

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Federal Clean Water Act as amended, (33 U.S.C. §§1251 et seq.; the "CWA"), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, §§26-53),

**Town of Rockport  
Department of Public Works**

is authorized to discharge from the facility located at

**Rockport Wastewater Treatment Plant  
Pleasant Street  
Rockport, MA 01966**

to receiving water named

**Sandy Bay (Atlantic Ocean)**

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on the first day of the calendar month immediately following 60 days after signature.

This permit and the authorization to discharge expire at midnight, five (5) years from last day of the month preceding the effective date.

This permit supersedes the permit issued on July 9, 2004.

This permit consists of 13 pages in Part I including effluent limitations and monitoring requirements, Part II including Standard Conditions and Definitions, and **Attachment A** (Toxicity Protocol) and **Attachment B** (Summary of Report Submittal).

Signed this 7<sup>th</sup> day of February, 2011

**/S/SIGNATURE ON FILE**

\_\_\_\_\_  
Stephen S. Perkins, Director  
Office of Ecosystem Protection  
Environmental Protection Agency  
Boston, MA

\_\_\_\_\_  
David Ferris, Director  
Massachusetts Wastewater  
Management Program  
Department of Environmental  
Protection  
Commonwealth of Massachusetts  
Boston, MA

PART I

A.1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge treated effluent from outfall serial number 001 to Sandy Bay. Such discharges shall be limited and monitored as specified below.

<u>EFFLUENT CHARACTERISTIC</u>	<u>EFFLUENT LIMITS</u>				<u>MONITORING REQUIREMENTS</u> <sup>3</sup>		
<u>PARAMETER</u>	<u>AVERAGE MONTHLY</u>	<u>AVERAGE WEEKLY</u>	<u>AVERAGE MONTHLY</u>	<u>AVERAGE WEEKLY</u>	<u>MAXIMUM DAILY</u>	<u>MEASUREMENT FREQUENCY</u>	<u>SAMPLE</u> <sup>3</sup> <u>TYPE</u>
FLOW <sup>2</sup>	*****	*****	0.8 MGD	*****	Report MGD	CONTINUOUS	RECORDER
FLOW <sup>2</sup>	*****	*****	Report MGD	*****	*****	CONTINUOUS	RECORDER
BOD <sub>5</sub> <sup>4</sup>	200 lbs/Day	300 lbs/Day	30 mg/l	45 mg/l	Report mg/l	1/WEEK	24-HOUR <sup>5</sup> COMPOSITE
TSS <sup>4</sup>	200 lbs/Day	300 lbs/Day	30 mg/l	45 mg/l	Report mg/l	1/WEEK	24-HOUR <sup>5</sup> COMPOSITE
pH RANGE <sup>1</sup>	6.5 - 8.5 SU (SEE PERMIT PAGE 5 OF 13, PARAGRAPH I.A.1.b.)					1/DAY	GRAB
TOTAL CHLORINE RESIDUAL <sup>1,7</sup>	*****	*****	0.26 mg/l	*****	0.46 mg/l	3/DAY	GRAB
ENTEROCOCCI <sup>1,6</sup>	*****	*****	35 cfu/100ml	*****	276 cfu/100ml	2/WEEK	GRAB
FECAL COLIFORM <sup>6</sup>	*****	*****	88 cfu/100 ml	*****	400 cfu/100 ml	2/WEEK	GRAB
WHOLE EFFLUENT TOXICITY <sup>8, 9, 10</sup>	Acute LC <sub>50</sub> ≥ 100%					2/YEAR	24-HOUR <sup>5</sup> COMPOSITE

Sampling for effluent parameters shall be conducted at “sample shed” prior to chlorination for BOD<sub>5</sub>, TSS and pH and at “manhole” near main gate for fecal coliform, enterococci, TRC and LC<sub>50</sub>.

## Footnotes:

1. Required for State Certification.
2. Report annual average, monthly average, and maximum daily flow. The limit is an annual average, which shall be reported as a rolling average. The value will be calculated as the arithmetic mean of the monthly average flow for the reporting month and the monthly average flows of the previous eleven months.
3. All required effluent samples shall be collected at the point specified on page 2. Any change in sampling location must be reviewed and approved in writing by EPA and MassDEP.

A routine sampling program shall be developed in which samples are taken at the same location, same time and same days of the week each month. Occasional deviations from the routine sampling program are allowed, but the reason for the deviation shall be documented in correspondence appended to the applicable discharge monitoring report.

All samples shall be tested using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA in accordance with the procedures in 40 CFR §136.

4. Sampling required for influent and effluent.
5. 24-hour composite samples will consist of at least twenty four (24) grab samples taken during one consecutive 24 hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportionally to flow.
6. Fecal coliform and Enterococci monitoring shall be conducted year round. The monthly average limits are expressed as geometric means. Enterococci samples shall be taken at the same time as a fecal coliform sample. **See Part I.E** for the compliance schedule for attaining the enterococci limits.

Fecal coliform discharges shall not exceed a monthly geometric mean of 88 colony forming units per 100 ml, nor shall they exceed 400 cfu per 100 ml as a daily maximum and no more than 10 percent of the fecal coliform samples in any calendar month shall exceed 260 organisms per 100 ml. The permittee shall report the percent of samples exceeding 260 organisms per 100 ml on its discharge monitoring report and submit the sample results with the discharge monitoring report.

7. Total residual chlorine monitoring is required whenever chlorine is added to the treatment process (i.e. TRC sampling is not required if chlorine is not added for disinfection or

other purpose). The limitations are in effect year-round.

The minimum level (ML) for total residual chlorine is defined as 20 ug/l. This value is the minimum level for chlorine using EPA approved methods found in the most currently approved version of Standard Methods for the Examination of Water and Wastewater, Method 4500 CL-E and G, or USEPA Manual of Methods of Analysis of Water and Wastes, Method 330.5. One of these methods must be used to determine total residual chlorine. Sample results of 20 ug/l or less shall be reported as zero on the discharge monitoring report.

Chlorination and dechlorination systems shall include an alarm system for indicating system interruptions or malfunctions. Any interruption or malfunction of the chlorine dosing system that may have resulted in levels of chlorine that were inadequate for achieving effective disinfection, or interruptions or malfunctions of the dechlorination system that may have resulted in excessive levels of chlorine in the final effluent shall be reported with the monthly DMRs. The report shall include the date and time of the interruption or malfunction, the nature of the problem, and the estimated amount of time that the reduced levels of chlorine or dechlorination chemicals occurred.

8. The permittee shall conduct definitive 48 hour acute toxicity tests two times per year. The permittee shall test the Inland Silverside (*Menidia beryllina*). Toxicity test samples shall be collected during the months of March and September. The test results shall be submitted by the last day of the month following the completion of the test. The results are due April 30<sup>th</sup> and October 31<sup>st</sup>, respectively. The tests must be performed in accordance with test procedures and protocols specified in **Attachment A** of this permit.

Test Dates	Submit Results By:	Test Species	Acute Limit LC <sub>50</sub>
March September	April 30 <sup>th</sup> October 31 <sup>st</sup>	Inland Silverside See Attachment A	≥ 100%

After submitting a **minimum** of **four** consecutive sets of WET test results, all of which demonstrate compliance with the WET permit limits, the permittee may request a reduction in the WET testing requirements. The permittee is required to continue testing at the frequency specified in the permit until notice is received by certified mail from the EPA that the WET testing requirement has been changed.

9. The LC<sub>50</sub> is the concentration of effluent which causes mortality to 50% of the test organisms. Therefore, a 100% limit means that a sample of 100% effluent (no dilution) shall cause no more than a 50% mortality rate.
10. If toxicity test(s) using receiving water as diluent show the receiving water to be toxic or unreliable, the permittee shall either follow procedures outlined in **Attachment A (Toxicity Test Procedure and Protocol) Section IV, DILUTION WATER** in order to obtain an individual approval for use of an alternate dilution water, or the permittee shall follow the Self-Implementing Alternative Dilution Water Guidance which may be used to obtain automatic approval of an alternate dilution water, including the appropriate species for use with that water. This guidance is found in Attachment G of NPDES Program Instructions for the Discharge Monitoring Report Forms (DMRs) which is sent to all permittees with their annual set of DMRs and may also be found on the EPA, Region I web site at <http://www.epa.gov/region1/enforcementandassistance/dmr2005.pdf>. If this guidance is revoked, the permittee shall revert to obtaining individual approval as outlined in **Attachment A**. Any modification or revocation to this guidance will be transmitted to the permittees as part of the annual DMR instruction package. However, at any time, the permittee may choose to contact EPA-New England directly using the approach outlined in **Attachment A**.

