A schematic of the treatment system is included as Attachment B of this fact sheet.

Outfall #002A: The majority of stormwater runoff from the developed property is collected by roof drains, catch basins and drainage ditches. It flows through the ditches and culverts into a stormwater sedimentation pond. A riprap dam in front of the inlet prevents the water from short-circuiting into the outlet. This maximizes the settling time in the pond. The outlet structure consists of three vertical perforated pipes, ensuring that most of the time the discharge is below the pond surface. The three pipes are connected by a culvert. Water flows out of the pond through the culvert into two tributary streams and then into the Penobscot River. Because the facility is situated on several ground water springs, ground water flows continuously into the sedimentation pond. The total area contributing to the stormwater system is approximately 610,300 square feet (approximately 14 acres) of which approximately 8 acres is impervious area.

The sedimentation pond outlet structure is scheduled to be replaced during the summer of 2009 with a new and improved design intended to improve the retention capabilities of the pond in the event of a major oil spill.

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, 38 M.R.S.A. § 420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (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

Classifications of estuarine and marine waters, 38 M.R.S.A. §469(4)(B)(1) classifies the Penobscot River at the point of discharge as Class SC waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B(C) describes the standards for Class SC waters.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, (Report) prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists 12,743-acres of the Penobscot River, which includes the reach at the point of discharge, as “*Category 5-B-1: Estuarine and Marine Waters Impaired by Bacteria (TMDL Required)*.” Additionally, all estuarine and marine waters of the State are listed as “*Category 5-D: Estuarine and Maine Waters Impaired by Legacy Pollutants*.” Impairment in this context refers to the estuarine and marine waters partially supporting the designated use of fishing and harvesting of shellfish due to elevated levels of mercury, PCBs, dioxin, and other persistent bioaccumulating substances in tissues of some fish and in lobster tomalley.

The Department has no information that the discharge from PERC facility, as permitted, causes or contributes to the non-attainment status specified above.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Applicability of National Effluent Guidelines: The USEPA has promulgated effluent guidelines for the *Steam Electric Generating Point Source Category* at 40 CFR Part 423. PERC facility is fueled primarily with solid waste. Otherwise this facility is similar to fossil-fueled steam electric power generating plants. Therefore, the Department has made a best professional judgment determination to utilize the technology-based guidelines at 40 CFR Part 423 to establish technology-based effluent thresholds for the discharge via Outfall #001A.

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

- b. Flow: The previous permitting action established, and this permitting action is carrying forward, a daily maximum discharge flow limitation of 0.0225 million gallons per day (MGD) (same as 22,500 gallons per day) which is considered representative of waste waters historically generated at the facility.

A summary of the discharge flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for Outfall #001A for the period January 2005 through November 2008 is as follows:

Discharge Flow	Minimum	Maximum	Arithmetic Mean	# DMRs
Daily Maximum	0.0059 MGD	0.0225 MGD	0.017 MGD	43

- c. Dilution Factors: 06-096 CMR 530(4)(A)(2)(a) states that, *“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 configuration of Outfall #001A and a permitted discharge flow limitation of 0.0225 MGD, dilution factors associated with the discharge are as follows:

$$\text{Acute} = 66:1 \qquad \text{Chronic} = 2,645:1 \qquad \text{Harmonic mean} = 7,935:1$$

It is noted that the previous permitting action derived dilution factors in accordance with the fresh water protocol specified by the toxics rule in effect at that time (06-096 CMR 530.5). The Department’s Division of Environmental Assessment (DEA) has reviewed the discharge scenario and receiving water characteristics and has determined that the Penobscot River at the point of discharge is tidal and experiences a reversal of flow at high tide. The DEA stated, *“clearly the marine situation rather than riverine situation occurs and plume modeling utilizing CORMIX model runs is the appropriate way to calculate dilution.”*

The dilution factors determined above are significantly lower than the following fresh water dilution factors that were established in the previous permitting action:

$$\text{Acute} = 93,542:1 \qquad \text{Chronic} = 110,033:1 \qquad \text{Harmonic mean} = 261,463:1$$

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

- d. Total Suspended Solids (TSS): The previous permitting action established technology-based monthly average concentration and mass limits of 30 mg/L and 5.6 lbs./day, respectively, for TSS. The previous permitting action established technology-based daily maximum concentration and mass limits of 100 mg/L and 18.8 lbs./day, respectively, for TSS. The concentration limitations are based on the best practicable control technology currently available (BPT) effluent guidelines promulgated at 40 CFR Part 423.12(b)(3) and are being carried forward in this permitting action. The mass limitations were derived using the permitted flow of 22,500 gpd (0.0225 MGD) and the applicable concentration limits, as shown in the following example calculation:

$$\text{Monthly Average: } (30 \text{ mg/L})(8.34)(0.0225 \text{ MGD}) = 5.6 \text{ lbs./day}$$

