



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

December 23, 2009

Via Certified Mail Return Receipt #7006 2150 0000 7488 1599

Annaleis Hafford, PE
Olver Associates, Inc.
290 Main Street
Winterport, ME 04496

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0101231
Maine Waste Discharge License (WDL) Application #W002628-6C-F-R
Final Permit/License-Town of Blue Hill

Dear Ms. Hafford:

Enclosed please find a copy of your **final** Maine MEPDES Permit/WDL which was approved by the Department of Environmental Protection. Please read the license and its attached conditions carefully. You must follow the conditions in the license 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 this matter, please feel free to contact me at (207) 287-7658 or at phyllis.a.rand@maine.gov.

Sincerely,

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land and Water Quality

Enclosure

cc: Clarissa Trasko, DEP/EMRO Doug Koopman, USEPA
Sandy Mojica, USEPA Lori Mitchell, DMU

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
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) 764-0477 FAX: (207) 760-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF BLUE HILL)	MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS)	ELIMINATION SYSTEM PERMIT
BLUE HILL, HANCOCK COUNTY)	AND
ME0101231)	WASTE DISCHARGE LICENSE
W002628-6C-F-R)	RENEWAL
APPROVAL)	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (“Department,” hereinafter) has considered the application of the TOWN OF BLUE HILL (“permittee,” hereinafter), with its supportive data, agency review comments, and other related material on file and finds the following facts:

APPLICATION SUMMARY

The permittee has applied for renewal of combination Maine Waste Discharge License/MEPDES Permit # W002628-5L-D-R /ME0101231 (“permit,” hereinafter) which was issued on December 7, 2004, and expired on December 7, 2009. The permit approved the discharge of a monthly average flow of 0.1 MGD of secondary treated sanitary wastewater from a municipal treatment facility to the Atlantic Ocean at Blue Hill Harbor, Maine.

PERMIT SUMMARY

1. Carrying forward the monthly average flow limit of 0.1 MGD.
2. Carrying forward the daily maximum, monthly average and weekly average technology based mass and concentration limits for biochemical oxygen demand (BOD₅) and total suspended solids (TSS).
3. Carrying forward the seasonal monthly average and daily maximum technology based limits for fecal coliform bacteria.
4. Carrying forward the daily maximum and monthly average technology based concentration limits for total residual chlorine.
5. Carrying forward the requirements for the permittee to maintain an up-to-date Operation and Maintenance (O&M) Plan.

PERMIT SUMMARY (cont'd)

6. Carrying forward the requirement of achieving a minimum of 85% removal for BOD5 and TSS.
7. Carrying forward the minimum monitoring requirement for mercury.
8. Carrying forward the requirement to maintain a Wet Weather Flow Management Plan.

This permitting action is different from the 12/7/04 permitting action in that it is:

9. Removing the WET testing requirement for the inland silverside (*Menidia beryllina*).
10. Revising the acute, chronic and harmonic mean dilution factors based on new information.
11. Revising the WET screening level monitoring frequency from 1/Quarter to 1/Year based on a revised chronic dilution factor.
12. Establishing an analytical chemistry screening level monitoring frequency of 1/Quarter.
13. Establishing a priority pollutant screening level monitoring frequency of 1/Year.
14. Waiving surveillance level WET and analytical chemistry monitoring requirements pursuant to Department rule 06-096 CMR Chapter 530.
15. Revising the pH monitoring frequency from 1/Day to 5/Week based on Department guidance.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 23, 2009 and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

For discharge of secondary treated waste waters from the waste water treatment facility:

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

CONCLUSIONS (cont'd)

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

Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

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

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;

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

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

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

ACTION

THEREFORE, the Department APPROVES the application of the TOWN OF BLUE HILL to discharge up to a monthly average flow of 0.1 million gallons per day (MGD) of secondary treated sanitary wastewater to the Blue Hill Harbor (Atlantic Ocean), Class SB, in Blue Hill, Maine. The discharge shall be subject to the attached conditions and all applicable standards and regulations including:

1. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: August 5, 2009

Date of application acceptance: August 6, 2009

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- Beginning upon issuance of this permit, the permittee is authorized to discharge secondary treated sanitary wastewater from **OUTFALL #001A** to the Atlantic Ocean at Blue Hill Harbor. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations			Minimum Monitoring Requirements				
	Monthly Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	0.1 MGD [03]	---	Report MGD [03]	---	---	---	Continuous [99/99]	Recorder [RC]
Biochemical Oxygen Demand (BOD ₅) [00310]	25 lbs/day [26]	37 lbs/day [26]	42 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	Composite [24]
BOD ₅ % Removal ⁽¹⁾ [81010]	---	---	---	85% [19]	---	---	1/Month [01/30]	Calculate [CA]
Total Suspended Solids (TSS) [00530]	25 lbs/day [26]	37 lbs/day [26]	42 lbs/day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	Composite [24]
TSS % Removal ⁽¹⁾ [81011]	---	---	---	85% [19]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	1/Day [01/01]	Grab [GR]
Fecal Coliform Bacteria ⁽²⁾ (May 15 – September 30) [31616]	---	---	---	15/100 ml ⁽³⁾ [13]	---	50/100 ml [13]	1/Week [01/07]	Grab [GR]
Total Residual Chlorine ⁽⁴⁾ [50060]	---	---	---	0.1 mg/L [19]	---	0.3 mg/L [19]	1Day [01/01]	Grab [GR]
pH (Std. Unit) [00400]	---	---	---	---	---	6.0 – 9.0 [12]	5/week [05/07]	Grab [GR]

The italicized numeric values bracketed in the table above and on the following pages are not limitations but code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports (DMR's). See pages 8 – 10 for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

SCREENING LEVEL TESTING

Beginning 12 months prior to expiration of this permit or in the fifth year since the last screening test, whichever is sooner:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<u>Whole Effluent Toxicity⁽⁵⁾</u>						
<u>Acute – NOEL</u> <i>Mysidopsis bahia</i> [TDM3E] (<i>Mysid Shrimp</i>)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
<u>Chronic – NOEL</u> <i>Arbacia punctulata</i> [TBH3A] (<i>Sea urchin</i>)	---	---	---	Report % [23]	1/Year [01/YR]	Composite [24]
Analytical chemistry ⁽⁶⁾ [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority pollutants ⁽⁷⁾ [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

See pages 8 – 10 for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

Sampling Locations: All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Any change in sampling location must be approved by the Department in writing.

Sampling – Sampling and analysis must be conducted in accordance with; a) methods approved in 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 Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *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 (RL’s) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit. See **Attachment A** of this permit for a list of the Department’s RL’s.

1. **Percent removal** - The treatment facility shall maintain a minimum of 85 percent removal of both BOD5 and TSS. The percent removal shall be based on a monthly average calculation using influent and effluent concentrations. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report “*NODI-9*” on the monthly Discharge Monitoring Report (DMR).
2. **Fecal coliform bacteria** - Limits apply on a seasonal basis (May 15 – September 30). The Department reserves the right to require disinfection on a year-round basis to protect the health and welfare of the public.
3. **Fecal coliform bacteria** – The monthly average limitation is a geometric mean limitation and shall be calculated and reported as such.

SPECIAL CONDITIONS

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

Footnotes:

4. **Total Residual Chlorine (TRC)** – Limitations and monitoring requirements are applicable whenever elemental chlorine or chlorine based compounds are being used to disinfect the discharge. The permittee shall utilize approved test methods that are capable of bracketing the limitation of 0.1 mg/L.
5. **Whole Effluent Toxicity (WET) Testing** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 2.5% and 0.24%, respectively), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points.