Part I.A.1. (Continued)

- a. The discharge shall not cause a violation of the water quality standards of the receiving water.
  - b. The pH of the effluent shall not be less than 6.5 or greater than 8.5 at any time, unless these values are exceeded as a result of an approved treatment process.
  - c. The discharge shall not cause objectionable discoloration of the receiving water.
  - d. The effluent shall not contain a visible oil sheen, foam, or floating solids at any time.
  - e. The permittee's treatment facility shall maintain a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand. The percent removal shall be based on monthly average values.
  - f. The permittee shall minimize the use of chlorine while maintaining adequate bacterial control.
  - g. The results of sampling for any parameter done in accordance with EPA approved methods above its required frequency must also be reported.
2. All POTWs must provide adequate notice to the Director of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger in a primary industry category discharging process water; and
- b. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- c. For purposes of this paragraph, adequate notice shall include information on:
  - (1) The quantity and quality of effluent introduced into the POTW; and
  - (2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

### 3. Prohibitions Concerning Interference and Pass Through:

- a. Pollutants introduced into POTW's by a non-domestic source (user) shall not pass through the POTW or interfere with the operation or performance of the works.

### 4. Toxics Control

- a. The permittee shall not discharge any pollutant or combination of pollutants in toxic amounts.
- b. Any toxic components of the effluent shall not result in any demonstrable harm to aquatic life or violate any state or federal water quality standard which has been or may be promulgated. Upon promulgation of any such standard, this permit may be revised or amended in accordance with such standards.

### 5. Numerical Effluent Limitations for Toxicants

EPA or MassDEP may use the results of the toxicity tests and chemical analyses conducted pursuant to this permit, as well as national water quality criteria developed pursuant to Section 304(a)(1) of the Clean Water Act (CWA), state water quality criteria, and any other appropriate information or data, to develop numerical effluent limitations for any pollutants, including but not limited to those pollutants listed in Appendix D of 40 CFR Part 122.

## **B. UNAUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from the outfall listed in Part I A.1. of this permit. Discharges of wastewater from any other point sources, including sanitary sewer overflows (SSOs), are not authorized by

this permit and shall be reported to EPA and MassDEP in accordance with § D.1.e. (1) of the General Requirements of this permit (Twenty-four hour reporting).

Notification of SSOs to MassDEP shall be made on its SSO Reporting Form (which includes DEP Regional Office telephone numbers). The reporting form and instruction for its completion may be found on-line at <http://www.mass.gov/dep/water/approvals/surffms.htm#sso>.

### C. OPERATION AND MAINTENANCE OF THE SEWER SYSTEM

Operation and maintenance of the sewer system shall be in compliance with the General Requirements of Part II and the following terms and conditions:

#### 1. Maintenance Staff

The permittee shall provide an adequate staff to carry out the operation, maintenance, repair, and testing functions required to ensure compliance with the terms and conditions of this permit.

#### 2. Preventative Maintenance Program

The permittee shall maintain an ongoing preventative maintenance program to prevent overflows and bypasses caused by malfunctions or failures of the sewer system infrastructure. The program shall include an inspection program designed to identify all potential and actual unauthorized discharges.

#### 3. Infiltration/Inflow Control Plan:

The permittee shall develop and implement a plan to control infiltration and inflow (I/I) to the separate sewer system. The plan shall be submitted to EPA and MassDEP **within six months of the effective date of this permit** (see page 1 of this permit for the effective date) and shall describe the permittee's program for preventing infiltration/inflow related effluent limit violations, and all unauthorized discharges of wastewater, including overflows and by-passes due to excessive infiltration/inflow.

The plan shall include:

- An ongoing program to identify and remove sources of infiltration and inflow. The program shall include the necessary funding level and the source(s) of funding.
- An inflow identification and control program that focuses on the disconnection and redirection of illegal sump pumps and roof down spouts. Priority should be given to removal of public and private inflow sources that are upstream from, and potentially contribute to, known areas of sewer system backups and/or overflows

- Identification and prioritization of areas that will provide increased aquifer recharge as the result of reduction/elimination of infiltration and inflow to the system.
- An educational public outreach program for all aspects of I/I control, particularly private inflow.

#### Reporting Requirements:

A summary report of all actions taken to minimize I/I during the previous calendar year shall be submitted to EPA and MassDEP annually, **by March 31**. The summary report shall, at a minimum, include:

- A map and a description of inspection and maintenance activities conducted and corrective actions taken during the previous year.
- Expenditures for any infiltration/inflow related maintenance activities and corrective actions taken during the previous year
- A map with areas identified for I/I-related investigation/action in the coming year.
- A calculation of the annual average I/I and the maximum month I/I for the reporting year.
- A report of any infiltration/inflow related corrective actions taken as a result of unauthorized discharges reported pursuant to 314 CMR 3.19(20) and reported pursuant to the Unauthorized Discharges section of this permit.

#### 4. Alternate Power Source

In order to maintain compliance with the terms and conditions of this permit, the permittee shall continue to provide an alternative power source with which to sufficiently operate its treatment works (as defined at 40 CFR §122.2).

#### D. SLUDGE CONDITIONS

1. The permittee shall comply with all existing federal and state laws and regulations that apply to sewage sludge use and disposal practices, including EPA regulations promulgated at 40 CFR Part 503, which prescribe "Standards for the Use or Disposal of Sewage Sludge" pursuant to Section 405(d) of the CWA, 33 U.S.C. § 1345(d).
2. If both state and federal requirements apply to the permittee's sludge use and/or disposal practices, the permittee shall comply with the more stringent of the applicable

requirements.

3. The requirements and technical standards of 40 CFR Part 503 apply to the following sludge use or disposal practices.
  - a. Land application - the use of sewage sludge to condition or fertilize the soil
  - b. Surface disposal - the placement of sewage sludge in a sludge only landfill
  - c. Sewage sludge incineration in a sludge only incinerator
4. The requirements of 40 CFR Part 503 do not apply to facilities which dispose of sludge in a municipal solid waste landfill. 40 CFR Part 503.4. These requirements also do not apply to facilities which do not use or dispose of sewage sludge during the life of the permit but rather treat the sludge (e.g. lagoons, reed beds), or are otherwise excluded under 40 CFR Part 503.6.
5. The 40 CFR Part 503 requirements including the following elements:
  - General requirements
  - Pollutant limitations
  - Operational Standards (pathogen reduction requirements and vector attraction reduction requirements)
  - Management practices
  - Record keeping
  - Monitoring
  - Reporting

Which of the 40 CFR Part 503 requirements apply to the permittee will depend upon the use or disposal practice followed and upon the quality of material produced by a facility. The EPA Region 1 Guidance document, "EPA Region 1 - NPDES Permit Sludge Compliance Guidance" (November 4, 1999), may be used by the permittee to assist it in determining the applicable requirements.<sup>1</sup>

---

<sup>1</sup> This guidance document is available upon request from EPA Region 1 and may also be found at: <http://www.epa.gov/region1/npdes/permits/generic/sludgeguidance.pdf>

6. The sludge shall be monitored for pollutant concentrations (all Part 503 methods), pathogen reduction and vector attraction reduction (land application and surface disposal) at the following frequency. This frequency is based upon the volume of sewage sludge generated at the facility in dry metric tons per year
- |                         |            |
|-------------------------|------------|
| less than 290           | 1/ year    |
| 290 to less than 1500   | 1 /quarter |
| 1500 to less than 15000 | 6 /year    |
| 15000 +                 | 1 /month   |

Sampling of the sewage sludge shall use the procedures detailed in 40 CFR Part 503.8.

7. Under 40 CFR Part 503.9(r), the permittee is a “person who prepares sewage sludge” because it “is ... the person who generates sewage sludge during the treatment of domestic sewage in a treatment works ....” If the permittee contracts with *another* “person who prepares sewage sludge” under 40 CFR Part 503.9(r) – i.e., with “a person who derives a material from sewage sludge” – for use or disposal of the sludge, then compliance with Part 503 requirements is the responsibility of the contractor engaged for that purpose. If the permittee does not engage a “person who prepares sewage sludge,” as defined in 40 CFR Part 503.9(r), for use or disposal, then the permittee remains responsible to ensure that the applicable requirements in 40 CFR Part 503 are met (40 CFR Part 503.7). If the ultimate use or disposal method is land application, the permittee is responsible for providing the person receiving the sludge with notice and necessary information to comply with the requirements of 40 CFR Part 503 Subpart B.
8. The permittee shall submit an annual report containing the information specified in the 40 CFR Part 503 requirements ((Part 503.18 (land application)), Part 503.28 (surface disposal), or Part 503.48 (incineration)) by **February 19** (*see also* “EPA Region 1 - NPDES Permit Sludge Compliance Guidance”). Reports shall be submitted to the address contained in the reporting section of the permit. If the permittee engages a contractor or contractors for sludge preparation and ultimate use or disposal, the annual report need contain only the following information:
- Name and address of contractor(s) responsible for sludge preparation, use or disposal
  - Quantity of sludge (in dry metric tons ) from the POTW that is transferred to the sludge contractor(s), and the method(s) by which the contractor will prepare and use or dispose of the sewage sludge.

## E. COMPLIANCE SCHEDULE

The permittee shall achieve compliance with the effluent limits for enterococci **within one year** of the effective date of the permit. During the interim period, the limits for enterococci will not be in effect, but sampling and reporting will be required at the frequency required in Part I.A.1.

