



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

September 10, 2009

Mr. Ricky Sirois
Town of Van Buren
Wastewater Department
133 Jackson Street
Van Buren, ME 04785
rsirois@pioneerwireless.net

**RE: *Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100684
Maine Waste Discharge License (WDL) Application #W002675-6C-F-R
FINAL MEPDES Permit/WDL***

Dear Mr. Sirois:

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 e-mail or 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: Sean Bernard, DEP Lori Mitchell, DEP Sandy Mojica, USEPA File #2675

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

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

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF VAN BUREN)	MAINE POLLUTANT DISCHARGE
VAN BUREN, AROOSTOOK COUNTY)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS)	AND
#ME0100684)	WASTE DISCHARGE LICENSE
#W002675-6C-F-R)	RENEWAL
		APPROVAL

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 TOWN OF VAN BUREN (Town), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Town has applied to the Department for renewal of Waste Discharge License (WDL) #W002675-5L-E-R / Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100684, which was issued on September 2, 2004, and expired on September 2, 2009. The 9/2/04 permit authorized the monthly average discharge of up to 0.56 million gallons per day (MGD) of secondary treated sanitary wastewaters to the St. John River, Class C, in Van Buren, Maine.

On April 10, 2006, the Department amended the 9/2/04 permit by updating the whole effluent toxicity (WET), analytical chemistry and priority pollutant testing requirements of *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005). It is noted that routine testing requirements for this facility were waived pursuant to 06-096 CMR 530(D)(1).

PERMIT SUMMARY

This permitting action is similar to the 9/2/04 permitting action and 4/10/06 permit amendment in that it is:

1. Carrying forward the monthly average discharge flow limitation and the daily maximum discharge flow reporting requirement;
2. Carrying forward the monthly average, weekly average and daily maximum technology-based concentration and mass limitations for biochemical oxygen demand (BOD₅) and total suspended solids (TSS);
3. Carrying forward the technology-based requirements for a minimum of 85% removal of BOD₅ and TSS;
4. Carrying forward the daily maximum technology-based concentration limitation of 0.3 ml/L for settleable solids
5. Carrying forward the seasonal daily maximum concentration limitation for *Escherichia coli* bacteria;
6. Carrying forward the technology-based daily maximum concentration limitation for total residual chlorine (TRC);
7. Carrying forward the technology-based pH range limitation of 6.0 to 9.0 standard units (SU);
8. Carrying forward whole effluent toxicity (WET), priority pollutant and analytical chemistry testing waiver and an annual certification statement requirement as Special Condition G, *Statement for Reduced/Waived Toxics Testing* of this permit (a requirement imposed in the 4/10/06 permit amendment); and
9. Carrying forward the minimum monitoring frequency requirements for all monitored parameters.

This permitting action is different from the 9/2/04 permitting action and 4/10/06 permit amendment in that it is:

1. Revising the monthly average *E. coli* bacteria limitation from 142 colonies/100 ml to 126 colonies/100 ml based on revisions to the State's Water Classification Program for Class C waters.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 10, 2009, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharges, either individually or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharges, 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of the TOWN OF VAN BUREN to discharge a monthly average of up to 0.56 million gallons per day (MGD) of secondary treated sanitary wastewater from a publicly owned treatment works (POTW) to the St. John River, Class C, in Van Buren, 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: July 10, 2009
Date of application acceptance: July 13, 2009