A summary of the effluent TSS data as reported on the DMRs submitted to the Department for the period January 2005 through November 2008 is as follows:

TSS	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.04 lbs./day	0.42 lbs./day	0.17 lbs./day	15
/ Daily Maximum	1.1 mg/L	4.5 mg/L	2.1 mg/L	16

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

- e. Free Available Chlorine (FAC): The previous permitting action established daily maximum concentration and mass limits of 0.5 mg/L and 0.09 lbs./day, respectively, and monthly average concentration and mass limits of 0.2 mg/L and 0.04 lbs./day, respectively, for FAC based on the BPT-based effluent guidelines promulgated at 40 CFR Part 423.12(b)(7). Typically, the Department establishes limitations for the discharge of total residual chlorine (TRC) to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. In the case of the discharge from PERC and the effluent guidelines, this permitting action is establishing limitations for FAC to protect receiving water quality from the discharge of chlorine in toxics amounts. Department permitting actions impose the more stringent of either a water quality-based limitations for TRC or BPT-based limitations for FAC.

End-of-pipe acute and chronic water quality based concentration thresholds for TRC may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.013 mg/L	0.0075 mg/L	66:1 (A) 2,645:1 (C)	0.9 mg/L	19.8 mg/L

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

The BPT-based daily maximum concentration limitations for FAC are more stringent than the water quality-based limitations for TRC and are therefore being carried forward in this permitting action. FAC is measured in terms of concentration and this permitting action is eliminating the monthly average and daily maximum mass limitations for FAC.

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

40 CFR Part 423.12(b)(8) states, “Neither free available chlorine nor total residual chlorine may be discharged from any unit for more than two hours in any one day and not more than one unit in any plant may discharge free available or total residual chlorine at any one time unless the utility can demonstrate to the Regional Administrator or State, if the State has NPDES permit issuing authority, that the units in a particular location cannot operate at or below this level or chlorination.” This prohibition is being established as Special Condition A, Footnote #4 of the permit.

- f. Oil & Grease (O&G): The previous permitting action established technology-based monthly average concentration and mass limits of 15 mg/L and 2.8 lbs./day, respectively, for O&G. The previous permitting action established technology-based daily maximum concentration and mass limits of 20 mg/L and 3.8 lbs./day, respectively, for O&G. The concentration limitations are based on the BPT-based effluent guidelines promulgated at 40 CFR Part 423.12(b)(3) and are being carried forward in this permitting action. The mass limitations were derived using the permitted flow of 0.0225 MGD and the applicable concentration limits, as shown in the following example calculation:

$$\text{Monthly Average: } (15 \text{ mg/L})(8.34)(0.0225 \text{ MGD}) = 3.8 \text{ lbs./day}$$

A summary of the effluent O&G data as reported on the DMRs submitted to the Department for the period January 2005 through November 2008 is as follows:

O&G	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.02 lbs./day	0.7 lbs./day	0.14 lbs./day	16
/ Daily Maximum	0.8 mg/L	3.6 mg/L	1.5 mg/L	16

This permitting action is carrying forward the minimum monitoring frequency requirement of once per calendar quarter for O&G based on Department best professional judgment.

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

- g. Temperature: The previous permitting action established, and this permitting action is carrying forward, a year-round daily maximum effluent temperature limitation of 100° F to ensure that the discharge complies with the requirements of *Regulations Relating to Temperature*, 06-096 CMR 582 (last amended February 18, 1989). The limit has been in effect since at least issuance of the April 2, 1992 WDL and was based on a joint best professional judgment by the Department and the permittee and is considered representative of the discharge. 06-096 CMR 582(5) states:

No discharge of pollutants shall cause the monthly mean of the daily maximum ambient temperatures in any tidal body of water, as measured outside the mixing zone, to be raised more than 4 degrees Fahrenheit, nor more than 1.5 degrees Fahrenheit from June 1 to September 1. In no event shall any discharge cause the temperature of any tidal waters to exceed 85 degrees Fahrenheit at any point outside a mixing zone established by the Board.

A summary of the effluent temperature data as reported on the DMRs submitted to the Department for Outfall #001A for the period of January 2005 through November 2008 is as follows:

Temperature	Minimum	Maximum	Arithmetic Mean	# DMRs
Daily Maximum	57° F	83° F	67° F	16

Classification of Maine waters, 38 M.R.S.A. § 464(4)(D), states that the assimilative capacity of a receiving water shall be calculated utilizing a seven-day low event with a recurrence interval of ten years that is often referred to as the 7Q10. The Department has determined that the 7Q10 flow of the Penobscot River at the point of discharge is 3,830 cfs (2,476 MGD).