## F. MONITORING AND REPORTING

1. **For a period of one year from the effective date of the permit**, the permittee may either submit monitoring data and other reports to EPA in hard copy form, or report electronically using NetDMR, a web-based tool that allows permittees to electronically submit discharge monitoring reports (DMRs) and other required reports via a secure internet connection. **Beginning no later than one year after the effective date of the permit**, the permittee shall begin reporting using NetDMR, unless the facility is able to demonstrate a reasonable basis that precludes the use of NetDMR for submitting all DMRs and reports. Specific requirements regarding submittal of data and reports in hard copy form and for submittal using NetDMR are described below:

- a. **Submittal of Reports Using NetDMR**

NetDMR is accessed from: <http://www.epa.gov/netdmr>. Within one year of the effective date of the Permit, the permittee shall begin submitting DMRs and reports required under this permit electronically to EPA using NetDMR, unless the facility is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes the use of NetDMR for submitting DMRs and reports ("opt out request").

DMRs shall be submitted electronically to EPA no later than the 15th day of the month following the completed reporting period. All reports required under the permit shall be submitted to EPA, including the MassDEP Monthly Operations and Maintenance Report, as an electronic attachment to the DMR. Once a permittee begins submitting reports using NetDMR, it will no longer be required to submit hard copies of DMRs or other reports to EPA and will no longer be required to submit hard copies of DMRs to MassDEP. However, permittees shall continue to send hard copies of reports other than DMRs (including Monthly Operation and Maintenance Reports) to MassDEP until further notice from MassDEP.

- b. **Submittal of NetDMR Opt Out Requests**

Opt out requests must be submitted in writing to EPA for written approval at least sixty (60) days prior to the date a facility would be required under the Permit to begin using NetDMR. This demonstration shall be valid for twelve (12) months from the date of EPA approval and shall thereupon expire. At such time, DMRs and reports shall be submitted electronically to EPA unless the permittee submits a renewed opt out request and such request is approved by EPA. All opt out requests should be sent to the following addresses:

**Attn: NetDMR Coordinator**

**U.S. Environmental Protection Agency, Water Technical Unit  
5 Post Office Square, Suite 100 (OES04-4)  
Boston, MA 02109-3912**

And

**Massachusetts Department of Environmental Protection  
Northeast Regional Office- Bureau of Resource Protection**

**205B Lowell Street  
Wilmington, MA 01887**

c. **Submittal of Reports in Hard Copy Form**

Hard copy DMR submittals shall be completed and postmarked no later than the 15<sup>th</sup> day of the month following the completed reporting period. MassDEP Monthly Operation and Maintenance Reports shall be submitted as an attachment to the DMRs. Signed and dated originals of the DMRs, and all other reports required herein, shall be submitted to the appropriate State addresses and to the EPA address listed below:

**U.S. Environmental Protection Agency  
Water Technical Unit**

**5 Post Office Square, Suite 100 (OES04-SMR)  
Boston, MA 02109-3912**

The State Agency addresses are:

**Massachusetts Department of Environmental Protection  
Northeast Regional Office- Bureau of Resource Protection  
205B Lowell Street  
Wilmington, MA 01887**

And

**Massachusetts Department of Environmental Protection  
Surface Water Discharge Permit Program  
627 Main Street, 2<sup>nd</sup> Floor  
Worcester, Massachusetts 01608**

**G. STATE PERMIT CONDITIONS**

1. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are (i) a federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§1251 et seq.; and (ii) an identical state surface water discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, and 314 CMR 3.00. All of the requirements contained in this authorization, as well as the standard conditions contained

in 314 CMR 3.19, are hereby incorporated by reference into this state surface water discharge permit.

2. This authorization also incorporates the state water quality certification issued by MassDEP under § 401(a) of the Federal Clean Water Act, 40 CFR 124.53, M.G.L. c. 21, § 27 and 314 CMR 3.07. All of the requirements (if any) contained in MassDEP's water quality certification for the permit are hereby incorporated by reference into this state surface water discharge permit as special conditions pursuant to 314 CMR 3.11.
3. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law such permit shall remain in full force and effect under federal law as a NPDES Permit issued by the U.S. Environmental Protection Agency. In the event this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts.

## Attachment B

### Summary of Required Report Submittals\*

Required Report	Date Due	Submitted By:	Submitted To: ** (see bottom of page for key)
Discharge Monitoring Report (DMR)	Monthly, postmarked by the 15 <sup>th</sup> of the month following the monitoring month (e.g. the March DMR is due by April 15 <sup>th</sup> ).	Town of Rockport	1, 2, 3
Whole Effluent Toxicity (WET) Test Report (Part I.A.1)	April 30 and October 31 of each year	Town of Rockport	1, 2, 3
I/I Control Plan (Part I.C.3)	Within 6 months of permit effective date	Town of Rockport	1,2
I/I Annual Report (Part I.C.3)	By March 31 of each year	Town of Rockport	1,2
Annual Sludge Report (Part I.D.8.)	February 19 each year	Town of Rockport	1,2

\*This Table is a summary of reports required to be submitted under this NPDES permit as an aid to the permittee. If there are any discrepancies between the permit and this summary, the permittee shall follow the permit requirements.

\*\*The addresses are for the submittal of hard copies. When the permittee begins reporting using NetDMR, submittal of hard copies of many of the required reports will not be necessary. See permit conditions for details.

1. Environmental Protection Agency  
Water Technical Unit (OES04-SMR)  
5 Post Office Square – Suite 100  
Boston, Massachusetts 02109 - 3912
  
2. Massachusetts Department of Environmental Protection  
Bureau of Resource Protection  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887
  
3. Massachusetts Department of Environmental Protection  
Division of Wastewater Management Program  
Surface Water Discharge Permit Program  
627 Main Street, 2nd Floor  
Worcester, Massachusetts 01608

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
1 CONGRESS STREET  
BOSTON, MASSACHUSETTS 02114-2023

**FACT SHEET**

DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMIT TO DISCHARGE TO WATERS OF THE UNITED STATES.

NPDES PERMIT NO.: **MA0100145**

NAME AND ADDRESS OF APPLICANT:

**Department of Public Works  
Town of Rockport  
34 Broadway  
Rockport, MA 01966**

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**Rockport Wastewater Treatment Plant  
Pleasant Street  
Rockport, Massachusetts 01966**

RECEIVING WATERS: Sandy Bay (Atlantic Ocean), North Coastal River Basin - 93

CLASSIFICATION: SA

**I. Proposed Action, Type of Facility, and Discharge Location**

The above named applicant has requested that the U.S. Environmental Protection Agency reissue its NPDES permit to discharge into the designated receiving waters. The facility is an 0.8 MGD activated sludge secondary treatment plant engaged in collection and treatment of sanitary wastewater. The discharge is through a 640 foot, 16 inch diameter pipe, with a single port outfall structure 430 feet offshore in Sandy Bay (see **Attachment A**).

The Town entered into an Administrative Consent Order (ACO) with the Massachusetts Department of Environmental Protection (MADEP) in 1998, requiring it to repair or line its outfall and remove excessive inflow and infiltration (I/I) from its collection system. Another ACO was signed on May 20, 2003, which modified the schedule for relining the outfall, required additional work to remove I/I, and required improvements to the wastewater treatment plant to eliminate odors.

The 1998 and May 23, 2003 ACOs were superseded by a new ACO which was signed by The Town of Rockport and the MassDEP on April 11, 2008. The outfall pipe was relined under the 2003 Order, which also required the Town to administer a "sewer bank" to restrict new flows to the sewer system, construct aeration system improvements at the plant and address excessive I/I entering the sewer system.

The Town has completed several I/I removal projects, but still exceeds the design flow of the wastewater treatment facility during wet weather, and has occasional overflows from its collection system. Implementation of the requirements contained in the 1998 MADEP ACO resulted in a reduction in the number of bypasses from two per year to approximately one per year at each of the three pump stations with bypass capability (Old Garden Beach, Dock Square and Back Beach). As noted earlier, the Town is required to complete additional actions to remove I/I by the April 11, 2008 ACO. Part I.C.3 on the draft permit also requires an ongoing I/I control program.

## **II. Description of Discharge**

A quantitative description of the discharge in terms of significant effluent parameters based on recent monitoring data from 12/31/2006 through 12/31/2008 is shown in **Attachment B**.

## **III. Limitations and Conditions**

The effluent limitations and monitoring requirements may be found in the draft NPDES permit.

## **IV. Permit Basis and Explanation of Effluent Derivation**

### **A. Overview of Federal and State Regulations**

Under Section 301(b)(1) of the Clean Water Act ("CWA"), publicly owned treatment works ("POTWs") must have achieved effluent limitations based upon Secondary Treatment by July 1, 1977. The secondary treatment requirements are set forth at 40 C.F.R. Part 133.102. In addition, Section 301(b)(1)(C) of the CWA requires that effluent limitations based on water quality considerations be established for point source discharges when such limitations are necessary to meet state or federal water quality standards that are applicable to the designated receiving water.