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

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittee is authorized to discharge **secondary treated municipal waste waters** via **Outfall #001A** to the St. John River. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
	as specified	as specified	as specified	as specified	as specified	as specified	as specified	as specified
Flow <i>[50050]</i>	0.56 MGD <i>[03]</i>	---	Report MGD <i>[03]</i>	---	---	---	Continuous <i>[99/99]</i>	Recorder <i>[RC]</i>
BOD ₅ <i>[00310]</i>	140 lbs./day <i>[26]</i>	210 lbs./day <i>[26]</i>	234 lbs./day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	1/Week <i>[01/07]</i>	Composite <i>[24]</i>
BOD ₅ Percent Removal ⁽²⁾ <i>[81010]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
TSS <i>[00530]</i>	140 lbs./day <i>[26]</i>	210 lbs./day <i>[26]</i>	234 lbs./day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	1/Week <i>[01/07]</i>	Composite <i>[24]</i>
TSS Percent Removal ⁽²⁾ <i>[81011]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
Settleable Solids <i>[00545]</i>	---	---	---	---	---	0.3 ml/L <i>[25]</i>	1/Day <i>[01/01]</i>	Grab <i>[GR]</i>
<i>E. coli</i> Bacteria ⁽³⁾ <i>[31633]</i>	---	---	---	126 col/100 ml ⁽⁴⁾ <i>[13]</i>	---	949 col/100 ml <i>[13]</i>	1/Week <i>[01/07]</i>	Grab <i>[GR]</i>
Total Residual Chlorine ⁽⁵⁾ <i>[50060]</i>	---	---	---	---	---	1.0 mg/L <i>[19]</i>	1/Day <i>[01/01]</i>	Grab <i>[GR]</i>
pH <i>[00400]</i>	---	---	---	---	---	6.0-9.0 SU <i>[12]</i>	1/Day <i>[01/01]</i>	Grab <i>[GR]</i>

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

FOOTNOTES: See Page 6 of this permit for the applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

1. **Sampling** – Influent sampling shall be conducted at the headworks building influent channel. Effluent sampling shall be sampled at the end of the chlorine contact chamber but prior to the discharge pipe. Any change in sampling locations must be approved by the Department in writing. 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. **Percent Removal** – The treatment facility shall maintain a minimum of 85 percent removal for both biochemical oxygen demand and total suspended solids for all flows receiving secondary treatment. The percent removal shall be calculated based on influent and effluent concentration values. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L and the permittee shall enter "NODI-9" on the monthly Discharge Monitoring Report (DMR) for such instances.
3. **Bacteria Limits** – *E. coli* bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to reopen this permit in accordance with Special Condition J, *Reopening of Permit for Modifications*, require year-round bacteria limitations to protect the health, safety and welfare of the public.
4. **Bacteria Reporting** – The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results shall be reported as such.
5. **TRC Monitoring** – Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. For instances when chlorine or chlorine-based compounds have not been used for effluent disinfection for an entire reporting period, the permittee shall report "NODI-9" on the monthly DMR.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated by the classification of the receiving waters.
2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters, which would impair the usages designated by the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

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

D. AUTHORIZED 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 July 13, 2009; 2) in accordance with the terms and conditions of this permit; and 3) via Outfall #001A. 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.

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENTS

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

1. Any introduction of pollutants into the waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water; and
2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.
3. For the purposes of this section, 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 impact of the change in the quantity or quality 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
Northern Maine Regional Office
Bureau of Land and Water Quality
Division of Water Quality Management
1235 Skyway Park
Presque Isle, Maine 04769

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 reduced surveillance level testing for WET and analytical chemistry testing. **On or before December 31st of each year** of the effective term of this permit [*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. OPERATIONS AND MAINTENANCE (O&M) PLAN

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of 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.

I. WET WEATHER MANAGEMENT PLAN

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

Once the Wet Weather Management Plan has been approved, the permittee shall review their plan at least annually and record any necessary changes to keep the plan up to date. The Department may require review and update of the plan as it is determined to be necessary.

SPECIAL CONDITIONS

J. 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.

K. 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.

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

FACT SHEET

DATE: SEPTEMBER 10, 2009

**MEPDES PERMIT NUMBER: #ME0100684
WASTE DISCHARGE LICENSE: #W002675-6C-F-R**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF VAN BUREN
133 JACKSON STREET
VAN BUREN, MAINE 04785**

COUNTY: AROOSTOOK

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**VAN BUREN WASTEWATER TREATMENT FACILITY
133 JACKSON STREET
VAN BUREN, MAINE 04785**

RECEIVING WATER / CLASSIFICATION: ST. JOHN RIVER / CLASS C

**COGNIZANT OFFICIAL AND TELEPHONE NUMBER: MR. RICKY SIROIS
(207) 868-3975**

1. APPLICATION SUMMARY

- a. Application: The Town of Van Buren (Town) has applied to the Department of Environmental Protection (Department) for renewal of Waste Discharge License (WDL) #W002675-5L-E-R / Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100684, which was issued on September 2, 2004, and expired on September 2, 2009. The 9/2/04 permit authorized the monthly average discharge of up to 0.56 million gallons per day (MGD) of secondary treated sanitary wastewaters to the St. John River, Class C, in Van Buren, Maine.