The assimilative capacity of the Penobscot River (thermal load that would cause the river to increase by 1.5°F) at the critical 7Q10 low flow can be calculated as follows:

$$(2,476 \text{ cfs})(0.6464)(1.5^\circ\text{F})(8.34 \text{ lbs./gallon})(10^6 \text{ gallons}) = 2.00 \times 10^{10} \text{ BTU/day}$$

With a daily maximum effluent temperature limitation of 100°F, the discharge from PERC will comply with the instantaneous temperature limit of 85°F established by 06-096 CMR 582. The calculation is as follows:

$$(0.0225 \text{ MGD})(100^\circ\text{F} - 85^\circ\text{F})(8.34 \text{ lbs./gallon})(10^6 \text{ gallons}) = 2.8 \times 10^6 \text{ BTU/day}$$

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

Thus, the maximum effluent temperature limitation of 100°F is sufficiently stringent to ensure that under maximum discharge conditions and critical 7Q10 low flow conditions, the discharge will not cause or contribute to violations of the temperature criteria established by 06-096 CMR 582.

This permitting action is revising the minimum monitoring frequency requirements for temperature to require monitoring and reporting of effluent temperature for the months of June, July and August of each year only based on best professional judgment given the calculations above.

- h. Copper (Total): The previous permitting action established a daily maximum concentration limit of 1.0 mg/L for total copper based on the BPT-based guidelines at 40 CFR Part 423.12(b)(5). [It is noted that the USEPA has promulgated an equivalent effluent limitation guideline representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT) at 40 CFR Part 423.13(e).] Additionally, the previous permit established a daily maximum mass limit of 0.2 lbs./day, which was derived by using the concentration limit and the permitted flow limit of 22,500 gpd. The fact sheet associated with the previous permitting action stated, *“However, the regulation stipulates that the limit for copper is associated with facilities that have metal cleaning waste streams associated with activities such as boiler tube cleaning. DMR data between 1999 and the present indicates that during normal operating conditions, copper is being discharged at approximately one hundred times lower than the license limitations. PERC facility has only used metal cleaning chemicals once since the commencement of operations. The metal cleaning waste were collected and shipped off site to be treated at a facility capable of treating the wastes properly. PERC has indicated that should metal cleaning activities become necessary in the future, the waste waters associated with the activities will be once again be collected and treated by a third party. Therefore, this permitting action is carrying forward the daily maximum mass and concentration limits for copper but only requiring monitoring in the event metal cleaning wastes are to be discharged.”*

A summary of the effluent copper data as reported on the DMRs submitted to the Department for Outfall #001A for the period of January 2005 through November 2008 indicates that PERC conducted monitoring for copper on one occasion (March 2006) with test results of 0.21 mg/L and 0.037 lbs./day.

The Department must establish the more stringent of either the technology-based or water quality-based limit in the case where both standards exist for a given pollutant to assure compliance with both the Clean Water Act (CWA) and State law. Additionally, 38 M.R.S.A. § 414-A and 38 M.R.S.A. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 CMR 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that

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

existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. 06-096 CMR 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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 insufficient information on the background levels of metals in the water column in the Penobscot River (tidal). 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 used in the calculations of this permitting action.

06-096 CMR 530(4)(F) requires evaluation of toxic pollutant impacts on a watershed basis. This section of the rule states, *“Where there is more than one discharge into the same fresh or estuarine receiving water or watershed, the Department shall consider the cumulative effects of those discharges when determining the need for and establishment of the level of effluent limits. The Department shall calculate the total allowable discharge quantity for specific pollutants, less the water quality reserve and background concentration, necessary to achieve or maintain water quality criteria at all points of discharge, and in the entire watershed.”* The Department is currently working to construct a computer program model to conduct this analysis. Until such time the model is complete and a multi-discharger statistical evaluation can be conducted, the Department is evaluating the impact of PERC’s discharge assuming it is the only discharger to the river. Should the multi-discharger evaluation indicate there are parameters that exceed or have a reasonable potential to exceed applicable AWQC, this permit may be reopened pursuant to Special Condition K, *Reopening of Permit For*

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

Modifications, to incorporate additional limitations and or revise monitoring requirements.