The critical acute and chronic thresholds were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 40:1 and 418:1, respectively. See **Attachment B** of this permit for a copy of the Department's WET reporting form.

- a. **Surveillance level testing** – The permittee is not required to perform surveillance level WET testing pursuant to Department rule 06-096 CMR Chapter 530.
- b. **Screening level testing** – Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level WET testing at a minimum frequency of once per year (1/Year).

WET test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds specified above.

SPECIAL CONDITIONS

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

Footnotes:

Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following USEPA methods manuals.

- a. Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Freshwater Organisms, Fourth Edition, October 2002, EPA-821-R-02-013.
- b. Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA-821-R-02-012.

The permittee is also required to analyze the effluent for the nine (9) parameters specified in the WET chemistry section, and the twelve (12) parameters specified in the analytical chemistry section of the form in Attachment A of this permit each time a WET test is performed.

6. **Analytical chemistry** – Pursuant to 06-096 CMR 530(2)(C)(4), Refers to a suite of chemical tests that include ammonia nitrogen (as N), total aluminum, total arsenic, total cadmium, total chromium, total copper, free cyanide (amenable to chlorination), total lead, total nickel, total silver, total zinc and total residual chlorine.
 - a. **Surveillance level testing** – Surveillance level analytical chemistry testing is not required pursuant to Department rule 06-096 CMR Chapter 530.
 - b. **Screening level testing** – Beginning 12 months prior to expiration of the permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter for four consecutive calendar quarters.
7. **Priority pollutant testing** – Priority pollutants are those parameters specified at *Effluent Guidelines and Standards*, 06-096 CMR 525(4)(IV) (effective January 12, 2001).
 - a. **Surveillance level testing** – Surveillance level priority pollutant testing is not required pursuant to Department rule 06-096 CMR Chapter 530.
 - b. **Screening level testing** – Beginning 12 months prior to expiration of the current permit or in the fifth year since the last screening test, which ever is sooner, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per year, except for those analytical chemistry parameter(s) otherwise regulated in this permit.

SPECIAL CONDITIONS

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

Footnotes:

Analytical chemistry and priority pollutant testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests, when applicable, and shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve the most current minimum reporting levels of detection as specified by the Department. See **Attachment A** of this permit for a list of the Department's most current reporting limits (RL's).

Priority pollutant and analytical chemistry testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests when applicable. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department.

Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005). For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

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 discharges 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.

SPECIAL CONDITIONS

C. DISINFECTION

If chlorination is used as a means of disinfection, an approved chlorine contact tank providing the proper detention time consistent with good engineering practice must be utilized, followed by a dechlorination system if the total residual chlorine (TRC) cannot be met by dissipation in the detention tank. The TRC in the effluent shall at no time cause any demonstrable harm to aquatic life in the receiving waters. The dose of chlorine applied shall be sufficient to leave a TRC concentration that will effectively reduce bacteria to levels below those specified in Special Condition A, "*Effluent Limitations and Monitoring Requirements*", of this permit.

D. TREATMENT PLANT OPERATOR

The person who has the management responsibility over the treatment facility must hold a **Grade III** certificate (or higher) or must be a Maine Registered Professional Engineer pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 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.

E. LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the waste water collection and treatment system by a non-domestic source (user) shall not pass through or interfere with the operation of the treatment system.

F. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on August 6, 2009; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

SPECIAL CONDITIONS

G. NOTIFICATION REQUIREMENT

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 into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change 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 caused by the change in the quantity or quality of the waste water to be discharged from the treatment system.

H. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall maintain a current written Wet Weather Flow 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.

Within 90 days of completion of new and or substantial upgrades of the waste water treatment facility, the permittee shall submit to the Department for review and approval, a new or revised Wet Weather Management Plan which conforms to Department guidelines for such plans. 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 during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

I. OPERATION & MAINTENANCE (O&M) PLAN

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

SPECIAL CONDITIONS

I. OPERATION & MAINTENANCE (O&M) PLAN (cont'd)

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

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

J. MERCURY

All mercury sampling (4/Year) required to determine compliance with interim limitations established pursuant to Department rule Chapter 519, shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analysis shall be conducted in accordance with EPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment C, Effluent Mercury Test Report**, of this permit for the Department's form for reporting mercury test results

K. 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.

SPECIAL CONDITIONS

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

M. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results or monitoring requirements specified in 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 anytime and with notice to the permittee, modify this permit to; 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional effluent and or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

SPECIAL CONDITIONS

N. SEVERABILITY

In the event that any provision(s), or part thereof, of this permit is declared to be unlawful by a reviewing court, the remainder of the permit shall remain in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

ATTACHMENT A

**Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form**

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

Facility Name _____ MEPDES # _____ Facility Representative Signature _____
 Pipe # _____ To the best of my knowledge this information is true, accurate and complete.

Licensed Flow (MGD)
 Acute dilution factor
 Chronic dilution factor
 Human health dilution factor
 Criteria type: M(arine) or F(resh)

Flow for Day (MGD)⁽¹⁾ Flow Avg. for Month (MGD)⁽²⁾
 Date Sample Collected Date Sample Analyzed

Laboratory _____ Telephone _____
 Address _____
 Lab Contact _____ Lab ID # _____

ERROR WARNING ! Essential facility information is missing. Please check required entries in bold above.

MARINE AND ESTUARY VERSION
 Please see the footnotes on the last page.

WHOLE EFFLUENT TOXICITY		Effluent Limits, %			Receiving Water or Ambient	Effluent Concentration (ug/L or as noted)	WET Result, % Do not enter % sign	Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
		Acute	Chronic	Acute					Chronic		
	Mysid Shrimp										
	Sea Urchin										
WET CHEMISTRY											
	pH (S.U.) ⁽⁹⁾				(8)						
	Total Organic Carbon (mg/L)				NA						
	Total Solids (mg/L)				NA						
	Total Suspended Solids (mg/L)				NA						
	Salinity (ppt.)										
ANALYTICAL CHEMISTRY ⁽³⁾											
	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L					Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
			Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾				Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) ⁽⁹⁾	0.05				NA					
	AMMONIA	NA				(8)					
M	ALUMINUM	NA				(8)					
M	ARSENIC	5				(8)					
M	CADMIUM	1				(8)					
M	CHROMIUM	10				(8)					
M	COPPER	3				(8)					
M	CYANIDE	5				(8)					
M	LEAD	3				(8)					
M	NICKEL	5				(8)					
M	SILVER	1				(8)					
M	ZINC	5				(8)					

**Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form**

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

PRIORITY POLLUTANTS ⁽⁴⁾		Effluent Limits			Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
	Reporting Limit	Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Acute	Chronic	Health
M	ANTIMONY	5						
M	BERYLLIUM	2						
M	MERCURY (5)	0.2						
M	SELENIUM	5						
M	THALLIUM	4						
A	2,4,6-TRICHLOROPHENOL	3						
A	2,4-DICHLOROPHENOL	5						
A	2,4-DIMETHYLPHENOL	5						
A	2,4-DINITROPHENOL	45						
A	2-CHLOROPHENOL	5						
A	2-NITROPHENOL	5						
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25						
A	4-NITROPHENOL	20						
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5						
A	PENTACHLOROPHENOL	20						
A	PHENOL	5						
BN	1,2,4-TRICHLOROENZENE	5						
BN	1,2-(O)DICHLOROENZENE	5						
BN	1,2-DIPHENYLHYDRAZINE	10						
BN	1,3-(M)DICHLOROENZENE	5						
BN	1,4-(P)DICHLOROENZENE	5						
BN	2,4-DINITROTOLUENE	6						
BN	2,6-DINITROTOLUENE	5						
BN	2-CHLORONAPHTHALENE	5						
BN	3,3'-DICHLOROENZIDINE	16.5						
BN	3,4-BENZO(B)FLUORANTHENE	5						
BN	4-BROMOPHENYLPHENYL ETHER	2						
BN	4-CHLOROPHENYL PHENYL ETHER	5						
BN	ACENAPHTHENE	5						
BN	ACENAPHTHYLENE	5						
BN	ANTHRACENE	5						
BN	BENZIDINE	45						
BN	BENZO(A)ANTHRACENE	8						
BN	BENZO(A)PYRENE	3						
BN	BENZO(G,H,I)PERYLENE	5						
BN	BENZO(K)FLUORANTHENE	3						
BN	BIS(2-CHLOROETHOXY)METHANE	5						
BN	BIS(2-CHLOROETHYL)ETHER	6						
BN	BIS(2-CHLOROISOPROPYL)ETHER	6						
BN	BIS(2-ETHYLHEXYL)PHTHALATE	3						
BN	BUTYLBENZYL PHTHALATE	5						
BN	CHRYSENE	3						
BN	DI-N-BUTYL PHTHALATE	5						
BN	DI-N-OCTYL PHTHALATE	5						
BN	DIBENZO(A,H)ANTHRACENE	5						
BN	DIETHYL PHTHALATE	5						
BN	DIMETHYL PHTHALATE	5						

**Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form**

This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

Notes:

- (1) Flow average for day pertains to WET/PP composite sample day.
- (2) Flow average for month is for month in which WET/PP sample was taken.
- (3) Analytical chemistry parameters must be done as part of the WET test chemistry.
- (4) Priority Pollutants should be reported in micrograms per liter (ug/L).
- (5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.
- (6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).
- (7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.
- (8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.
- (9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

Comments:

ATTACHMENT B

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS**

Facility Name _____ MEPDES Permit # _____
Pipe # _____

Facility Representative _____ Signature _____

By signing this form, I attest that to the best of my knowledge that the information provided is true, accurate, and complete.

Facility Telephone # _____ Date Collected _____ Date Tested _____
mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results	% effluent		Effluent Limitations
	mysisd shrimp	sea urchin	
A-NOEL			A-NOEL
C-NOEL			C-NOEL

Data summary	mysisd shrimp	sea urchin	Salinity Adjustment
	% survival	% fertilized	
QC standard	>90	>70	
lab control			brine
receiving water control			sea salt
conc. 1 (%)			other
conc. 2 (%)			
conc. 3 (%)			
conc. 4 (%)			
conc. 5 (%)			
conc. 6 (%)			
stat test used			

place * next to values statistically different from controls

Reference toxicant	mysisd shrimp	sea urchin
	A-NOEL	C-NOEL
toxicant / date		
limits (mg/L)		
results (mg/L)		

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

Report WET chemistry on DEP Form "ToxSheet (Marine Version), March 2007."

ATTACHMENT C

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____
 Pipe # _____

Purpose of this test: Initial limit determination
 Compliance monitoring for: year _____ calendar quarter _____
 Supplemental or extra test

SAMPLE COLLECTION INFORMATION

Sampling Date:

--	--	--

 Sampling time: _____ AM/PM
mm dd yy

Sampling Location: _____

Weather Conditions: _____

Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:

Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:

Suspended Solids _____ mg/L Sample type: _____ Grab (recommended) or
 _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

Date of analysis: _____ **Result:** ng/L (PPT)
Please Enter Effluent Limits for your facility

Effluent Limits: **Average** = _____ ng/L **Maximum** = _____ ng/L

Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.

CERTIFICATION

I certify that to the best of my knowledge the foregoing information is correct and representative of conditions at the time of sample collection. The sample for mercury was collected and analyzed using EPA Methods 1669 (clean sampling) and 1631 (trace level analysis) in accordance with instructions from the DEP.

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

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

FACT SHEET

December 23, 2009

PERMIT NUMBER: **ME0101231**
LICENSE NUMBER: **W002628-6C-F-R**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF BLUE HILL
Wastewater Treatment Facility
P.O. Box 412
Blue Hill, ME 04614**

COUNTY: Hancock

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Blue Hill Wastewater Treatment Facility
Water Street
Blue Hill, ME 04614

RECEIVING WATER/CLASSIFICATION: Blue Hill Harbor, Atlantic Ocean/Class SB

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: Annaleis Hafford, P.E.
Olver Associates, Inc.
(207) 223-2232
annaleis@olverassociatesinc.com

1. APPLICATION SUMMARY

The permittee has applied for renewal of combination Maine Waste Discharge License/MEPDES Permit # W002628-5L-D-R /ME0101231 ("permit," hereinafter) which was issued on December 7, 2004, and expired on December 7, 2009. The permit approved the discharge of a monthly average flow of 0.1 MGD of secondary treated sanitary wastewater from a municipal treatment facility to the Atlantic Ocean at Blue Hill Harbor, Maine.

2. PERMIT SUMMARY

a. Terms and conditions - This permitting action is similar to the 12/07/04 permitting action in that it is:

1. Carrying forward the monthly average flow limit of 0.1 MGD.
2. Carrying forward the daily maximum, monthly average and weekly average technology based mass and concentration limits for biochemical oxygen demand (BOD₅) and total suspended solids (TSS).
3. Carrying forward the seasonal monthly average and daily maximum technology based limits for fecal coliform bacteria.
4. Carrying forward the daily maximum and monthly average technology based concentration limits for total residual chlorine.
5. Carrying forward the requirements for the permittee to maintain an up-to-date Operation and Maintenance (O&M) Plan.
6. Carrying forward the requirement of achieving a minimum of 85% removal for BOD₅ and TSS.
7. Carrying forward the minimum monitoring requirement for mercury.
8. Carrying forward the requirement to maintain a Wet Weather Flow Management Plan.

This permitting action is different from the 12/7/04 permitting action in that it is:

9. Removing the WET testing requirement for the inland silverside (*Menidia beryllina*).
10. Revising the acute, chronic and harmonic mean dilution factors based on new information.
11. Revising the WET screening level monitoring frequency from 1/Quarter to 1/Year based on a revised chronic dilution factor.
12. Establishing an analytical chemistry screening level monitoring frequency of 1/Quarter.
13. Establishing a priority pollutant screening level monitoring frequency of 1/Year.
14. Waiving surveillance level WET and analytical chemistry monitoring pursuant to Department rule 06-096 CMR Chapter 530.
15. Revising the pH monitoring frequency from 1/Day to 5/Week based on Department guidance.

2. PERMIT SUMMARY

- b. History - The most recent licensing/permitting actions for the Town of Blue Hill (BLH) include the following:

March 21, 1984 – The Department issued WDL #2628 to the BLH for the monthly average discharge of up to 0.070 MGD of treated sanitary wastewater to Blue Hill Harbor. WDL #2628 was issued for a five-year term.

April 24, 1986 – The USEPA issued NPDES permit #ME0101231 to the BLH for the discharge of up to 0.07 MGD of secondary treated sanitary wastewater to Blue Hill Harbor (Atlantic Ocean) in Blue Hill, Maine. This permitting action superseded the previous NPDES permit issued on April 12, 1979.

April 28, 1988 – The Department and the BLH finalized an Administrative Consent Agreement and Enforcement Order with stipulated monetary penalties for chronic violations of the limitations established for BOD₅, TSS, settleable solids, fecal coliform bacteria and TRC in WDL #2628.