Pursuant to 40 C.F.R. § 122.44 (d), permittees must achieve water quality standards established under Section 303 of the Clean Water Act (CWA), including state narrative criteria for water quality. Additionally, under 40 C.F.R. § 122.44 (d)(1)(i), "Limitations must control all pollutants or pollutant parameters which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any state water quality standard." When determining whether a discharge causes, or has the reasonable potential to cause or contribute to an in-stream excursion above a narrative or numeric criterion, the permitting authority shall use procedures which account for existing controls on point and non-point sources of pollution, and where appropriate, consider the dilution of the effluent in the receiving water.

## B. Conventional Pollutants

Biochemical Oxygen Demand (BOD<sub>5</sub>) - The draft permit carries forward the average monthly and average weekly limits in the previous permit. The limits are based on the requirements set forth at 40 CFR 133.102 (b)(1), (2) and 40 CFR 122.45 (f). The secondary treatment limitations are monthly average BOD<sub>5</sub> concentrations of 30 mg/l, weekly average concentrations of 45 mg/l. The permittee shall report the maximum BOD value weekly, however, a maximum daily limit will not be set. The mass limitations for BOD are based on a 0.8 MGD design flow. The monitoring frequency is once per week.

Total Suspended Solids (TSS) - The draft permit carries forward the average monthly and average weekly limits in the previous permit. The limits are based on the requirements set forth at 40 CFR 133.102 (b)(1), (2) and 40 CFR 122.45 (f). The secondary treatment limitations are monthly average TSS concentrations of 30 mg/l, weekly average concentrations of 45 mg/l. The permittee shall report the maximum TSS value weekly, however, a maximum daily limit will not be set. The mass limitations for TSS are based on a 0.8 MGD design flow. The monitoring frequency is once per week.

### BOD<sub>5</sub> and TSS Mass Loading Calculations:

Calculations of maximum allowable loads for average weekly and average monthly BOD<sub>5</sub> and TSS are based on the following equation:

$$L = C \times DF \times 8.34 \text{ where:}$$

L = Maximum allowable load in lbs/day.

C = Maximum allowable effluent concentration for reporting period in mg/l.

Reporting periods are average monthly and weekly.

DF = Design flow of facility in MGD.

8.34 = Factor to convert effluent concentration in mg/l and design flow in MGD to lb/day.

$$(\text{Concentration limit}) [45] \times 8.34 (\text{Constant}) \times 0.8 (\text{design flow}) = 300 \text{ lb/day}$$

$$(\text{Concentration limit}) [30] \times 8.34 (\text{Constant}) \times 0.8 (\text{design flow}) = 200 \text{ lb/day}$$

Eighty-Five Percent (85%) BOD<sub>5</sub> and TSS Removal Requirement - the provisions of 40 CFR §133.102(3) requires that the 30 day average percent removal for BOD and TSS be not less than 85%. These limits are maintained in the draft permit.

pH - The draft permit includes pH limitations which are required by state water quality standards, and are more restrictive than pH limitations set forth at 40 C.F.R. §133.102(c). Class SA waters shall be in a range of 6.5 through 8.5 standard units and not more than 0.2 standard units outside of the normally occurring range (314 CMR 4.05 (4)(a)3). There shall be no change from background conditions that would impair any use assigned to this class. The monitoring frequency is one per day.

The current permit includes a monthly average (geometric mean) fecal coliform limit of 200 organisms per 100 ml and a maximum daily limit of 400 organisms per 100 ml. However, MassDEP has changed the classification from SB to SA. The fecal coliform criteria in the Massachusetts Surface Water Quality Standards for class SA waters designated for shellfishing (314 CMR 4.05(4)(a)4.a) are a geometric mean of 14 organisms per 100 ml and a requirement that not more than 10 percent of samples exceed 28 organisms per 100 ml. Therefore, the draft permit contains a monthly average limit of 14 organisms per 100 ml and a requirement that not more than 10 percent of the samples collected in any month exceed 28 organisms per 100 ml, consistent with the SA criteria. The permit also includes a maximum daily limit of 400 organisms per 100 ml, to satisfy antibacksliding requirements.

The MassDEP revised its surface water quality for bacteria in the revisions to the Massachusetts Surface Water Quality Standards (SWQS) 314 CMR 4.00 on December 29, 2006. EPA approved the changes to the bacteria criteria on September 19, 2007.

For salt waters, the SWQS criteria were revised from fecal coliform bacteria to either enterococci (for bathing beaches) or E.Coli (for non-beach inland waters). The updated SWQS changes the criteria from the previous standards which was for Class SA waters, a monthly geometric mean for fecal coliform bacteria of 14 cfu/100ml and no greater than 10% of the samples in a month to exceed 28 cfu/100ml.

The new criteria for enterococci are a monthly geometric mean of 35 cfu/100ml and single sample maximum (SSM) of 104 cfu/100ml for Class SA waters. MassDEP views the use of the 90% upper confidence level (lightly used full body contact recreation) of 276 cfu/100ml as appropriate for setting the maximum daily limit for enterococci in the draft permit.

Therefore, in addition to fecal coliform, EPA has established monthly average (geometric mean) effluent limit of 35 cfu/100ml and daily maximum effluent limit of 276 cfu/100ml for Enterococci in the draft permit in order to ensure that the discharge does not cause or contribute to exceedances of Massachusetts Surface Water Quality Standards found at 314 CMR 4.05 (4)(a)4.b.

Between the months of December 2006 and December 2008, the facility had no violations of BOD<sub>5</sub>, TSS, pH, TRC, fecal coliform and acute toxicity test limitations. The annual average flow during this period was 0.86 mgd, which is greater than the 0.8 mgd limit in the permit.

#### C. Other Monitoring Requirements

The effluent monitoring requirements have been specified in accordance with 40 C.F.R. 122.41(j), 122.44(i) and 122.48 to yield data representative of the discharge.

#### D. Waterbody Classification

Current classification SB was based on discharge of the outfall location in the Rockport Harbor. The 2002 MA Water Quality Assessment Report describes Rockport Harbor as a small (0.2 sq.mi.) segment of the harbor connecting a line with the seawalls on the northeastern end of the harbor. MassDEP has determined that actual discharge point is in the Sandy Bay (Atlantic

Ocean), beyond the Rockport Harbor, which has been classified as a Class SA water by the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 (see **Attachment A**). So, the classification is changed from SB to SA in the draft permit. Class SA waters are designated as excellent habitat for fish, other aquatic life and wildlife and for primary and secondary contact recreation. These waters shall have consistently good aesthetic value, 314 CMR 4.05(4)(b).

E. Toxicity

Under Section 301(b)(1) of the CWA, discharges are subject to effluent limitations based on water quality standards. The State Surface Water Quality Standards (314 CMR 4.05(5)(e.)), include the following narrative statements and require that EPA criteria established pursuant to Section 304(a)(1) of the CWA be used as guidance for interpretation of the following narrative criteria:

All surface waters shall be free from pollutants in concentrations or combinations that are toxic to humans, aquatic life or wildlife. Where the State determines that a specific pollutant not otherwise listed in 3.14 CMR 4.00 could reasonably be expected to adversely effect existing or designated uses, the State shall use the recommended limit published by EPA pursuant to 33 U.S.C. 1251 §304(a) as the allowable receiving water concentrations for the affected waters unless a site-specific limit is established. Site specific limits, human health risk levels and permit limits will be established in accordance with 314 CMR 4.05(5)(e)(1)(2)(3)(4).

National studies conducted by the EPA have demonstrated that domestic sources contribute toxic constituents to POTWs. These constituents include metals, chlorinated solvents, aromatic hydrocarbons and others (EPA's Technical Support Document for Water Quality Based Toxics Control", March, 1991). Based on the potential for toxicity from domestic and industrial contributions, the state water quality criterion, the level of dilution at the discharge location and in accordance with EPA national and regional policy and 40 C.F.R. 122.44(d), the present permit included a whole effluent acute toxicity limitation (LC50) and semi-annual acute biomonitoring requirements with Inland Silverside. The same requirements will continue in the draft permit.

F. Chlorine

Chlorine and chlorine compounds produced by the chlorination of wastewater can be extremely toxic to aquatic life. The Massachusetts Water Quality Standards (314 CMR 4.05(5)(e)) require that receiving waters not exceed recommended toxic limits published by EPA pursuant to Section 304(a) of the Clean Water Act (33 USC §11314(a)). EPA's National Recommended Water Quality Criteria:2002 contains chronic and acute saltwater aquatic life criteria for total chlorine residual of 0.0075 mg/l and 0.013 mg/l respectively. Based on the criteria and the dilution factor, a monthly average limit of 0.26 mg/l and a maximum daily limit of 0.46 mg/l have been included in the current permit (see calculation below) and the same will continue in the draft permit.

Water Quality Criteria:	Salt water - Chronic	Acute
	0.0075 mg/l	0.013 mg/l

Plant Design Flow: 0.80 MGD

Design Flow Dilution: 35.2: 1 is based on mathematical modeling with EPA's UPLUME computer model.

Effluent Limitations

Monthly Average:  
 $35.2 (0.0075 \text{ mg/l}) = 0.26 \text{ mg/l}$

Daily Maximum  
 $35.2(0.013 \text{ mg/l}) = 0.46 \text{ mg/l}$

G. Metals

Certain metals like copper, lead, cadmium and zinc can be toxic to aquatic life. EPA has evaluated (see below) the reasonable potential of toxicity on the concentration of metals in the effluent. Based on this evaluation EPA has determined that there is no reasonable potential for adverse impact on aquatic life and no need to monitor and limit these metals.