On April 10, 2006, the Department amended the 9/2/04 permit by updating the whole effluent toxicity (WET), analytical chemistry and priority pollutant testing requirements of *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005). It is noted that routine testing requirements for this facility were waived pursuant to 06-096 CMR 530(D)(1).

2. PERMIT SUMMARY

- a. Terms and Conditions **This permitting action is similar to the 9/2/04 permitting action and 4/10/06 permit amendment in that it is:**
 1. Carrying forward the monthly average discharge flow limitation and the daily maximum discharge flow reporting requirement;
 2. Carrying forward the monthly average, weekly average and daily maximum technology-based concentration and mass limitations for biochemical oxygen demand (BOD₅) and total suspended solids (TSS);
 3. Carrying forward the technology-based requirements for a minimum of 85% removal of BOD₅ and TSS;
 4. Carrying forward the daily maximum technology-based concentration limitation of 0.3 ml/L for settleable solids
 5. Carrying forward the seasonal daily maximum concentration limitation for *Escherichia coli* bacteria;
 6. Carrying forward the technology-based daily maximum concentration limitation for total residual chlorine (TRC);
 7. Carrying forward the technology-based pH range limitation of 6.0 to 9.0 standard units (SU);
 8. Carrying forward whole effluent toxicity (WET), priority pollutant and analytical chemistry testing waiver and an annual certification statement requirement as Special Condition G, *Statement for Reduced/Waived Toxics Testing* of this permit (a requirement imposed in the 4/10/06 permit amendment); and
 9. Carrying forward the minimum monitoring frequency requirements for all monitored parameters.

2. PERMIT SUMMARY (cont'd)

This permitting action is different from the 9/2/04 permitting action and 4/10/06 permit amendment in that it is:

1. Revising the monthly average *E. coli* bacteria limitation from 142 colonies/100 ml to 126 colonies/100 ml based on revisions to the State's Water Classification Program for Class C waters.
- b. History: This section provides a summary of recent, relevant licensing/permitting actions that have been completed for the Van Buren Wastewater Treatment Facility.

March 30, 1995 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0100684 to the Town, which superseded the previous permit issued on August 11, 1989.

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 #ME0100684 has been utilized as the primary reference number for the Town's facility.

July 10, 2000 – Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W002675-5L-C-R by establishing interim monthly average and daily maximum effluent concentration limits of 16.0 parts per trillion (ppt) and 24.0 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. It is noted the limitations have not been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit as limitations and monitoring frequencies are regulated separately through 38 M.R.S.A. § 413 and 06-096 CMR 519. However, the interim limitations remain in effect and enforceable and any modifications to the limits and or monitoring requirements will be formalized outside of this permitting document.

September 2, 2004 – The Department issued WDL #W002675-5L-E-R / MEPDES Permit #ME0100684 to the Town for a five-year term. The 9/2/04 permit superseded previous WDL #W002675-5L-C-R issued on November 1, 1999, WDL #W002675-46-B-R issued on October 7, 1994, and WDL #W002675-46-A-R issued on June 23, 1988.

April 10, 2006 – The Department amended the 9/2/04 permit to update testing requirements of 06-096 CMR 530.

July 10, 2009 – The Town submitted a timely and complete General Application to the Department for renewal of the 9/2/04 MEPDES permit. The application was accepted for processing on July 13, 2009, and was assigned WDL #W002675-6C-F-R / MEPDES #ME0100684.