March 21, 1991 – The USEPA notified the BLH in writing that the application submitted to the USEPA by the BLH on December 11, 1990 to renew NPDES permit #ME0101231 was deemed complete for processing. The USEPA has not acted on the application as of the date of this permitting action.

June 21, 1990 – The Department issued WDL #W002628-5L-A-R to the BLH for the monthly average discharge of up to 0.07 MGD of treated sanitary wastewater to Blue Hill Harbor in Blue Hill, Maine.

January 27, 1995 – The Department modified WDL #W002628-5L-A-R by issuing a letter to the BLH in which TRC and fecal coliform bacteria limits and monitoring requirements were suspended between October 1 and May 9 of each year.

February 15, 1995 – The Department issued a letter to the BLH advising that the facility qualified for an exemption under the revised toxics rule (Chapter 530.5, *Surface Waters Toxics Control Program*) and that the BLH was not required to perform toxics testing at that time.

November 16, 1999 – The Department issued WDL #W002628-5L-B-R to the BLH for the discharge of up to 0.07 MGD of secondary treated sanitary wastewater to Blue Hill Bay. This licensing action superseded previous WDL #W002628-5L-A-R issued on June 21, 1990 and WDL #2628 issued on March 21, 1984.

2. PERMIT SUMMARY (cont'd)

May 12, 2000 – The Department issued WDL modification #W002628-5L-C-M in order to increase the monthly average discharge flow limitation from 0.07 MGD to 0.1 MGD; to revise the BOD₅ and TSS mass limits (based on the increased flow limit) established in the 11/16/99 WDL; to establish a schedule of compliance for the installation of an effluent dechlorination system; and to upgrade the operator certification from Grade II to Grade III.

May 23, 2000 – The Department administratively modified WDL #W002628-5L-B-R and administrative modification #W002628-5L-C-M by establishing interim monthly average and daily maximum concentration limits of 13.5 parts per trillion (ppt) and 20.3 ppt, respectively, 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 requirements have been subject to numerous modifications in recent years. 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.

October 18, 2002 – The Department issued an administrative modification of WDL #W002628-5L-B-R in order to reduce the fecal coliform monitoring frequency from three times per week to once per week.

October 25, 2002 – The Department modified the BLH's monthly discharge monitoring report (DMR) such that the daily maximum TRC limit appears as 0.05 mg/L, which is equivalent to the USEPA's minimum level of detection for total residual chlorine. The daily maximum water quality-based numeric limit of 0.03 mg/L established in WDL #W002628-5L-B-R, however, was not modified.

December 7, 2004 – The Department issued WDL/MEPDES Permit #W002628-5L-C-R/ME0101321 for a 5-year term.

August 5, 2009 – The permittee submitted a complete and timely application for renewal of WDL #W002628-5L-D-R. The application was accepted for processing on August 6, 2009 and was assigned WDL#W002628-6C-F-R.

August 28, 2009 – The Department received the permittee's Toxicity Reduction Evaluation that addressed total copper and total arsenic water quality compliance issues.

- c. Source Description – The Town of Blue Hill operates a municipal extended aeration biological wastewater treatment facility which was constructed in 1975 and is located on Water Street in Blue Hill, Maine. The Town currently has approximately 200 connected users in the Blue Hill Village area, including the Blue Hill Hospital and laundry which contribute an estimated 18,000 gallons per day of wastewater to the collection system. There are no industrial users, the facility is not required to implement a formal pretreatment program, and the facility is not authorized to receive septage waste. The collection system is 100% separated, is approximately four miles in length and utilizes two pump stations to convey flows to the treatment facility. There are no combined sewer overflow points associated with the collection system.

2. PERMIT SUMMARY (cont'd)

- d. Wastewater Treatment – The permittee provides a secondary level of treatment via an extended aeration activated sludge process which was most recently upgraded in calendar years 1996 and 1999. In addition, a new laboratory was constructed in 2002. Influent flows through an outdoor headworks and grinder (or through a manually-cleaned bypass bar screen if necessary) and then to a 3,000-gallon anoxic selector basin which controls the growth of filamentous bacteria through the mixing of raw influent with return activated sludge. From the selector, the flow is equally distributed into two 35,000-gallon aeration basins fitted with coarse bubble diffusers. The flow continues to two 12-foot-diameter, 7,600-gallon circular secondary clarifiers, which were upgraded during the 1999 improvements. A 3 HP waste sludge pump is used to convey excess activated sludge to a 100,000-gallon capacity aerobic digester fitted with coarse bubble diffusers. The digester is decanted to a 2,400-gallon capacity decant tank and emptied in the spring and fall of each year. The digester biosolids are applied to approved disposal sites in Blue Hill. Treated effluent is conveyed from the clarifiers to a 10,000-gallon capacity chlorine contact chamber for disinfection using sodium hypochlorite and dechlorination using sodium bisulfite.

Final effluent is conveyed to Blue Hill Harbor via an 8-inch diameter outfall pipe that extends into the harbor approximately 2,200 feet. The outfall pipe contains a single terminal outlet port and is not fitted with diffuser ports or other mechanisms designed to enhance mixing with the receiving water. The outfall pipe has structural damage and the permittee has received funding to repair the damage.

Based on new information provided by the Department, the outfall pipe is covered by approximately 6 feet, rather than 3 feet, of water during mean low water. Further, the Department has revised the permittee's acute, chronic and harmonic mean dilution factors. These dilution factors are significantly different from the previous permitting action and are described in Section 6 of this Fact Sheet.

A process flow schematic is included as Fact Sheet **Attachment A**.

3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 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., Section 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005), require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (Effective October 9, 2005) and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A., Section 469 classifies the Atlantic Ocean at the point of discharge as a Class SB waterway. Maine law, 38 M.R.S.A., Section 465-B(2) describes the standards for Class SB waters.

5. RECEIVING WATER QUALITY CONDITIONS

A document entitled, *The State of Maine, Department of Environmental Protection 2008 Integrated Water Quality Monitoring and Assessment Report*, published by the Department, designates Blue Hill Harbor and vicinity (Waterbody ID #707-1A) as “*Category 2: Estuarine and Marine Waters Attaining Some Designated Uses, Insufficient Information for Other Uses.*” Attainment in this context is in regard to the designated use of harvesting of shellfish. Currently, the Maine Department of Marine Resources (MeDMR) lists Area #39 (Blue Hill Harbor, McHeard and Curtis Coves and Blue Hill Salt Pond) as conditionally approved for the harvesting of shellfish based on the operation of the Blue Hill Wastewater Treatment Facility.

Compliance with the fecal coliform bacteria limits in this permitting action ensures that the discharge from the facility will not cause or contribute to the shellfish harvesting closure. See **Attachment B** of this fact sheet for a map of the MeDMR closure area. In addition, all estuarine and marine waters are listed in Category 5-D, “Estuarine and Marine Waters Impaired by Legacy Pollutants.” The Category 5-D waters partially support fishing (“shellfish consumption”) due to elevated levels of PCB’s and other persistent, bioaccumulating substances in lobster tomalley. The Department is not aware of any information that indicates the permittee is discharging persistent or bioaccumulating substances that cause or contribute to the non-attainment.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Dilution Factors – 06-096 CMR 530§D(3)(b) 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 or CORMIX.