Calculation of reasonable potential for copper, lead, zinc and cadmium:

All effluent metals data are taken from the Toxicity Test Reports from the period January 2007 to January 2009.

Allowable Receiving Water Concentration,  $C = \text{Criteria (Tot. Rec)} \times \text{Dilution Factor}$

From Federal Register, December 10, 1998, National Recommended Water Quality Criteria is used for salt water with a dilution factor of 35.2.

Copper :                      Chronic       $C = 3.1 \times 35.2/0.83 = 132 \text{ ug/l}$  which is greater than the effluent concentration range of 25-43 ug/l. So, reasonable potential does not exist.

                                    Acute         $C = 4.8 \times 35.2/.83 = 203 \text{ ug/l}$  which is greater than the maximum effluent concentration of 43 ug/l. So, reasonable potential does not exist.

Lead :                        Chronic       $C = 8.1 \times 35.2/.951 = 299 \text{ ug/l}$  which is greater than the effluent concentration range of 5-8 ug/l. So, reasonable potential does not exist.

                                    Acute         $C = 210 \times 35.2/.951 = 7772 \text{ ug/l}$  which is far greater than the maximum effluent concentration of 8 ug/l. So, reasonable potential does not exist.

Zinc :	Chronic	$C = 81 \times 35.2 / .946 = 3013 \text{ ug/l}$ which is far greater than the effluent concentration range of 50-207 ug/l. So, reasonable potential does not exist.
	Acute	$C = 90 \times 35.2 / .946 = 3348 \text{ ug/l}$ which is far greater than the maximum effluent concentration of 207 ug/l. So, reasonable potential does not exist.
Cadmium :	Chronic	$C = 9.3 \times 35.2 / .994 = 329 \text{ ug/l}$ which is greater than the average effluent concentration 10 ug/l. So, reasonable potential does not exist.
	Acute	$C = 42 \times 35.2 / .994 = 1487 \text{ ug/l}$ which is far greater than the maximum effluent concentration of 10 ug/l. So, reasonable potential does not exist.

## V. Sludge

This permit prohibits the discharge of sludge. Section 405(d) of the Clean Water Act requires that sludge conditions be included in all POTW permits. Technical sludge standards required by Section 405 of the Clean Water Act (CWA) were finalized on November 25, 1992 and were published on February 19, 1993. The regulations went into effect on March 21, 1993.

Annually 483 dry metric tons of sludge are produced at the Rockport Wastewater Treatment Facility. Sludge generated by the Rockport Wastewater Treatment Facility is aerobically digested, and then dewatered using belt filter presses. The sludge cake is trucked to Agresource, Inc. for disposal which consists of composting, followed by land application at Brick Ends Farm, Hamilton, MA.

The permit requires Rockport to comply with Federal and State laws and regulations for sludge use and disposal.

## VI. Pretreatment

The permittee does not have any major industries which contribute industrial wastewater to the wastewater treatment facility.

Pollutants introduced into POTWs by a non-domestic source shall not pass through the POTW or interfere with the operation or performance of the treatment.

## VII. Antidegradation

This draft permit is being reissued with an allowable wasteload identical to the current permit and no change in outfall location. The State of Massachusetts has indicated that there will be no

lowering of water quality and no loss of existing water uses and that no additional anti-degradation review is warranted.

### **VIII. Unauthorized Discharges**

The permittee is not authorized to discharge wastewater from any pump stations emergency overflow. Overflows must be reported in accordance with reporting requirements found in Section D.1.e. of Part II of the permit (24 hour reporting). If a discharge does occur, the permittee must notify the EPA, the MADEP, and others, as appropriate (i.e. local Public Health Department), both orally and in writing as specified in the draft permit.

The Town owns and operates eleven pump stations; one of those stations, Old Garden Beach, has an emergency bypass connection to a storm drain that discharges to a small beach on Sandy Bay; two other stations, Dock Square Pump Station and Back Beach Station, have been relieved, during emergencies, to Sandy Bay using portable pumps. Discharges of raw sewage at these locations are due primarily to excessive I/I during major storm events. As noted earlier, implementation of the requirements contained in the 1998 MADEP ACO resulted in a reduction in the number of bypasses from two per year to approximately one per year at each of the three pump stations. The most recent ACO, signed in April, 2008 requires further improvements relative to I/I, which will further reduce the potential for bypasses. The draft permit prohibits these discharges and requires them to be reported.

### **IX. Ocean Discharges**

EPA has determined that the Rockport Wastewater Treatment Plant outfall is seaward of the territorial sea baseline and, therefore is subject to the requirements of Section 403 of the Clean Water Act (CWA). Prior to draft permit development, as required by Section 403(c) of the CWA Act, EPA assessed the effect of Rockport's treatment plant effluent on diversity, productivity and stability of the oceans ecosystem in the vicinity of the outfall. On the basis of the limited available information, EPA determined that the treatment plant discharges, as regulated by the draft permit, should not cause unreasonable degradation of the marine environment. This determination was made in accordance with 40 C.F.R. 125, Subpart M (Ocean Discharge Criteria) and a summary of EPA's findings is included in Attachment B.

As required by 40 C.F.R. 125.123(d)(4), the draft permit contains a clause stating that the permit will be modified or revoked at any time if new data indicates that there may be unreasonable degradation of the marine environment.

### **X. Essential Fish Habitat (EFH) and Endangered Species**

Essential Fish Habitat (EFH)

Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq. (1998)), EPA is required to consult with the National Marine Fisheries Services (NMFS) if EPA's action or proposed actions that it funds, permits, or

undertakes, may adversely impact any essential fish habitat as: waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity (16 U.S.C. § 1802 (10)).

Adversely impact means any impact which reduces the quality and/or quantity of EFH (50 C.F.R. § 600.910 (a)). Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions.

Essential fish habitat is only designated for species for which federal fisheries management plans exist (16 U.S.C. § 1855(b) (1) (A)). EFH designations for New England were approved by the U.S. Department of Commerce on March 3, 1999.

Sandy Bay in the vicinity of the Rockport Water Pollution Control Facility discharge is designated essential fish habitat (EFH) for species of finfish (**see Attachment C**). Based on the amount and frequency of the discharge, as well as effluent limitations and other permit requirements identified in this Fact Sheet that are designed to be protective of all aquatic species, including those with designated EFH, EPA has determined that there will be no adverse effects on these species based on the following :

1. This is a re-issuance of an existing permit;
2. The quantity of discharge from the WWTF is 0.8 mgd monthly average; effluent receives as a minimum secondary treatment using activated sludge processes;
3. Effluent is discharged into the Sandy Bay (Atlantic Ocean) with an estimated dilution ratio of 35.2:1;
4. Acute toxicity tests will be conducted on menidia two times per year;
5. The permit will prohibit any violation of state water quality standards.

EPA is coordinating a review of this finding with NMFS and/or USFWS through the Draft Permit and Fact Sheet and further consultation under Section 7 of the ESA with NMFS and/or USFWS is not required.

### Endangered Species

Section 7(a) of the Endangered Species Act of 1973, as amended (ESA) grants authority to and imposes requirements upon Federal agencies regarding endangered or threatened species of fish, wildlife, or plants ("listed species") and habitat of such species that has been designated as critical (a "critical habitat"). The ESA requires every Federal agency, in consultation with and with the assistance of the Secretary of Interior, to insure that any action it authorizes, funds, or carries out, in the United States or upon the high seas, is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The United States Fish and Wildlife Service (USFWS) typically administers Section 7 consultations for bird, terrestrial, and freshwater aquatic species.

EPA has reviewed the federal endangered or threatened species of fish and wildlife to see if any listed species might potentially be impacted by the re-issuance of this NPDES permit. The review has focused primarily on Plover, Piping, Whale and Sea Turtle since the discharge is into Sandy Bay in Essex County. Based on the low levels of concern, permit conditions, and distribution of listed species in the vicinity of the facility's discharge, EPA has determined that there will be no adverse effects on these species.

#### **XI. State Certification Requirements**

EPA may not issue a permit unless the Massachusetts Department of Environmental Protection with jurisdiction over the receiving waters certifies that the effluent limitations contained in the permit are stringent enough to assure that the discharge will not cause the receiving water to violate State Water Quality Standards. The staff of the Massachusetts Department of Environmental Protection has reviewed the draft permit. EPA has requested permit certification by the state pursuant to 40 CFR 124.53 and expects that the draft permit will be certified.

#### **XII. Public Comment Period, Public Hearing, And Procedures For Final Decision**

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and a supporting material for their arguments in full by the close of the public comment period, to Suproakash Sarker, U.S. EPA, MA Office of Ecosystem Protection, 1 Congress Street, Suite 1100 (CMA), Boston, Massachusetts 02114-2023. Any person, prior to such date, may submit a request in writing to EPA and MADEP for a public hearing to consider the draft permit. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on the draft permit, the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston Office. Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice.