With a permitted discharge flow limitation of 0.0225 MGD, water quality-based concentration and mass thresholds for copper (total) may be calculated using the following formulas:

$$\text{Concentration Limit Formula} = \text{[(Dilution Factor)(0.75)(criterion)]} + \text{(0.25)(criterion)}$$

$$\text{Mass Limit Formula} = \frac{\text{(Conc. Limit, } \mu\text{g/L})(8.34 \text{ lbs./gallon})(\text{flow limit, MGD})}{1000 \mu\text{g/mg}}$$

End-of-pipe (EOP), water quality-based daily maximum concentration and mass thresholds for copper (total) may be calculated as follows:

$$\begin{aligned} \text{Daily Maximum Conc.} &= [(66)(0.75)(5.78 \mu\text{g/L})] + (0.25)(5.78 \mu\text{g/L}) \\ &= 286.1 + 1.4 \\ &= \mathbf{287.5 \mu\text{g/L} \approx 0.29 \text{ mg/L}} \end{aligned}$$

$$\text{Daily Maximum Mass} = \frac{(287.5 \mu\text{g/L})(8.34 \text{ lbs./gallon})(0.0225 \text{ MGD})}{1000 \mu\text{g/mg}} = \mathbf{0.5 \text{ lbs./day}}$$

$$\begin{aligned} \text{Monthly Avg. Conc.} &= [(2,645)(0.75)(3.73 \mu\text{g/L})] + (0.25)(3.73 \mu\text{g/L}) \\ &= 7,399.4 + 0.9 \\ &= \mathbf{7,400.3 \mu\text{g/L} \approx 7.4 \text{ mg/L}} \end{aligned}$$

$$\text{Monthly Avg. Mass} = \frac{(7,400.3 \mu\text{g/L})(8.34 \text{ lbs./gallon})(0.0225 \text{ MGD})}{1000 \mu\text{g/mg}} = \mathbf{1.4 \text{ lbs./day}}$$

The calculated daily maximum water quality-based concentration threshold for total copper determined above (0.29 mg/L) is more stringent than the technology-based concentration limit (1.0 mg/L) established in the previous permitting action and is therefore being established in this permitting action. The daily maximum mass limit of 0.2 lbs./day established in the previous permitting action is more stringent than the water quality-based concentration threshold calculated above (0.5 lbs./day) and is therefore being carried forward in this permitting action.

The effluent guideline limitations at 40 CFR Part 423.12(b)(5) regulate copper both in terms of a maximum for any one day (*i.e.*, daily maximum) and an average of daily values for 30 consecutive days (*i.e.*, monthly average), and the limitations are equivalent. *Waste Discharge License Condition*, 06-096 CMR 523(4)(a) (effective January 12, 2001) states, "In addition to conditions required in all permits (Sections 2 and 3 [of 06-096

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

CMR 523]), the Department shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of [the Clean Water Act] and regulations and State law.” Since the USEPA has promulgated effluent guideline limitations for total copper in terms of both daily maximum and monthly average limitations, this permitting action must limit the discharge in these terms as well. To satisfy the minimum effluent limitation requirements of 40 CFR Part 423.12(b)(5), this permitting action is establishing monthly average concentration and mass limits for total copper that are equivalent to the daily maximum limits.

With regard to the March 2006 test result, PERC stated that *“From [November 1991] to [March 1999] PERC was required to monitor for Cu [twice] a month. Of 178 samples the [average] was 0.025 mg/l and the [maximum was] 1.23 mg/l. [PERC] never did determine what caused this elevated value. If we consider [the maximum value of 1.23 mg/L] an outlier the [average] becomes 0.019 mg/l and the [maximum is] 0.14 mg/l. In addition 136 results were non-detects (detection limits ranging from 0.01 to 0.05 mg/l).”* The Department is making a best professional judgment determination in consideration of this information to carry forward the minimum monitoring frequency requirement of one grab sample per discharge event when discharging metals cleaning rinse water.

- i. Iron (Total): The previous permitting action established a daily maximum concentration limit of 1.0 mg/L for total iron based on the BPT-based guidelines at 40 CFR Part 423.12(b)(5) [equivalent to the BAT guidelines at 40 CFR Part 423.13(e)]. Additionally, the previous permit established a daily maximum mass limit of 0.2 lbs./day, which was derived by using the concentration limit and the permitted flow limit of 22,500 gpd.

A summary of the effluent iron data as reported on the DMRs submitted to the Department for Outfall #001A for the period of January 2005 through November 2008 indicates that PERC conducted monitoring for iron on one occasion (March 2006) with test results of 240 mg/L and 41.9 lbs./day.

Neither the Department nor the USEPA has promulgated AWQC for total iron for marine and estuarine waters. The Department has only one test result on file within the most recent 60-month period for total iron, and the result is 240 times higher than the BPT-based standard. PERC acknowledged that the March 2006 cleaning event resulted in unanticipated consequences at the treatment plant, and although authorized to discharge metals cleaning rinse waters by this permit, PERC has not scheduled any future cleaning events at this time.