The Department recently conducted a review of the permittee’s outfall pipe location which resulted in a revision of the permittee’s dilution factors. Based on the location and configuration of the outfall pipe, the Department has determined that the dilution factors associated with the discharge from the permittee are as follows:

Acute = 40.2:1

Chronic = 418.5:1

Harmonic mean ⁽¹⁾ = 1255.5:1

Footnote:

- (1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication “*Technical Support Document for*

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

Water Quality-Based Toxics Control" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

- b. Flow – The monthly average flow limitation of 0.1 MGD in the previous permitting action is being carried forward in this permitting action and is representative of the monthly average design flow for the wastewater treatment facility.

A review of the monthly DMR data for the period November 2005 – November 2009 indicates the following:

Flow

Value	Limit (MGD)	Range (MGD)	Average (MGD)	No. of DMR's
Monthly Average	0.10	0.04 – 0.07	0.06	45

- c. BOD5 & TSS: This permitting action is carrying forward the monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L, respectively, which were based on Department rule, 06-096 CMR 525(3)(III). The daily maximum BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of BPT and are being carried forward in this permitting action.

A review of the monthly DMR data for the period November 2005 – November 2009 indicates the following:

BOD mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	No. of DMR's
Monthly Average	25	3 – 12	6	44
Daily Maximum	42	3 – 18	8	44

BOD concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	No. of DMR's
Monthly Average	30	6 – 21	11	44
Daily Maximum	50	7 – 40	15	44

TSS mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	No. of DMR's
Monthly Average	25	2 – 12	5	45
Daily Maximum	42	2 – 19	7	45

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

TSS concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	No. of DMR's
Monthly Average	30	5 – 25	11	45
Daily Maximum	50	7 – 40	15	45

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

Monitoring frequencies for BOD5 and TSS of 1/Week are being carried forward from the previous permitting action and are based on Department guidance for facilities discharging between 0.1 – 0.5 MGD.

- d. Settleable Solids – This permitting action is carrying forward the settleable solids minimum monitoring frequency of 1/Day based on Department BPJ. A review of the monthly DMR data for the period of November 2005 – November 2009 (#DMR's = 45) indicates the permittee discharged between <0.1 mL/L and 41 mL/L of settleable solids with an average daily maximum of 1.0 mL/L.
- e. Fecal Coliform Bacteria – This permitting action is carrying forward the monthly average and daily maximum fecal coliform limits of 15 colonies/100 mL and 50 colonies/100 mL, respectively. The limitations are based on the Water Classification Program criteria for Class SB waterways and are consistent with the National Shellfish Sanitation Program. The testing frequency of 1/week is based on Department guidance for facilities discharging between 0.1 and 0.5 MGD. The seasonal fecal coliform bacteria effluent limits and monitoring requirements are being carried forward in this permitting action.

A review of the monthly DMR data for the period November 2005 – November 2009 indicates the following:

Fecal coliform bacteria

Value	Limit (#col/100 mL)	Range (#col/100 mL)	Mean (#col/100 mL)	No. of DMR's
Monthly Average	15	<2 – 10	4	17
Daily Maximum	50	4 – 30	12	17

Results reported as “less than” were considered present at the detection limit for calculation purposes.

- f. Total Residual Chlorine – Limits on total residual chlorine (TRC) are specified to ensure that ambient water quality standards are maintained and that best practicable treatment (BPT) technology is being applied to the discharge. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits.

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

With a permitted flow of 0.1 MGD, water quality based thresholds for TRC may be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	0.013 mg/L	0.0075 mg/L	40:1	418:1	0.52 mg/L	3.1 mg/L

Example calculation, Acute: $(0.013 \text{ mg/L})(40) = 0.52 \text{ mg/L}$

The Department has established a daily maximum best practicable treatment (BPT) limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine based compounds unless the calculated acute water quality based threshold is lower than 1.0 mg/L. For facilities that need to dechlorinate the discharge (the calculated acute limit is less than 1.0 mg/L) to meet water quality based thresholds, the Department has established daily maximum and monthly average best practicable treatment limits of 0.3 mg/L and 0.1 mg/L, respectively. Because the permittee needs to dechlorinate the discharge in order to meet the calculated water quality thresholds, this permitting action is carrying forward the more stringent daily maximum and monthly average technology-based TRC limitations of 0.3 mg/L and 0.1 mg/L, respectively.

This permitting action is carrying forward the 1/Day TRC monitoring frequency from the previous permitting action based on Department guidance for facilities discharging between 0.10 to 0.5 MGD.

A review of the monthly DMR data for the period November 2005 – November 2009 indicates the following:

Total Residual Chlorine

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	No. of DMR's
Daily Maximum	0.3	0.02 – 1.24	0.1	15
Monthly Average	0.1	0.004 – 0.06	0.02	16

- g. pH – This permitting action is carrying forward the pH range limit of 6.0 –9.0 standard units (SU) pursuant to 06-096 CMR 525(3)(III)(c). The limits are considered BPT. A review of the DMR data for the period August 2005 – August 2009 (number of DMR's=44) indicates the daily maximum pH range was 6.6 – 7.9 SU. Based on the permittee's excellent compliance record, this permitting action is revising the pH monitoring frequency from 1/Day to 5/Week.
- h. Whole Effluent Toxicity (WET) and Chemical Specific Testing – Maine law, 38 M.R.S.A., Sections 414-A and 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.

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

Surface Water Toxics Control Program, 06-096 CMR 530 (effective October 9, 2005) and *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005) set 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, are included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

06-096 CMR 530 establishes four categories of testing requirements based predominately on the chronic dilution factor. The categories are as follows:

- 1) Level I – chronic dilution factor of $<20:1$.
- 2) Level II – chronic dilution factor of $\geq 20:1$ but $<100:1$.
- 3) Level III – chronic dilution factor $\geq 100:1$ but $<500:1$ or $>500:1$ and $Q \geq 1.0$ MGD
- 4) Level IV – chronic dilution $>500:1$ and $Q \leq 1.0$ MGD

06-096 CMR 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee falls into the Level III frequency category as the facility has a chronic dilution factor of greater than or equal to 100:1 but less than 500:1.

A review of the permittee's data on 11/12/09 indicates that they have fulfilled the 06-096 CMR 530 testing requirements to-date. See **Attachment C** of this Fact Sheet for a summary of the WET test results and **Attachment D** of this Fact Sheet for a summary of the chemical-specific test dates.

WET Evaluation

On November 12, 2009, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department in accordance with the statistical approach in Chapter 530. It is noted the inland silverside is no longer listed as a test species in Chapter 530 and any test results within the 60-month evaluation period for said species are not considered in statistical evaluations in this permitting action.

06-096 CMR 530(2)(D)(3)(b) states, in part, “*Dischargers in Levels III and IV may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*”

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

Based on the results of the 11/12/09 statistical evaluation, the permittee qualifies for the 06-096 CMR 530(2)(D)(3)(b) surveillance level testing waiver for the mysid shrimp and sea urchin.

06-096 CMR 530 (2)(D)(1) specifies that screening level testing is to be established as follows:

Screening level testing – Beginning 12 months prior to expiration of the this permit or in the fifth year since the last screening test, whichever is sooner:

Level	WET Testing
III	1 per year for sea urchin 1 per year for mysid shrimp

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.”*

Special Condition K, 06-096 CMR 530 §(2)(D)(4) *Statement For Reduced/Waived Toxics Testing*, of this permitting action requires the permittee to file an annual certification with the Department.