**XIII. EPA Contact**

Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays from:

Suproakash Sarker  
MA NPDES Permit Program Unit  
U.S. Environmental Protection Agency  
1 Congress Street, Suite 1100 (CMA)  
Boston, MA 02114-2023  
Telephone: (617) 918-1693  
Fax: (617) 918-1505  
E-mail: sarker.soupy@epa.gov

April 10, 2009

\_\_\_\_\_  
Date

Kenneth Moraff, Acting Director  
Office of Ecosystem Protection  
U.S. Environmental Protection Agency  
Boston, MA

RESPONSE TO PUBLIC COMMENTS FOR  
DRAFT NPDES PERMIT MA0100145  
TOWN OF ROCKPORT  
ROCKPORT WASTEWATER TREATMENT FACILITY  
PLEASANT STREET  
ROCKPORT, MA 01966

On May 20, 2009, the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) released a draft National Pollutant Discharge Elimination System (NPDES) permit for the Rockport wastewater treatment facility for public notice and comment. The public comment period ended on June 18, 2009. The comments are reproduced below as received and have not been edited.

The following comments were received from **the Town of Rockport**:

**Comment A.1**

The Draft permit is incorrect when it established the receiving water as Class SA. The receiving waters are Class SB.

This has been the source of some confusion over the last permit cycles. The confusion arises because over the years the name "Rockport Harbor" has been given to different bodies of water by different agencies. As described below, the Town believes that the treatment plant discharges into the Class B body of water called "Rockport Harbor" as originally defined by DEP's predecessor agencies. This is a different "Rockport Harbor" than the harbor designated by common usage.

In common usage Rockport Harbor is often thought of as the small harbor southeast of Bearskin Neck with its entrance between the breakwater at its northeast face and "The Headlands, so called. See attached figure 1<sup>1</sup>, from the NOAA Chart number 13279. The same chart shows the outfall location just north of Bearskin neck. This is the "Rockport Harbor" that the Fact Sheet describes when it quotes the DEP 2002 Water Quality Assessment report (Fact sheet, at D).

But when the Division of Water Pollution Control (DWPC) originally established the designation "Rockport Harbor" in its water quality classification, it was referring to a different body of water. Figure 2 (attached) is a magnified version of a portion of the 1967 DWPC Water Quality Standards for the North Coastal Basin. The solid line connecting the two Rockport shores is the boundary line between the class SA offshore waters, and the landward Class SB waters. The SB waters are described in the classification tables as "Rockport Harbor". The full text of the North Coastal classification from the 1967 Standards is included in Attachment A.

The line from the 1967 map has been transferred to a recent NOAA chart, as is shown on figure 3 (attached). This clearly shows that the SB area includes the location of the treatment plant discharge.

---

<sup>1</sup> Figures and Attachments have not been reproduced in this document.

In 1967 the waters were classified SB, rather than SA because of the existence of the treatment plant discharge. This was done in part because in close proximity to discharges, the National Shellfish Sanitation Program (NSSP) requires a mandatory closure zone. The NSSP guidance says:

The NSSP Model Ordinance also requires that an area in the prohibited classification (closed safety zone) must be established between any sewage treatment plants or other waste discharge of public health significance and any growing area placed in the approved, conditionally approved, restricted, or conditionally restricted classification. The size of the prohibited area should be based on the effectiveness and level of sewage treatment; the location of the shell-stock resource that would be affected; the classification of adjacent waters the total time it would take for the person responsible for the operation of the sewage treatment facility to detect a failure and notify the Authority; the time it would take the Authority to issue a notice to stop shell-stock harvesting, and the degree of effluent dilution. Due consideration should be given to the possibility that emergency actions might be necessary on holidays or at night. (See NSSP 2007 Section IV .03 Sanitary Survey and the Classification of Growing Waters.

Thus, the 1967 SB classification for that part of Sandy Bay landward of the line drawn by the DWPC reflected that prudent public health policy. It is clear to us that DWPC called this "Rockport Harbor" as a matter of convenience. Subsequently, the Massachusetts Division of Marine Fisheries has established a much larger closure zone, encompassing all of Sandy Bay, and extending north and east several miles in all directions. A copy of their current closures zones are presented in Attachment B.

In summary, it is clear to the Town that the 2000 DEP document cited in the Fact sheet made an incorrect, although understandable, assumption about the definition of "Rockport Harbor" with respect to the State's water quality Standards. The original definition established in 1967 was clear, and was consistent with prudent public health policies. Further, we know of no formal modification to the water quality standards that would have changed the definition of Rockport Harbor so as to exclude the Harbor as defined in 1967. For these reasons, the classification of the receiving water should be changed to Class SB. Since these waters are closed to shell-fishing, the coliform limits should be struck from the permit.

Moreover, to the extent that DEP and EPA are now contending that the new delineation of Rockport Harbor is different from the 1967 delineation, both agencies have failed to follow the regulatory requirements in re-delineating Rockport Harbor. Prior to adopting new standards or re-delineating waterways for purposes of the Water Quality Standards, the USEPA and the MassDEP are required to go through a formal process. Such process requires notice and opportunity for public comment, and a detailed statement of the basis and purpose of the standard or change, including identification of the scientific and technical data and studies supporting the proposed standard or change. The USEPA or MassDEP did not go through this process with respect to the standard or change in delineation. Therefore, as the Town's current requirements are consistent with applicable standards, the Town requests that the standard set forth in its original permit remain unchanged.

## Response A.1

In a letter to EPA dated August 20, 2010, MassDEP addressed this comment. In its letter, MassDEP documented why it believes that the surface water quality classification of the receiving water is SB rather than SA. The body of the letter has been presented below.

This letter is written to clarify MassDEP's position relative to the classification of the water body segment receiving effluent from the Town of Rockport Sewer District Outfall 001 – MA0100145. This letter is also being written in response to comment letters received on the DRAFT NPDES permit and accompanying documents proposed to be issued to the Town of Rockport by the U.S. Environmental Protection Agency and MassDEP (Public Notice and Draft permit dated May 20, 2009).

The DRAFT National Pollutant Discharge Elimination System (NPDES) permit fact sheet issued for public notice on May 20, 2009 identified the receiving water for the Town of Rockport Outfall 001 - MA0100501 as Sandy Bay (Atlantic Ocean), Class SA. The Town of Rockport commented in their letter dated June 17, 2009 that the receiving water is incorrectly identified as Class SA in the fact sheet. The Town of Rockport contends that the receiving water where the effluent terminates is SB and thus the effluent permit limits in the DRAFT NPDES permit for the Town of Rockport outfall 001 need to be consistent with Class SB criteria.

In response to this issue, MassDEP conducted a detailed review of our State Water Quality Standards and NPDES permit files back to 1967. Based on this review Mass DEP agrees with the Town of Rockport that the correct classification of the waterbody where the Town of Rockport WWTP outfall serial number 001 terminates is Class SB. Our historical records indicate that the segment "Rockport Harbor" was intentionally delineated in the original 1967 Water Quality Standards (WQS) to include the sewage discharge from the Town of Rockport and the receiving water-body was given the classification of SB. The original 1967 document did not include a narrative description of the receiving water body for the Town effluent, however, the North Coastal classification map on page 108 of the 1967 document shows the receiving waters included that portion of Sandy Bay at the location of the Wastewater Treatment facility discharge (e.g., north of Bearskin Neck) [see Attachment 1<sup>2</sup> for original 1967 WQS map delineating Rockport Harbor]. Subsequent iterations of the WQS did not include the narrative description of this water-body, nor other receiving water bodies in the North Coastal Basin. Over time the absence of water-body segment descriptions in the WQS lead to varied interpretations of the extent of the receiving water-bodies and their classification in the North Coastal watershed. However, it is clear that the segment of the water-body receiving effluent from the Town of Rockport has never been redefined by MassDEP since the original 1967 promulgation.