This permitting action is carrying forward the technology-based daily maximum concentration and mass limitations of 1.0 mg/L and 0.2 lbs./day, respectively, for total iron and the minimum monitoring frequency requirement of “when discharging metal cleaning rinse waste water”.

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

To satisfy the minimum effluent limitation requirements of 40 CFR Part 423.12(b)(5), this permitting action is establishing monthly average concentration and mass limits for total iron that are equivalent to the daily maximum limits promulgated at 423.12(b)(5).

- j. Zinc (Total): The previous permitting action established a daily maximum concentration limit of 1.0 mg/L for total zinc based on the BAT-based guidelines at 40 CFR Part 423.13(d)(1). Additionally, the previous permit established a daily maximum mass limit of 0.2 lbs./day, which was derived by using the concentration limit and the permitted flow limit of 22,500 gpd.

A summary of the quarterly effluent total zinc data as reported on the DMRs submitted to the Department for the period January 2005 through November 2008 is as follows:

Zinc	Minimum	Maximum	Arithmetic Mean	# DMRs
Daily Maximum	0.002 lbs./day	0.026 lbs./day	0.01 lbs./day	16
	0.04 mg/L	0.38 mg/L	0.14 mg/L	16

An end-of-pipe (EOP), water quality-based daily maximum concentration threshold for zinc (total) may be calculated as follows:

$$\begin{aligned} \text{Daily Maximum Conc.} &= [(66)(0.75)(95 \mu\text{g/L})] + (0.25)(95 \mu\text{g/L}) \\ &= 4,702.5 + 23.8 \\ &= \mathbf{4,726.3 \mu\text{g/L} \approx 4.7 \text{ mg/L}} \end{aligned}$$

The technology-based concentration limits established in the previous permitting action for total zinc are more stringent than the calculated water quality-based effluent thresholds determined above and are therefore being carried forward in this permitting action.

06-096 CMR 523(5)(i)(2) states, "...requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year." Based on the number of zinc test results on file with the Department and that the maximum result of 0.38 mg/L is nearly three times lower than the technology-based limit established in this permit, the Department is revising minimum monitoring frequency requirement from once per calendar quarter to once per year beginning calendar year 2010.

To satisfy the minimum effluent limitation requirements of 40 CFR Part 423.13(d)(1), this permitting action is establishing monthly average concentration and mass limits for total zinc that are equivalent to the daily maximum limits promulgated at 423.13(d)(1).

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

- k. Chromium: 40 CFR Part 423.13(d)(1) establishes BAT-based effluent guideline limitations for total chromium (0.2 mg/L) for cooling tower blowdown waters. The previous permitting action did not establish effluent limitations for total chromium stating that the “*permittee has indicated that chromium based chemicals have never been used and are not going to be used or present in the cooling tower blowdown.*” 40 CFR Part 122.44(a)(2), *Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs see §123.25)*, states,

(2) Monitoring waivers for certain guideline-listed pollutants.

(i) The Director may authorize a discharger subject to technology-based effluent limitations guidelines and standards in an NPDES permit to forego sampling of a pollutant found at 40 CFR Subchapter N of this chapter if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(ii) This waiver is good only for the term of the permit and is not available during the term of the first permit issued to a discharger.

(iii) Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger.

(iv) Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet or statement of basis.

An end-of-pipe (EOP), water quality-based daily maximum concentration threshold for chromium (total) may be calculated using the AWQC for chromium III as follows:

$$\begin{aligned} \text{Daily Maximum Conc.} &= [(66)(0.75)(10,300 \mu\text{g/L})] + (0.25)(10,300 \mu\text{g/L}) \\ &= 509,850 + 2,575 \\ &= \mathbf{512,425 \mu\text{g/L} \approx 512 \text{ mg/L}} \end{aligned}$$

The technology-based limit of 0.2 mg/L is more stringent than the calculated water quality-based threshold above. To satisfy the requirements of 06-096 CMR 523(4)(a), this permitting action is establishing daily maximum and monthly average concentration and mass limitations of 0.2 mg/L) and 0.04 lbs./day, respectively, for total chromium

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

based on the guidelines at 40 CFR Part 423.13(d)(1), but is granting a monitoring waiver for chromium in this permitting action under the provisions of 40 CFR Part 122.44 via Special Condition H, *Monitoring Waiver For Certain Guideline-Listed Pollutants*.