Analytical chemistry & priority pollutant evaluation

On 11/05/09 the Department conducted a statistical evaluation on the most recent 60 months of analytical chemistry and priority pollutant test results on file with the Department in accordance with the statistical approach outlined in 06-096 CMR 530. The Department used the permittee’s revised acute, chronic and harmonic mean dilution factors for the statistical evaluations. Based on the 11/05/09 statistical evaluation and the additional arsenic data submitted in the permittee’s 2009 Toxicity Reduction Evaluation, the Department has determined the discharge does not exceed or demonstrate a reasonable potential to exceed the critical AWQC for any of the tested parameters. See **Attachment E** of this Fact Sheet for a summary of the priority pollutant test results.

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

Monitoring frequencies for priority pollutant and analytical chemistry testing established in this permitting action are based on Department rule 06-096 CMR 530. 06-096 CMR 530(2)(D)(3)(b) states in part, “Dischargers in Levels III and IV may be waived from conducting surveillance testing for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).”

Based on the results of the 11/05/09 statistical evaluation, the permittee qualifies for the testing reduction. Therefore, the surveillance monitoring frequency for the first four years of this permitting action is as follows:

Surveillance-level testing: Beginning upon permit issuance and lasting through 12 months prior to permit expiration:

Level	Priority pollutant testing	Analytical chemistry
III	Not required	Not required

06-096 CMR 530(2)(D)(1) specifies that screening testing is to be established as follows:

Screening-level testing: Beginning 12 months prior to expiration of the this permit or in the fifth year since the last screening test, whichever is sooner:

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

As with WET testing, Special Condition K, 06-096 CMR 530 §(2)(D)(4) *Statement For Reduced/Waived Toxics Testing*, of this permitting action requires the permittee to file an annual certification with the Department.

- i. Mercury –May 23, 2000 – Pursuant to *Certain deposits and discharges prohibited*, Maine law, 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 #W002676-5L-C-R by establishing interim monthly average and daily maximum effluent concentration limits of 13.5 parts per trillion (ppt) and 20.3 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. The previous permitting action revised the minimum monitoring frequency from 2/Year to 1/Quarter based on Chapter 519(7)(A) criteria. This permitting action is carrying forward the 1/Quarter minimum monitoring frequency from the previous permitting action. 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

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

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.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with interim discharge limits established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the period May 2004 through the present indicates mercury test results reported have ranged from 2.1 ppt to 21 ppt with an arithmetic mean (# DMR's = 17) of 6.1 ppt.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Blue Hill Weekly Packet* newspaper on or about August 5, 2009. The Department receives public comments on an application until the date a final agency action is taken on that 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 Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

Phyllis Rand
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Tel: (207) 287-7658 Fax: (207) 287-3435
e-mail: phyllis.a.rand@maine.gov

10. RESPONSE TO COMMENTS

During the period of November 20, 2009 through the issuance date of the permit/license, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to the Town of Blue Hill for the proposed discharge. The Department received comments on the draft permit from the Town of Blue Hill (permittee) in a letter to the Department dated December 18, 2009. The comments and Department responses are as follows:

Comment #1 (Draft Permit page 5 of 16): *The proposed permit has increased the daily maximum chlorine residual limitation from 0.03 ppm to 0.30 ppm and maintained the monthly average chlorine residual limitation to [of] 0.10 ppm. The plant's dilution factors have been increased which is why the DEP has changed the daily maximum limit in the proposed permit. However, the DEP is not providing the Town with the actual limits calculated with the new dilution factors. The DEP has indicated on other recent permitting actions, that this is due to the Department's Best Practicable Treatment (BPT) Guidance for facilities where the calculated acute water quality standard is less than 0.80 ppm. In Blue Hill, the calculated acute standard was 0.52 ppm with the revised dilution factors. While we understand that in most cases, the limits can be met, it is not true that they can be met at all times. These limits are difficult to meet and require operational diligence. We are requesting a copy of the DEP's guidance so we can review it prior to the closing of the comment period.*

Response #1: The total residual chlorine calculations were included on page 9 of 16 in the permittee's draft Fact Sheet.

The permittee maintains that they would find it difficult to meet the proposed daily maximum total residual chlorine limit; however, the permittee was in compliance with the daily maximum limit of 0.03 ppm (which is 10 times lower than the proposed limit) 93% of the time over the past five years and they were in compliance with their monthly average limit of 0.1 ppm 93% of the time over the past five years.

The Department's BPJ of BPT for total residual chlorine is a long-standing policy that the Department has utilized for the past 20 years. The permittee is welcome to submit a request to the Division Director for reconsideration of this policy.

Comment #2: *This comment addresses the requirement to test arsenic on a quarterly basis which is required on page 6 of 16 of the permit. The Town has recently completed twenty tests for total arsenic and submitted this data to the DEP. This data was submitted along with the August 27, 2009 Toxicity Reduction Evaluation completed for both copper and arsenic. Blue Hill has already created an extensive data base for arsenic and, with the higher dilution for the effluent provided by the new permit, these values are far below the DEP's total arsenic threshold of 0.04 lbs/day and even the future proposed final effluent standard for inorganic arsenic based on a discharge concentration of 26 ppb. We are requesting that the DEP reduce the required testing to annually which would be completed along with the priority pollutant testing that is already required.*

10. RESPONSE TO COMMENTS (cont'd)

Response #2: The Department did not include the TRE data in the 60-month statistical evaluation of the permittee's effluent results. Upon review of the additional arsenic data submitted in the permittee's TRE, the Department has determined the permittee no longer has a reasonable potential to exceed the AWQC for arsenic. The permittee is not required to test arsenic on a quarterly basis as was stipulated in the draft permit.

Comment #3: *Page 1 of 16 of the Fact Sheet has the incorrect zip codes for the Town of Blue Hill. Please correct both zip codes to 04614.*

Response #3: This has been corrected.

Comment #4: *Page 6 of 16 of the Fact Sheet (Receiving Water Quality Conditions) provides that the area surrounding the discharge of the facility is conditionally approved for the harvesting of shellfish. What this means is that if a malfunction occurs at the treatment plant, the area would be closed to shellfish harvesting. The area has only been closed to shellfish harvesting once over the last permit term due to an excessive rainfall event which caused local flooding. The first paragraph seems to imply that the treatment plant is presently causing an issue for the listed area. Additionally, the listing description has been updated to #39 Parts B and C instead of #39J. Please revise the last sentence of the paragraph as follows: "Currently the Maine Department of Marine Resources (MeDMR) lists Area #39 Parts B and C (Blue Hill Harbor, McHeard and Curtis Coves and Blue Hill Salt Pond) as conditionally approved or restricted which means that the area is open but requires a special M[e]DMR permit prior to harvesting. This is required only because of the proximity of the treatment plant's outfall to the location of each harvesting area."*

Response #4: The Department will update the referenced MeDMR area as Area #39.

The MeDMR states on the Shellfish Harvesting Map (Attachment B of the Fact Sheet) that Area #39 is conditionally approved or conditionally restricted, "...based on the **operation** (bold added for emphasis) of the Blue Hill WWTP..." The MeDMR language clearly indicates approval of shellfish harvesting in the delineated areas is based on the operation of the Blue Hill WWTF rather than solely on the location of the Blue Hill WWTF, as is being suggested by the permittee.

Comment #4, continued: *Additionally, the end of the second paragraph discusses Legacy Pollutants. Since the Blue Hill facility is not discharging levels of PCB's or Dioxins, this should be removed from the permit. If the DEP will not remove this reference from the permit, please add the following sentence: "The Department is not aware of any information that indicates the permittee is discharging persistent or bioaccumulating substances that cause o[r] contribute to the non-attainment."*

Response #4, continued: As is stated in the Fact Sheet, "...**all** (bold added for emphasis) estuarine and marine waters are listed in Category 5-D, "Estuarine and Marine Waters Impaired by Legacy Pollutants." However, the Department agrees with the suggested sentence for this paragraph and it will be added to Section 5 of the Fact Sheet.