2. PERMIT SUMMARY (cont'd)

- c. Source Description: Van Buren's Wastewater Treatment Facility receives sanitary waste water flows from commercial and residential users in the Town of Van Buren. The population served by the facility is estimated to be approximately 2,500 users. The facility does not receive industrial flows and is not authorized to receive septage. The collection system is approximately 21 miles in length and has seven pump stations (with emergency backup power) conveying flows to the waste water treatment facility. The collection system is completely separated and does not have any combined sewer overflows points. A map showing the location of the facility and receiving water is included as Attachment A of this fact sheet.
- d. Wastewater Treatment: The Van Buren Wastewater Treatment Facility commenced operations in 1972. The wastewater treatment facility provides a secondary level of treatment via an extended aeration activated sludge process via a bar screen, an aerated grit chamber, two aeration basins with fine bubble diffused aeration, two secondary clarifiers and a chlorine contact chamber for disinfection. The wastewater is discharged to the St. John River via a 24-inch diameter outfall pipe that extends out into the receiving water approximately 40 feet at a depth of 3 feet below the mean low water level of the river. During the calendar year 2000 the facility upgraded various equipment, such as new influent wet well pumps and new pumps at all lift stations, new diffusers, new clarifiers, sludge storage and wasting tanks, and other selected infrastructure and controls.

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

Classification of major river basins, 38 M.R.S.A. § 467(15)(A)(4) classifies the St. John River, from the international bridge in Madawaska to where the international boundary leaves the river in Hamlin, including all impoundments, as Class C waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(4) describes the standards for Class C 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 the segment of the St. John River that contains the discharge from the Town as "Category 2: Rivers and Streams Attaining Some Designed Uses – Insufficient Information for Other Uses."

5. RECEIVING WATER QUALITY CONDITIONS (cont'd)

The 2008 Report also lists Maine's fresh waters as "*Category 4-A: Rivers and Streams with Impaired Use, TMDL Completed.*" All freshwaters formerly listed in Category 5-C are moved to Category 4-A (TMDL Completed) due to USEPA approval of a Regional Mercury TMDL. Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, "*Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources.*" as, "*Category 5-C: Waters Impaired by Atmospheric Deposition of Mercury. Regional or National TMDL may be Required.*"

Pursuant to 38 M.R.S.A. § 420(1-B)(B), "*a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.*" The Department has established interim monthly average and daily maximum mercury concentration limits and reporting requirements for this facility pursuant to 06-096 CMR 519.

The Department has no information at this time that the discharges from Town causes or contributes to non-attainment of the designed uses ascribed to Class C waters.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limitation of 0.56 MGD for Outfall #001A based on the average dry weather design criterion. This permitting action is establishing a daily maximum discharge flow reporting requirement to assist in compliance evaluations.

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 2006 through May 2009 is as follows:

Discharge Flow	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	0.23 MGD	1.28 MGD	0.40 MGD	41
Daily Maximum	0.28 MGD	2.76 MGD	0.94 MGD	41

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

- b. Dilution Factors: Dilution factors associated with the average design flow of 0.56 MGD were derived in accordance with 06-096 CMR 530(4)(A) and were calculated as follows:

$$\text{Mod. Acute: } \frac{1}{4} \text{ Q10} = 361 \text{ cfs} \quad \Rightarrow \frac{(361 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 418:1$$

$$\text{Acute: } 1\text{Q10} = 1,444 \text{ cfs} \quad \Rightarrow \frac{(1,444 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 1,667:1$$

$$\text{Chronic: } 7\text{Q10} = 1,489 \text{ cfs} \quad \Rightarrow \frac{(1,489 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 1,720:1$$

$$\text{Harmonic Mean} = 5,472 \text{ cfs} \quad \Rightarrow \frac{(5,472 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 6,317:1$$

06-096 CMR 530(4)(B)(1) states,

Analyses using numerical acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone and to ensure a zone of passage of at least 3/4 of the cross-sectional area of any stream as required by Chapter 581. Where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design flow, up to and including all of it, as long as the required zone of passage is maintained.

The Town has not provided the Department with information as to the mixing characteristics of the discharge. Therefore, the Department is utilizing the default stream flow of 1/4 of the 1Q10 in acute evaluations pursuant to 06-096 CMR 530.

- c. Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS): The previous permitting action established, and this permitting action is carrying forward, monthly average and weekly average technology-based concentration limits of 30 mg/L and 45 mg/L, respectively, for BOD₅ and TSS based on the secondary treatment requirements specified at *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III) (effective January 12, 2001), and a daily maximum concentration limit of 50 mg/L, which is based on a Department best professional judgment of best practicable treatment for secondary treated municipal wastewater. The technology-based monthly average, weekly average and daily maximum mass limits of 140 lbs./day, 210 lbs./day and 234 lbs./day, respectively, established in the previous permitting action for BOD₅ and TSS are based on the monthly average flow limit of 0.56 MGD and the applicable concentration limits and are also being carried forward in this permitting action.