- l. pH: The previous permitting action established a pH range limitation of 6.0 to 9.0 standard units (SU) for all waste streams with the exception of once-through cooling waters pursuant to 40 CFR Part 423.12(b)(1). *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(A)(5) prohibits the Department from issuing a permit for any discharge that would cause the pH of any fresh waters to fall outside the range of 6.0 – 8.5 SU. Therefore, this permitting action is extending the applicable pH range limitation to include all discharges from Outfall #001A, including once-through cooling waters.

A review of the effluent pH data as reported on the DMRs submitted to the Department for the period January 2005– November 2008 indicates that the facility has been in compliance with the pH range limitation 100% of the time during said period.

- m. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: 40 CFR Part 423.13(d)(3), states that “*At the permitting authority’s discretion, instead of monitoring in 40 CFR 122.11(b), compliance with limitations for the 126 priority pollutants in paragraph (d)(1) of this section may be determined by engineering calculations which demonstrate that regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR Part 136.*” 38 M.R.S.A. § 414-A and 38 M.R.S.A. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 CMR 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. 06-096 CMR 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

06-096 CMR 530(2)(A) specifies the dischargers subject to the rule as, “*all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. 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 Department is making a best professional judgment that PERC does not discharge industrial process waste waters as defined by 06-096 CMR 530(2)(A). Further, 40 CFR Part 423.13(d)(3) and Special Condition A Footnote #2 of this permit specify that there shall be no detectable levels of the 126 priority pollutants as specified in *Appendix A to Part 423 – 126 Priority Pollutants*. The Department has no information at this time that the discharge from PERC contains toxic compounds in toxic amounts and is not requiring the facility to perform WET, priority pollutant, or analytical chemistry testing. However, in

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

accordance with Special Condition K of this permit, the Department reserves the right to reopen this permit at any time and with notice to the permittee to establish toxics testing requirements pursuant to 06-096 CMR 530 based on new information regarding the sources or characterization of wastewater discharged via Outfall #001A.

06-096 CMR 530(2)(D)(4) states, “*All dischargers having waived or reduced testing must file statements with the Department on or before December 31 of each year describing the following.*”

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

The 4/10/06 fact sheet discussed above specified that the facility must comply with this annual notification statement to continue waived testing. This permitting action is establishing the notification requirement in this permitting action as Special Condition G, *Statement for Reduced/Waived Toxics Testing*, pursuant to 06-096 CMR 530(2)(D)(4). This permit provides for reconsideration of testing requirements, including the imposition of certain testing, in consideration of the nature of the wastewater discharged, existing wastewater treatment, receiving water characteristics, and results of testing.

- n. Stormwater Associated with Industrial Activity: The previous permitting action authorized the discharge of stormwater via one (1) outfall point (Outfalls #002A) and established, as Special Condition A.2. of the 6/29/04 permit, a requirement for PERC to develop and maintain a Storm Water Pollution Prevention Plan (SWPPP).

On October 11, 2005, the Department issued *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity (MSGP)*. *Sector O – Steam Electric Generating Facilities* of the 10/11/05 MSGP applies to the discharge of storm water from the PERC facility, and to be consistent with the terms and conditions of the 10/11/05 MSGP, all requirements thereof are incorporated into this permit through Special Condition J and Attachment B of the permit.

Special Condition J of the permit requires quarterly visual monitoring for observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution from each outfall point. These observations must be performed in accordance with Department guidance document

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

#DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities*, including associated Attachments A (*Instructions for Completing the Visual Monitoring Form*) and B (*Visual Monitoring Form*) (all included as Attachment B of the permit).

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

Based on information to date, the Department has determined the existing water uses will be maintained and protected provided the permittee complies with the terms and conditions established herein.

9. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily News* newspaper on or about May 22, 2009. 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).