10. RESPONSE TO COMMENTS (cont'd)

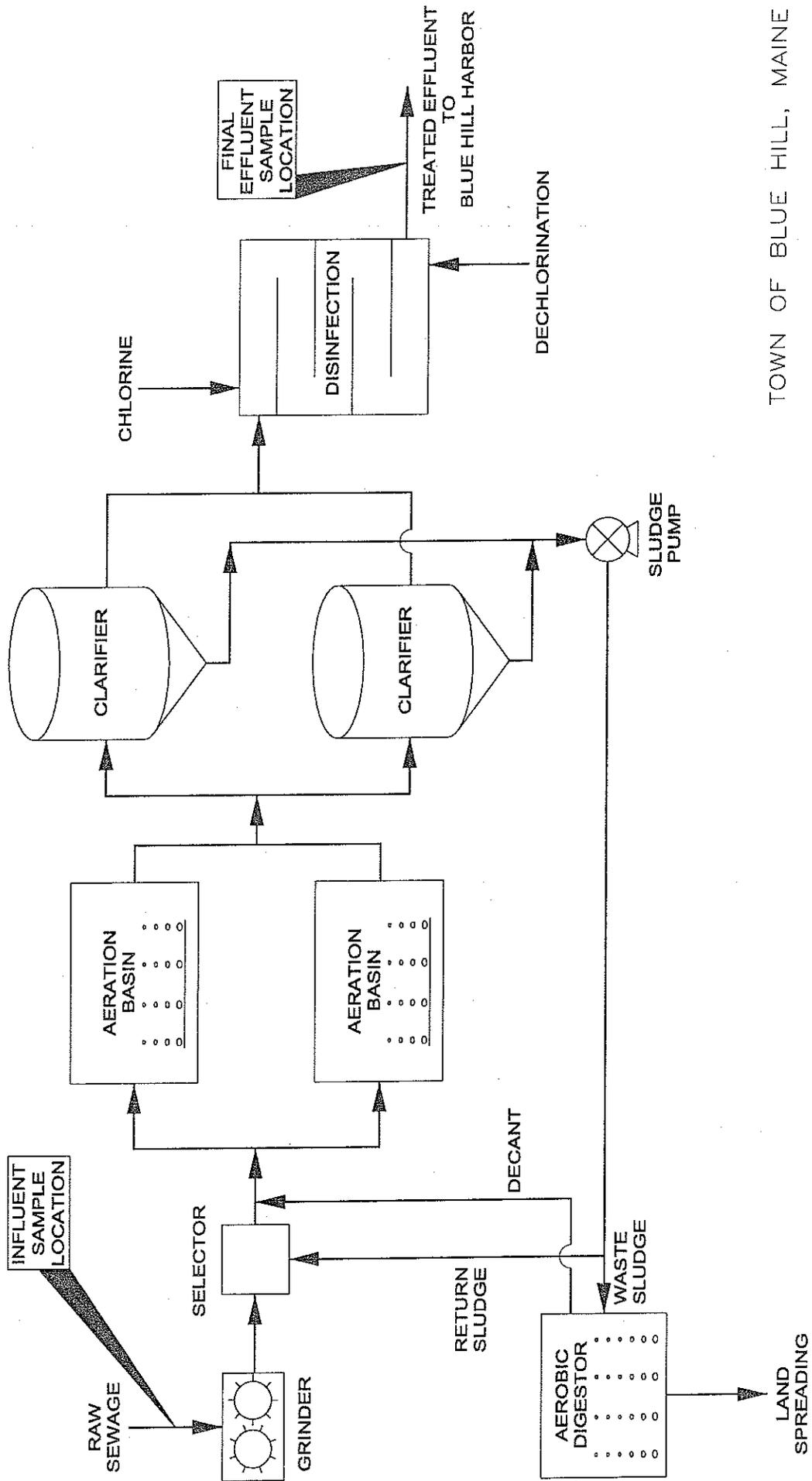
Comment #5: *Page 8 of 16, (d) of the Fact Sheet indicates that the monitoring frequency for settleable solids is once each week. The Effluent Limitations and Monitoring Requirements (page 5 of 16) of the permit requires daily testing. Please correct the Fact Sheet for consistency.*

Response #5: This error has been corrected in the Fact Sheet.

Comment #6: *Page 11 of 16, Section 6 (Analytical Chemistry and Priority Pollutant Evaluation) indicates that Blue Hill has to complete four tests to be able to statistically determine compliance with arsenic, thus requiring the quarterly testing in the permit. As mentioned above, the Town submitted a TRE for arsenic and copper which provided twenty test results which show that the levels are far below the proposed levels in this permit. This section should be revised to indicate that the TRE was completed and that the corrected dilution factors proposed in the permit will be sufficient for compliance with both the DEP's interim total arsenic threshold of 0.04 lbs/day and the future proposed final effluent standard for inorganic arsenic of 0.02 lbs/day which was based on an allowable discharge concentration of 26 ppb. The completion and submission of the TRE should be acknowledged on the Permit Summary section of the Fact Sheet located on page 4 of 16.*

Response #6: The Department has included in the Permit Summary of the Fact Sheet that the TRE was received by the Department. As stated in Response #2 above, the Department did not include the permittee's TRE data in the 60-month statistical evaluation of the permittee's effluent results. Upon review of the additional arsenic data submitted in the TRE, the Department has determined the permittee no longer has a reasonable potential to exceed the AWQC for arsenic. The permittee is not required to test arsenic on a quarterly basis as was stipulated in the draft permit.