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

This permitting action is carrying forward a requirement for a minimum of 85% removal of BOD₅ & TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3) for all flows receiving secondary treatment.

A summary of the effluent BOD₅ and TSS data as reported on the DMRs submitted to the Department for the period January 2006 through May 2009 is as follows:

BOD₅	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	6.2 lbs./day	40 lbs./day	13.1 lbs./day	41
	3 mg/L	7 mg/L	4.1 mg/L	41
Weekly Average	7.4 lbs./day	76 lbs./day	20.5 lbs./day	41
	3.6 mg/L	9 mg/L	5.6 mg/L	41
Daily Maximum	7.4 lbs./day	76 lbs./day	20.5 lbs./day	41
	3.6 mg/L	9 mg/L	5.6 mg/L	41

TSS	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	3 lbs./day	54 lbs./day	11.3 lbs./day	41
	1 mg/L	6 mg/L	3.1 mg/L	41
Weekly Average	4 lbs./day	151 lbs./day	21.1 lbs./day	41
	1.8 mg/L	12 mg/L	4.4 mg/L	41
Daily Maximum	4 lbs./day	151 lbs./day	21.1 lbs./day	41
	1.8 mg/L	12 mg/L	4.4 mg/L	41

This permitting action is carrying forward the minimum monitoring frequency requirement of once per week for BOD₅ and TSS based on Department best professional judgment.

- d. Settleable Solids: The previous permitting established a daily maximum concentration limitation of 0.3 ml/L for settleable solids based on a Department best professional judgment of best practicable treatment, which is being carried forward in this permitting action.

A summary of settleable solids data as reported on the monthly DMRs for the period of January 2006 through May 2009 (# DMRs = 41) indicates the daily maximum settleable solids concentration discharge has been <0.1 ml/L 100% of the time during said reporting period.

This permitting action is carrying forward the minimum monitoring frequency requirement for settleable solids based once per day on best professional judgment.

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

- e. Escherichia coli bacteria: The previous permitting action established seasonal (May 15-September 30 of each year) monthly average and daily maximum *E. coli* bacteria concentration limits of 142 colonies/100 ml and 949 colonies/100 ml, respectively, based on the State's Water Classification Program criteria for Class C waters in effect at the time the previous permit was issued. Subsequent to issuance of the 9/2/04 permit, 38 M.R.S.A. § 465(4) has been amended to require that the *E. coli* bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean (monthly average) of 126 colonies/100 ml or an instantaneous level (daily maximum) of 236 colonies/100 ml. Therefore, this permitting action is revising the monthly average (geometric mean) limitation for *E. coli* bacteria from 142 colonies/100 ml to 126 colonies/100 ml. The Department has determined that end-of-pipe limitations for the instantaneous concentration standard of 236 colonies/100 ml will be achieved through available dilution of the effluent with the receiving waters and need not be revised in MEPDES permits for facilities with adequate dilution, such as that for the Town.

A summary of the *E. coli* bacteria data as reported on the DMRs submitted to the Department for Outfall #001A for May 2006 through May 2009 (applicable disinfection period only) is as follows:

<i>E. coli</i> bacteria	Minimum	Maximum	Arithmetic Mean	# DMRs
Monthly Average	29 col / 100 ml	128 col / 100 ml	65 col / 100 ml	16
Daily Maximum	50 col / 100 ml	450 col / 100 ml	178 col / 100 ml	16

This permitting action is carrying forward a minimum monitoring frequency requirement of once per week for *E. coli* bacteria (during the applicable period) based on best professional judgment.

- f. Total Residual Chlorine (TRC): The previous permitting action established a daily maximum technology-based TRC limitation of 1.0 mg/L for TRC. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department licensing/permitting actions impose the more stringent of either the water quality-based or technology-based based limits.

With modified acute (1/4 1Q10) and chronic dilution factors associated with the discharge water quality-based concentration thresholds the discharge may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	Mod. A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.019 mg/L	0.011 mg/L	418:1 (Mod. A) 1,720:1 (C)	7.9 mg/L	18.9 mg/L

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

The daily maximum BPT-based limitation of 1.0 mg/L is more stringent than the water quality-based thresholds calculated above and is therefore being carried forward in this permitting action.