10. DEPARTMENT CONTACTS

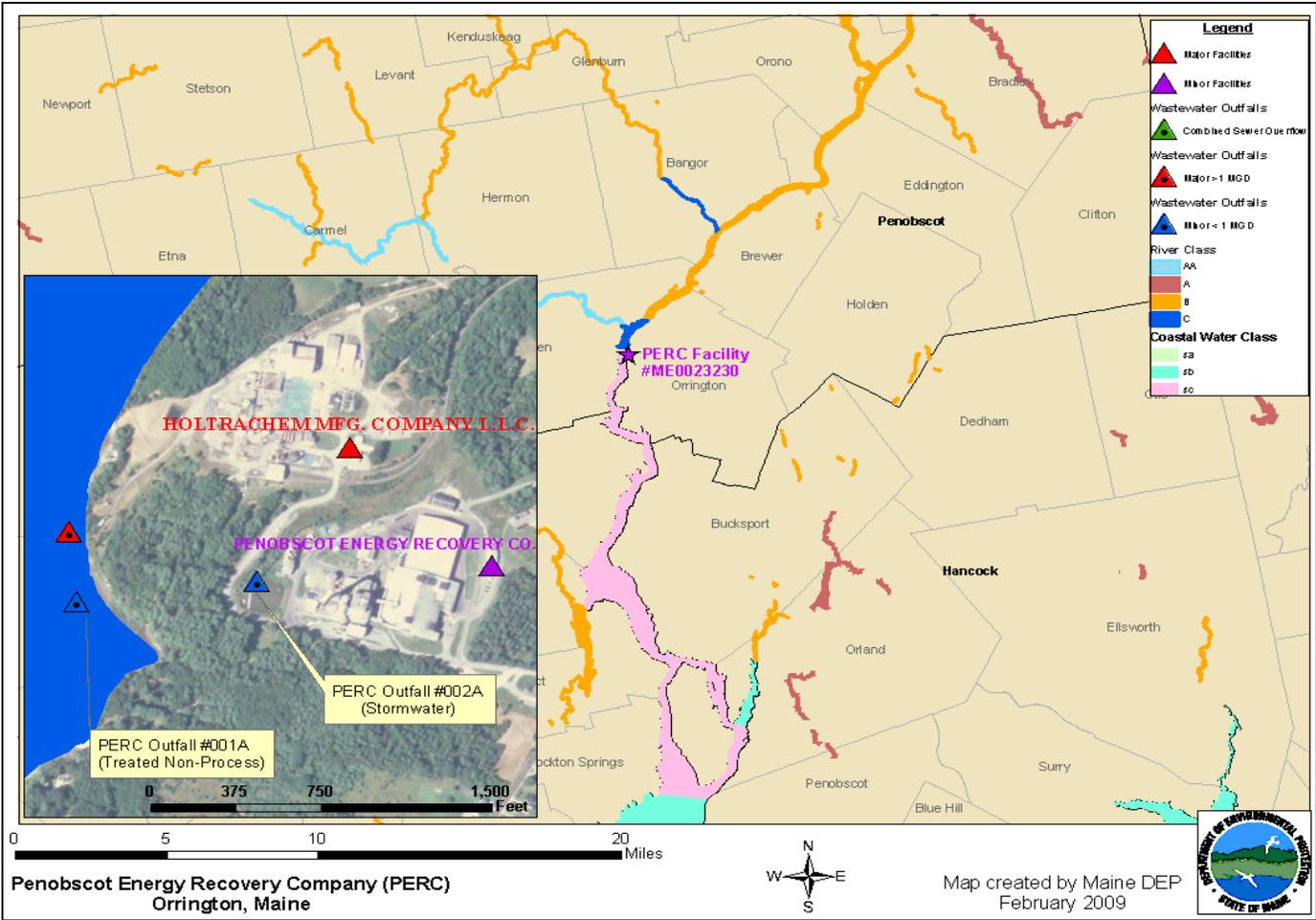
Additional information concerning this permitting action may be obtained from, and written comments sent to:

William F. Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7659 Fax: (207) 287-3435
e-mail: bill.hinkel@maine.gov