ATTACHMENT A



TOWN OF BLUE HILL, MAINE

TREATMENT PROCESS SCHEMATIC

FIGURE 1

ATTACHMENT B

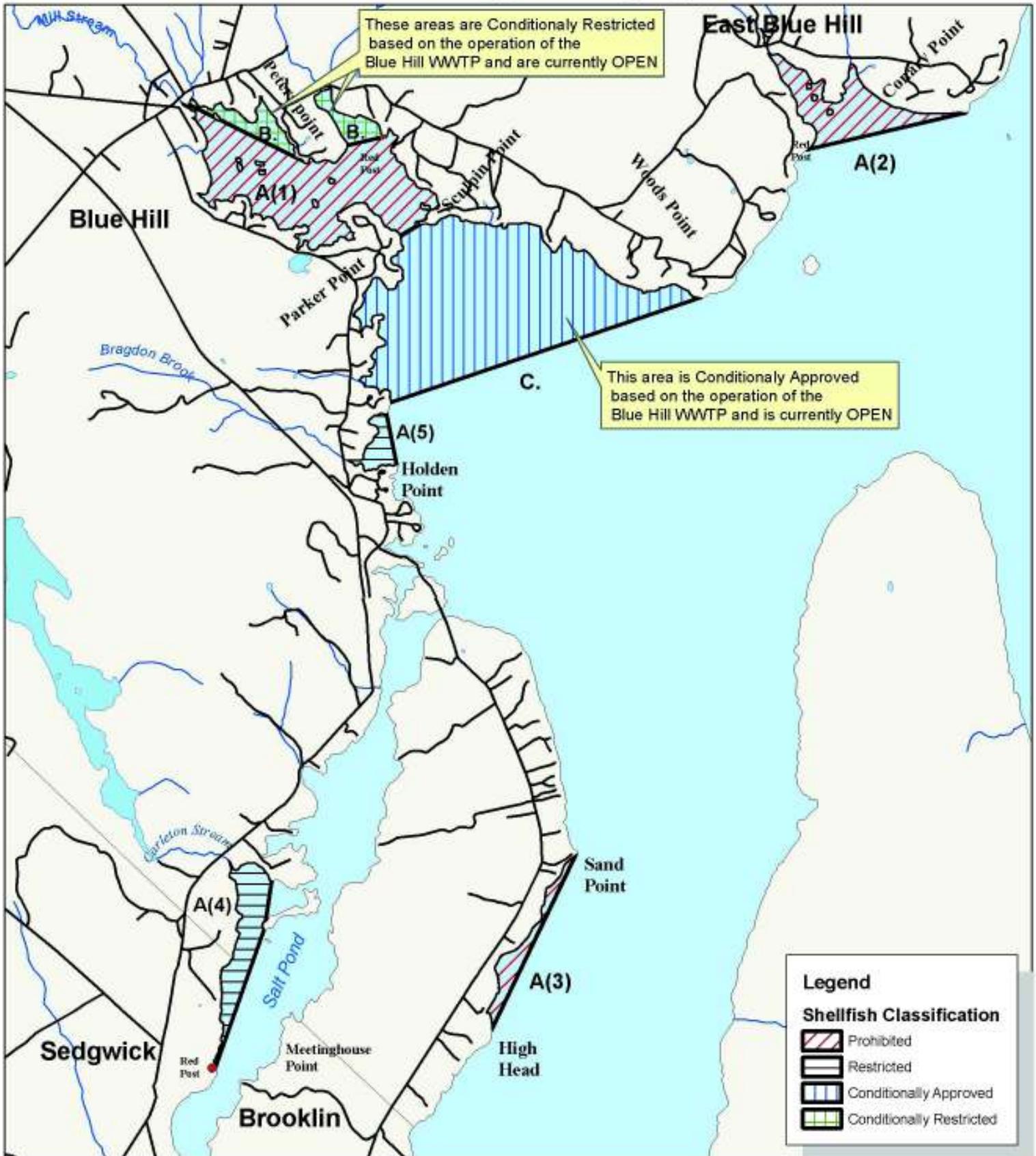


Maine Department of Marine Resources

Area No. 39



Blue Hill Harbor (Blue Hill), McHeard and Curtis Coves (East Blue Hill)
and Blue Hill Salt Pond, (Blue Hill-Sedgwick) 8/22/08



Legend

Shellfish Classification

- Prohibited
- Restricted
- Conditionally Approved
- Conditionally Restricted



ATTACHMENT C

Species	Test	Test Result %	Sample Date
MYSID SHRIMP	A_NOEL	48.2	11/07/2005
MYSID SHRIMP	LC50	71.0	11/07/2005
SEA URCHIN	C_NOEL	100	11/07/2005
MYSID SHRIMP	A_NOEL	>100	01/22/2007
SEA URCHIN	C_NOEL	100	01/22/2007
MYSID SHRIMP	A_NOEL	>100	08/11/2008
SEA URCHIN	C_NOEL	100	08/11/2008
MYSID SHRIMP	A_NOEL	>100	04/13/2009
SEA URCHIN	C_NOEL	18	04/13/2009
MYSID SHRIMP	A_NOEL	>100	07/27/2009
SEA URCHIN	C_NOEL	6.80	07/27/2009

ATTACHMENT D

Sample Date: 04/13/2009

Plant flows provided

Total Tests:	129	mon. (MGD) = 0.638
Missing Compounds:	1	day (MGD) = 0.564
Tests With High DL:	0	
M = 0	V = 0	A = 0
BN = 0	P = 0	other = 0

ATTACHMENT E

PP Data for "Hits" Only

BLUE HILL

BLUE HILL HARBOR

ARSENIC

MDL = 5 ug/l

Conc, ug/l	MDL	Sample Date	Date Entered
1.000000	OK	01/22/2007	05/07/2007
7.000000	OK	04/13/2009	10/30/2009
9.000000	OK	11/07/2005	04/12/2006
10.000000	OK	07/27/2009	10/15/2009
11.000000	OK	01/12/2009	06/29/2009
15.000000	OK	08/11/2008	12/10/2008

OLVER ASSOCIATES INC.

Mr. John Bannister, Selectman
August 27, 2009
Page 16

When the above limits are placed in the Town's permit, exceedence of these standards will be considered a violation of the discharge license. The total arsenic limitation of 1.9 ppb will be in effect upon permit issuance based on the Town's proposed draft permit. The inorganic arsenic limitation is proposed at 0.94 ppb or 0.00078 lb/day to be effective when EPA approves the inorganic test method for arsenic. Currently, EPA is evaluating the test procedure to ensure that it is accurate for use for compliance purposes. The timing of the test procedure approval process is variable and we do not have a good estimate as to when this will occur. At that time, the limit will be reduced from 1.9 ppb to 0.94 ppb.

To evaluate compliance with the proposed arsenic permit limits, effluent data was collected between 2006 and 2008 to develop a database of twenty tests. These results are compared to the proposed monthly average limitations for arsenic in Table 7:

TABLE 7: BLUE HILL TOTAL ARSENIC VERSUS PROPOSED STANDARD

YEAR	TEST DATE	Blue Hill TOTAL ARSENIC, ppb	Proposed Limit TOTAL ARSENIC, ppb
2005	11/7/2005	9	1.9
2006	2/21/2006	10	1.9
	6/13/2006	4	1.9
2006 Average		7	1.9
2007	1/24/2007	1	1.9
	7/6/2007	3	1.9
	8/14/2007	11	1.9
	9/25/2007	2	1.9
	11/26/2007	14	1.9
	12/19/2007	5	1.9
2007 Average		6.0	1.9
2008	1/29/2008	10	1.9
	2/28/2008	3	1.9
	3/24/2008	4	1.9
	4/30/2008	6	1.9
	5/28/2008	13	1.9
	6/26/2008	2	1.9
	7/30/2008	1	1.9
	8/27/2008	13	1.9
	9/18/2008	10	1.9
	10/23/2008	6	1.9
	11/24/2008	14	1.9
2008 Average		7.0	1.9

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

CONTENTS

SECTION	TOPIC	PAGE
A	GENERAL PROVISIONS	
1	General compliance	2
2	Other materials	2
3	Duty to Comply	2
4	Duty to provide information	2
5	Permit actions	2
6	Reopener clause	2
7	Oil and hazardous substances	2
8	Property rights	3
9	Confidentiality	3
10	Duty to reapply	3
11	Other laws	3
12	Inspection and entry	3
B	OPERATION AND MAINTENANCE OF FACILITIES	
1	General facility requirements	3
2	Proper operation and maintenance	4
3	Need to halt reduce not a defense	4
4	Duty to mitigate	4
5	Bypasses	4
6	Upsets	5
C	MONITORING AND RECORDS	
1	General requirements	6
2	Representative sampling	6
3	Monitoring and records	6
D	REPORTING REQUIREMENTS	
1	Reporting requirements	7
2	Signatory requirement	8
3	Availability of reports	8
4	Existing manufacturing, commercial, mining, and silvicultural dischargers	8
5	Publicly owned treatment works	9
E	OTHER PROVISIONS	
1	Emergency action - power failure	9
2	Spill prevention	10
3	Removed substances	10
4	Connection to municipal sewer	10
F	DEFINITIONS	10

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- 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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- (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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

- (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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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.