A summary of the TRC data as reported on the DMRs submitted to the Department for Outfall #001A for May 2006 through May 2009 (applicable disinfection period only) is as follows:

TRC	Minimum	Maximum	Arithmetic Mean	# DMRs
Daily Maximum	0.4 mg/L	0.6 mg/L	0.5 mg/L	16

This permitting action is carrying forward a minimum monitoring frequency requirement of once per day for TRC (any time chlorine or chlorine-based compounds are in use for effluent disinfection) based on best professional judgment.

- g. **pH:** The previous permitting action established, and this permitting action is carrying forward, a technology-based pH limit of 6.0 – 9.0 standard units, which is based on 06-096 CMR 525(3)(III), and a minimum monitoring frequency requirement of once per day based on best professional judgment.

A summary of pH data as reported on the monthly DMRs for the period of January 2006 through May 2009 (# DMRs = 41) indicates the facility has been in compliance with the pH range limitation 100% of the time during said reporting period.

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

WET, priority pollutant and analytical chemistry testing, as required by 06-096 CMR 530, is included in this permit in order to characterize the effluent. WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate water flea (*Ceriodaphnia dubia*) and vertebrate brook trout (*Salvelinus fontinalis*). Chemical-specific monitoring is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health water quality criteria. Priority pollutant testing refers to the analysis for levels of priority pollutants listed in 06-096 CMR 525(4)(VI). Analytical chemistry refers to a suite of thirteen (13) chemical tests consisting of: ammonia-nitrogen, total aluminum, total cadmium, total chromium, total copper, total hardness (fresh water only), total lead, total nickel, total silver, total zinc, total arsenic, total cyanide and total residual chlorine.

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

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 Town discharges municipal wastewater consisting of domestic waste waters to surface waters via Outfall #001A and is therefore subject to the testing requirements of the toxics rule.

06-096 CMR 530(2)(B) categorizes dischargers subject to the toxics rule into one of four levels (Levels I through IV). Level IV dischargers are “*Those dischargers having a chronic dilution factor of at least 500 to 1 and a permitted flow of less than 1 million gallons per day.*” The chronic dilution factor associated with the discharge from the Town is 1,720:1; therefore, this facility is considered a Level IV facility for purposes of toxics testing.

06-096 CMR 530(2)(D) specifies default WET, priority pollutant, and analytical chemistry test schedules for Level IV dischargers as follows:

Screening level testing – Beginning 12 months prior to expiration of the current permit and in every fifth year since the last screening test, which ever is sooner.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
III	1 per year	1 per year	4 per year

Surveillance level testing – Beginning upon issuance of the permit and lasting until 12 months prior to permit expiration.

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

The Department has made a best professional judgment determination to carry forward the toxicity testing waiver for this facility pursuant to the provisions at 06-096 CMR 530(2)(D)(1). 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*

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

(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.

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 condition established herein.

8. PUBLIC COMMENTS

Public notice of this application was made in the *St. John Valley Times* newspaper on or about July 1, 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).

9. 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

10. RESPONSE TO COMMENTS

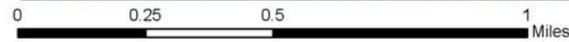
During the period of July 13, 2009 through August 17, 2009, the Department solicited comments on the proposed draft MEPDES permit / WDL to be issued to the Town of Van Buren for the proposed discharge. The Department did not receive significant comments on the 7/13/09 draft permit; therefore, a response to comments was not prepared.

ATTACHMENT A



Legend

- ▲ Major Facilities
- ▲ Minor Facilities
- Wastewater Outfalls**
- ▲ Combined Sewer Overflow
- Wastewater Outfalls**
- ▲ Major >1 MGD
- ▲ Minor < 1 MGD
- River Class**
- AA
- A
- B
- C
- Stream Class**
- AA
- A
- B
- C
- Ponds and Lakes



**Town of Van Buren Wastewater Treatment Facility
Van Buren, Maine**

Map created by Maine DEP
February 2009



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

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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.

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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.