11. RESPONSE TO COMMENTS

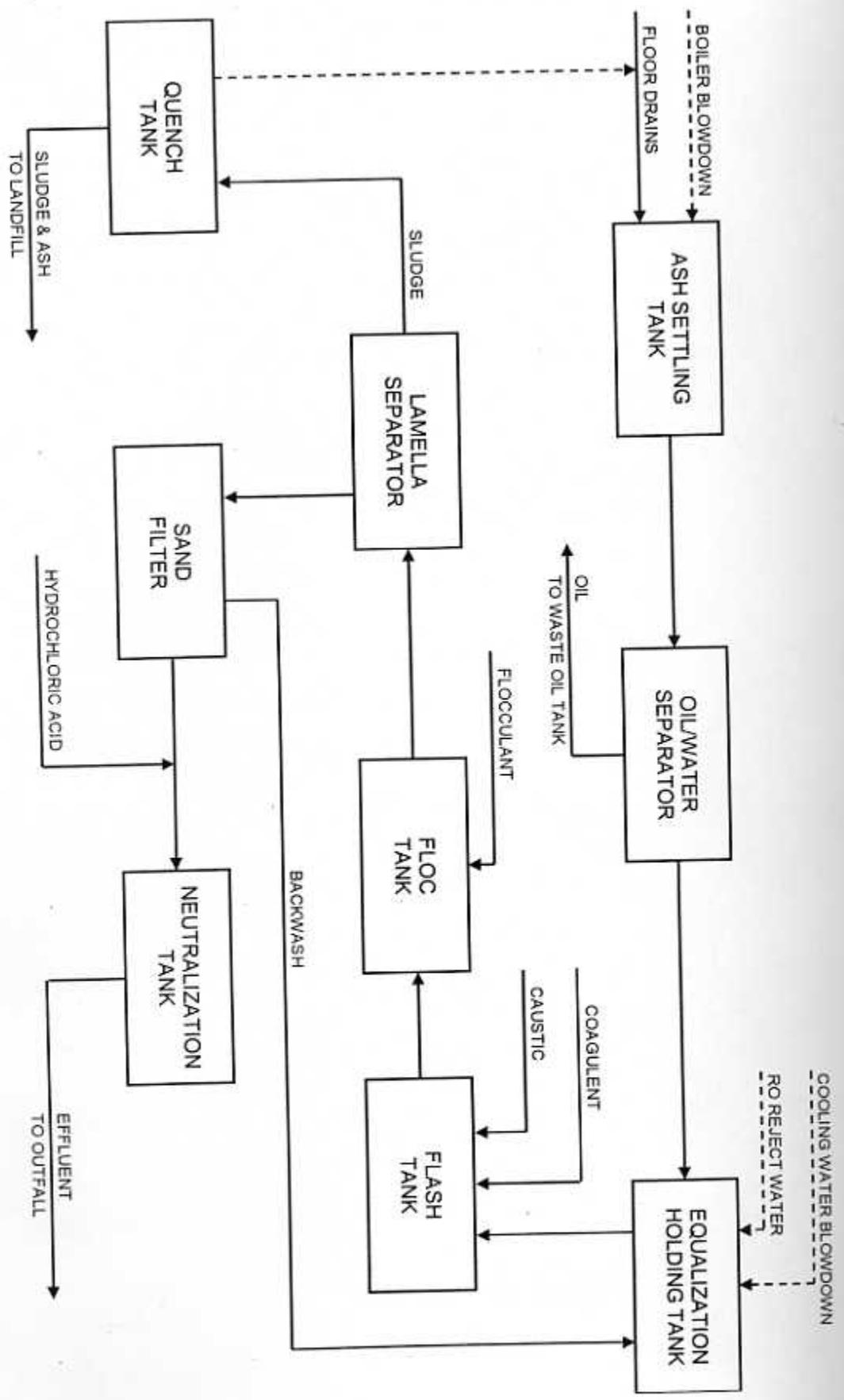
During the period of July 17, 2009 through August 17, 2009, the Department solicited comments on the proposed draft MEPDES permit / WDL to be issued to Penobscot Energy Recovery Company for the proposed discharge. The Department did not receive significant comments on the 7/17/09 draft permit; therefore, a response to comments was not prepared.

ATTACHMENT A



ATTACHMENT B

WASTEWATER TREATMENT SYSTEM



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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A. GENERAL PROVISIONS

1. General compliance. All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

2. Other materials. Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
 - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
 - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

3. Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

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

5. Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

6. Reopener clause. The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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7. Oil and hazardous substances. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

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

9. Confidentiality of records. 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

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

12. Inspection and entry. The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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- maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
 - (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
 - (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
 - (e) The permittee shall install flow measuring facilities of a design approved by the Department.
 - (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

2. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

3. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

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

5. Bypasses.

- (a) Definitions.
 - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
 - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
 - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
 - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (c) of this section.
 - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated; and
 - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
 - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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C. MONITORING AND RECORDS

1. General Requirements. This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

2. Representative sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

3. Monitoring and records.

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
 - (i) The date, exact place, and time of sampling or measurements;
 - (ii) The individual(s) who performed the sampling or measurements;
 - (iii) The date(s) analyses were performed;
 - (iv) The individual(s) who performed the analyses;
 - (v) The analytical techniques or methods used; and
 - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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D. REPORTING REQUIREMENTS

1. Reporting requirements.

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
 - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
 - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
 - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
 - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
 - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

2. Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

3. Availability of reports. Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

4. Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
 - (ii) One milligram per liter (1 mg/l) for antimony;
 - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
 - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
 - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

1. Emergency action - power failure. Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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2. Spill prevention. (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

3. Removed substances. Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

4. Connection to municipal sewer. (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

F. DEFINITIONS. For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

Average monthly discharge limitation means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

Average weekly discharge limitation means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

Best management practices ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Composite sample means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

Continuous discharge means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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Discharge Monitoring Report ("DMR") means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

Flow weighted composite sample means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab sample means an individual sample collected in a period of less than 15 minutes.

Interference means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Maximum daily discharge limitation means the highest allowable daily discharge.

New source means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

Pass through means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Permit means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

Person means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

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

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



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.