To better identify and understand the source of confusion MassDEP undertook a thorough review of NPDES permits history, Mass Water Quality Standards (WQS), and

---

<sup>2</sup> Figures and Attachments have not been reproduced in this document

relevant Massachusetts State House records (e.g., register and library). A brief summary of our findings is outlined below:

1. In the late 1960's and early 1970's, MassDEP's approach to classifying coastal waters in the Water Quality Standards (WQS) was to categorize them as SB where NPDES point sources entered the receiving water body. This classification was carried out in consultation with the National Shellfish Sanitation Program (NSSP) and Division of Marine Fisheries (DMF) who require that an area (closed safety zone or prohibited) must be established between any sewerage treatment plant effluent or other waste discharge of public significance and any growing area placed on the approved, conditionally approved, restricted or conditionally restricted shell-fishing classification. Consistent with this approach, MassDEP's Division of Water Pollution Control classified the water body receiving the Town of Rockport sewage discharge as Class SB in the early versions of the WQS dating back to 1967. The North Coastal classification map on page 108 shows the receiving waters included that portion of Sandy Bay that encompassed the location of the Wastewater Treatment Plant (WWTP) discharge. See Attachment 1- Location map (1967 original and 2010 interpretation). It should be noted that water body descriptions were excluded from all subsequent versions of the Massachusetts WQS. See Attachment 2 - WQS Publications Depicting the Classification of Rockport Harbor.
2. In 1976, a document entitled Classification and Segmentation of Massachusetts River Basins and Coastal Zones was published by Division of Water Pollution Control, Department of Environmental Quality Engineering. On page 4 the document states "This document presents the reclassification of waters in the Commonwealth as dictated on the May, 1974 revisions to the Massachusetts Water Quality Standards." One purpose of the document was to identify water bodies that could be upgraded to Class B or SB as well as expand the inventory of waters. The document provided a map of Rockport Harbor encompassing portions of Sandy Bay similar to the 1967 standards. The document was developed to satisfy the regulatory requirements of the Water Quality Act of 1965(P.L. 89-234, 79 Stat. 903), the Clean Water Restoration Act of 1966 (P.L. 89-753, 80 Stat. 1246), and the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500, 86 Stat. 816). It was also the Divisions intent to use the segmentation as a baseline for subsequent Water Quality Standard revisions and permitting decisions. There have been no MassDEP updates to this document since 1976.
3. The 1978 the Massachusetts CMR were published in "state standard" format by a consultant. Two versions of the 1978 WQS were published; one dated January 1, 1978 and one dated April 7, 1978.
  - a. The version of the WQS dated January 1, 1978 included a listing for Rockport Harbor (in Table 1) consistent with the 1967, 1971, 1974 WQS and the 1976 Classification document. In Table 1 the segment was identified as Class SB with a 1978 assessed condition of SC. The WQS map, however, identified the segment

as Class SA which we believe was a typographical mistake. Pursuant to the 1978 WQS, the information in the Tables superseded the information in the maps. Part 5 (Basin classification and maps Section 5.05 of the 1978 WQS stated "In case of inconsistency between the tables and maps, the data contained in the table shall control." We found no explanation for this inconsistency between the 1978 WQS tables and the 1978 WQS maps. See Attachment 3 - WQS Publications January 1, 1978.

The April 7, 1978 hard copy of the WQS contained other inconsistencies similar to those found in the January version. For example, the Rockport Harbor was identified as Class SB in the Table and Class SA in the Map, however, no narrative description of the segment was provided. Based on discussions with the Secretary of State's office, MassDEP believes that the second publication of the standards in 1978 (April 7th version) was related to an overall state project to standardize the format of all of the state CMRs in 1978. The project was to simply transcribe the regulatory information into the selected format. Based on the records, the Department did not propose any changes to the standards as part of this process. The Secretary of State's office did some of this work but also subcontracted formatting of some of the text and all the graphics (e.g., the maps) to an outside consultant. We believe this is the reason for many of the cited inconsistencies between the Tables and maps in the standards.

b. Furthermore, an archival search of the Massachusetts State house records revealed no documented evidence that any substantive changes to segment classification were made to the 1978 WQS or approved by the Department.

c. The April 7, 1978 version of the document apparently carried forward in the September 21, 1978, WQS filing that was made by the Water Resources Commission to the Office of the Secretary State House, Boston Massachusetts [Rockport Harbor identified in the filing text as SB in Tables]. The April 7, 1978 print document appears to be the source of information contained in this record.

d. The April 7, 1978 WQS has remained unchanged with respect to the Rockport Harbor listing as Class SB. As previously mentioned, while there were no descriptions for the segments in the filing or the 1978 standards, it was commonly understood by Department staff that the description for these segments was provided in the 1976 document entitled Classification and Segmentation of Massachusetts River Basins and Coastal Zones. In the current version of the Massachusetts WQS Rockport Harbor is identified as Class SB, however, no narrative description delineating the boundaries of the receiving waters is provided in the current version of the standards. It is reasonable to defer to the 1967 and 1976 receiving water-body delineations which demonstrate that the intent of the state was for the water receiving sewage effluent from the Town of Rockport to be categorized as Class SB. Furthermore these original water-body extents have never been redefined.

4. A historical review of MassDEP and EPA regulatory and enforcement programs (NPDES permitting and 305(b) reporting) revealed a consistent track record of treating the segment receiving Rockport's effluent as a Class SB water-body up until the most recent DRAFT NPDES permit. Likewise the assessment group treated the water-body as SB up until the most recent assessment report (WQA 2002). The treatment of the water body receiving effluent from the Town of Rockport North Coastal Water Quality Assessment Report (2002) appears to have been in error as a result of the staff not referring back to the 1976 classification report and should not prescribe the NPDES permit process. A correction will be made to the assessment report during the next assessment cycle for the North Coastal watershed. In summary, our historical review of NPDES permits history, Mass Water Quality Standards (WQS), 305 (b) reporting and relevant Massachusetts State House records (e.g., register and library) indicate a consistent track record in our application of Class SB criteria to the Town of Rockport WWTP discharge. To avoid confusion in the future a Water Quality Standards revision is needed to clarify that the segment receiving effluent from Rockport is Class SB. MassDEP intends to make this clarification in the next Standards revision and include the a boundary description with the Rockport Harbor water-body listed in Table 23 North Coastal drainage area in section 4.06 of the current Massachusetts Water Quality standards. The description for Rockport Harbor will be "Rockport Harbor inside a line from Gully Point to Granite Pier ". This area encompasses the Rockport WWTP discharge location. This clarification is consistent with the 1967 WQS that intended the receiving waters for the Town of Rockport sewage outfall to be Class SB and also past NPDES permits which required the Town of Rockport to meet Class SB water quality standards for their WWTP effluent.

EPA has accepted MassDEP's conclusion that the discharge is actually to the "Rockport Harbor" segment identified in its water quality standards, which is identified as SB and includes shellfishing as a designated use. Accordingly, EPA revised the fecal coliform limitations to be consistent with the SB-shellfishing criteria. Fecal coliform discharges shall not exceed a monthly geometric mean of 88 colony forming units per 100 ml, nor shall they exceed 400 cfu per 100 ml as a daily maximum, and no more than 10 percent of the fecal coliform samples in any calendar month shall exceed 260 organisms per 100 ml. No other adjustments to the permit limits are necessary to conform the effluent limits in the permit to the SB-shellfishing classification.

#### **Comment A.2**

Should the Agency disagree, for any reason, with the above, we request that compliance with the shell-fishing standards be required at the edge of the zone of initial dilution. On that basis, the geometric mean value in the effluent would be 493 coliform/100 ml (14 times 35. 2 initial dilution), and the maximum value should be 985 coliform/100 ml.

## **Response A.2**

As described in the response to comment number A.1, the fecal coliform limit has been revised based on a MassDEP determination regarding the receiving water classification.

EPA and MassDEP have not historically allowed mixing zones for bacteria. This practice is consistent with the Massachusetts Surface Water Quality Standards Implementation Policy for Mixing Zones (1993), which prohibits the use of mixing zones in shellfish harvest waters, “unless it is affirmatively demonstrated that the mixing zone does not encompass important shellfish harvest areas and will not adversely diminish the established population of shellfish in the segment.” Such a demonstration has not been made here.

Further support for exercising caution when considering the possibility of a mixing zone for bacteria is found in a November 12, 2008, memorandum prepared by EPA’s Office of Science and Technology regarding initial zones of dilution for bacteria in rivers and streams designated for primary contact recreation. The memorandum concluded that “...we cannot envision a circumstance where discharges that elevate bacteria levels beyond criteria can be viewed as protective of the primary recreation use in fresh flowing waters like rivers and streams.”<sup>3</sup> While this conclusion was with regard to mixing zones in fresh water, the principles on which it was based – that people recreating in, or downstream of, a zone of initial dilution in which criteria for bacteria are exceeded will be exposed to greater risk of acute gastrointestinal illness—is also applicable to marine waters.

Therefore, EPA has not established a mixing zone for bacteria. The limits for enterococci have not been changed, and the limits for fecal coliform have not been changed beyond the adjustments described in response A.1.

## **Comment A.3**

The limits on pathogens as shown in A.1 should also be footnoted to incorporate a reference to section E of the permit. Section E suspends the limits in part A.1 for enterococci and fecal coliform for one year replacing those limits with the limits from the existing permit. Section E should be expanded to note that the fecal coliform limits contained in the existing permit are 200/100 ml monthly geometric mean and 400/100 ml daily maximum.

## **Response A.3**

A reference to Section E has been included in Footnote 6, but the limits for fecal coliform bacteria will go into effect upon the issuance of the permit because a compliance schedule is no longer necessary. Monitoring data submitted by the permittee show that it consistently achieves the limitations in the final permit (see table below.)

---

<sup>3</sup> Ephraim S. King, Director, Office of Science and Technology, U.S. EPA Memo to Walter Spratlin, Director, Water, Wetlands and Pesticides, U.S. EPA, RE: Initial Zones of Dilution for Bacteria in Rivers and Streams Designated for Primary Contact Recreation, November 12, 2008, p 2.

**Fecal Coliform Bacteria**

Date	Monthly Geomtric Mean	Daily Maximum
	#/100 ml	#/100 ml
August-08	46	68
September-08	61	153
October-08	53	72
November-08	52	89
December-08	60	98
January-09	64	128
February-09	63	143
March-09	54	101
April-09	46	63
May-09	46	76
June-09	53	83
July-09	34	61
August-09	51	103
September-09	No Data	No Data
October-09	43	97
November-09	45	84
December-09	49	73
January-10	43	74
February-10	38	60
March-10	70	117
April-10	28	84
May-10	44	82
June-10	47	80
July-10	46	60
Limits	88	400

The final permit still includes a one year compliance schedule for achieving the enterococci limits. Other municipal wastewater treatment plants subject to the same enterococci limits have achieved compliance within a one year schedule without making significant changes to their disinfection systems.

**Comment A.4**

The Town expects that it will be unable to comply with both the pathogen and residual chlorine standards of the new permit without adding additional facilities. It is our expectation that these facilities cannot be operational until the fall of 2011, depending upon the nature of the facilities to be constructed. We request that the compliance schedule included in Section E be extended to reflect this fact, and that the Town be allowed until late 2012 to optimize the facilities.

**Response A.4**

As described in the responses to comments A.1 and A.3, the fecal coliform limitations are now less stringent than those in the draft permit, and monitoring data submitted by the facility shows

that it has routinely achieved the fecal coliform limitations included in the final permit. EPA does not believe that more than one year is necessary to achieve the enterococci limits.

The total residual chlorine (TRC) limits in the final permit are the same as in the previous permit, and data submitted by the permittee shows that these limits are routinely achieved (see table below). Since monitoring data shows that the treatment facility already achieves both the TRC and fecal coliform limits in the final permit, there is no need for compliance schedules for either pollutant.

**Total Residual Chlorine**

Date	Monthly Average	Daily Maximum
	mg/l	mg/l
August-08	.21	.28
September-08	.22	.26
October-08	.25	.28
November-08	.22	.26
December-08	.15	.24
January-09	.19	.24
February-09	.2	.26
March-09	.18	.27
April-09	.21	.26
May-09	.22	.27
June-09	.2	.25
July-09	.21	.26
August-09	.24	.26
September-09	No Data	No data
October-09	.23	.26
November-09	.24	.26
December-09	.17	.26
January-10	.18	.26
February-10	.23	.27
March-10	.12	.24
April-10	.21	.27
May-10	.25	.31
June-10	.23	.26
July-10	.24	.26
<b>Limits</b>	0.26	0.46

**National Marine Fisheries Service (NMFS) Determination**

In response to a letter dated June 11, 2009 sent to the National Marine Fisheries Service requesting consultation pursuant to Section 7 of the Endangered Species Act (ESA) of 1973, as amended, NMFS sent a letter to EPA on August 20, 2009 concurring that the proposed permit is not likely to adversely affect species listed by NMFS.

## Other Changes to the Permit

EPA has made the following minor changes in the final permit:

1. In Part I.D.5, Sludge Conditions, a new paragraph has been added to include a link to the Sludge Compliance Guidance on the EPA Region 1 web site. A hard copy of the Sludge Compliance Guidance (Attachment B) has been removed as an attachment to the permit. The Summary of Report Attachment has been changed from Attachment C to Attachment B.
2. In Part I.F, Monitoring and Reporting, conditions have been added requiring the use of NetDMR, a web-based tool that allows permittees to electronically submit discharge monitoring reports (DMRs) and other required reports via a secure internet connection. Facilities may opt out of NetDMR requirements under certain circumstances described in the permit conditions.
3. In Part I.G, updated State Permit Condition language has been added, replacing the language in the draft permit. There are no substantive changes in the conditions.
4. The last sentence of footnote 3 on page 3 of the permit has been deleted. The sentence required that samples be collected as 24-hour composites unless specified as grab samples in 40 CFR § 136. The sentence was unnecessary because the table on page 2 includes the sample type for all pollutant sampling required by the permit.

## Section 401 Certification

In its certification of the permit, provided pursuant to Section 401(a) of the Clean Water Act, MassDEP stated that the fecal coliform limits in the final permit are more stringent than necessary to achieve Massachusetts Water Quality Standards, and that a monthly average limit of 200 cfu/100 ml and a maximum daily limit of 400 cfu/100 ml would be protective of designated uses. The reasons provided by MassDEP for this determination are that there is no definition of shellfishing in the Massachusetts Water Quality Standards, and that shellfishing in the vicinity of the outfall is prohibited (by the Massachusetts Division of Marine Fisheries). MassDEP further stated that it is in the process of revising its water quality standards in a way that would “reflect the current status of shellfish growing areas”, that if the Massachusetts Division of Marine Fisheries prepares a management plan for the shellfishing growing area during the term of the permit, MassDEP will reopen the permit to make it consistent with the regulations, and that changes to standards will be reflected in the next permit.

The Massachusetts Water Quality Standards list Rockport Harbor as a Class SB water and include shellfishing as a designated use (see Table 23 of 314CMR 4.06). Class SB criteria require that “waters *designated for shellfishing* (emphasis added) shall not exceed a fecal coliform median or geometric mean MPN of 88 organisms per 100 ml , nor shall more than 10% of the samples exceed an MPN of 260 per 100 ml....” ( 314 CMR 4.05 (4)(b)(4))

Pursuant to 314 CMR 4.06(1)(d)(5), the Massachusetts Water Quality Standards require that waters *designated for shellfishing* (emphasis added) be subject to more stringent regulation in accordance with the rules and regulations of the Massachusetts Department of Marine Fisheries pursuant to M.G.L. c. 130, § 75, including applicable criteria of the National Shellfishing

Sanitation Program. This section further requires that “Approval for use of areas designated for shellfishing is issued by the Massachusetts Division of Marine Fisheries. To determine whether a particular water designated for shellfishing also is approved for use, the Massachusetts Division of Marine Fisheries and/or the appropriate local authority (usually the Shellfish Department) should be contacted.” EPA notes that the Water Quality Standards do not remove the shellfishing designated use if the Massachusetts Department of Marine Fisheries (MassDMF) has not approved the area for use.

EPA does not believe that a definition of shellfishing is necessary to determine the appropriate bacteria criteria for the receiving water. Under the Massachusetts Water Quality Standards, a shellfishing designation for a receiving water makes that receiving water subject to more stringent regulation regardless of whether shellfishing areas in the receiving water are approved for use by the Massachusetts Division of Marine Fisheries.

Section 401(a)(1) of the CWA requires all NPDES permit applicants to obtain a certification from the appropriate state agency validating the permit's compliance with the pertinent federal and state water pollution control standards. *See* CWA § 401(a)(1). The regulatory provisions pertaining to state certification provide that EPA may not issue a permit until a certification is granted or waived by the state in which the discharge originates. 40 CFR § 124.53(a). The regulations further provide that “when certification is required...no final permit shall be issued...unless the final permit incorporates the requirements specified in the certification under § 124.53(e).” 40 CFR § 124.55(a). Section 124.53(e) provides that the State certification shall include “any conditions more stringent than those in the draft permit which the State finds necessary to “assure compliance with, among other things, state water quality standards, 40 CFR § 124.53(e)(2), and shall include “[a] statement of the extent to which each condition of the draft permit can be made less stringent without violating the requirements of State law, including water quality standards,” *id.* § 124.53(e)(3). Under 40 C.F.R. § 124.55(c), “a State may not condition or deny a certification on the grounds that State law allows a less stringent permit condition.”

EPA’s “duty under CWA section 401 to defer to considerations of State law is intended to prevent EPA from *relaxing* any requirements, limitations, or conditions imposed by the State law.” *In re City of Jacksonville*, 4 E.A.D. 150, 157 (EAB 1992); *In re City of Moscow*, 10 E.A.D. 135, 151 (EAB 2001); *accord In re Ina Rd. Water Pollution Control Facility*, 2 E.A.D. 99, 100 (CJO 100). However, “when the Region reasonably believes that a state [WQS] requires a more stringent permit limitation than that specified by the state, the Region has an independent *duty* under section 301(b)(1)(C) of the CWA to include more stringent permit limitations.” *Moscow*, 10 E.A.D. at 151 (emphasis in original); *accord In re City of Marlborough*, 12 E.A.D. 235, 252 n. 22 (EAB 2005); *Jacksonville*, 4 E.A.D. at 158; *Ina Rd.*, 2 E.A.D. at 100 (stating that such “duty is independent of State certification under [section] 401”). EPA’s regulations similarly interpret the statute to impose such an independent duty when EPA issues an NPDES permit. 40 CFR §§ 122.4(a), (d); 122.44(d)(1), (5).

EPA has therefore included fecal coliform limits in the final permit consistent with the Massachusetts Water Quality Standards criteria for SB waters designated for shellfishing, including a monthly geometric mean of 88 cfu/100 ml, a daily maximum of 400 cfu/100 ml, and a requirement that no more than 10 % of samples in a month can exceed 260 cfu/100 ml. If

Massachusetts should propose changes to its water quality standards that would support a change to the fecal coliform effluent limitation, and EPA approves this standard, then EPA will use that standard in establishing appropriate effluent limitations in subsequent permit actions.