



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

December 2, 2011

VIA ELECTRONIC MAIL

Mr. Michael Rodrigue  
Pioneer Plastics Corporation  
1 Pionite Road  
Auburn, ME 04210  
[Mrodrigue@pionite.com](mailto:Mrodrigue@pionite.com)

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0000540  
Maine Waste Discharge License (WDL) Application # W007876-5S-G-R  
**Final Permit/WDL – Pioneer Plastics Corporation**

Dear Mr. Rodrigue:

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 via email at: [phyllis.a.rand@maine.gov](mailto:phyllis.a.rand@maine.gov).

Sincerely,

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

Enclosure

Cc: Stuart Rose, DEP/SMRO   Lori Mitchell, DEP/DMU   Sandy Mojica, EPA



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

## DEPARTMENT ORDER

### IN THE MATTER OF

PIONEER PLASTICS CORPORATION	)	MAINE POLLUTANT DISCHARGE
AUBURN, ANDROSCOGGIN COUNTY	)	ELIMINATION SYSTEM PERMIT
NON-PROCESS AND COOLING WATERS	)	AND
ME0000540	)	WASTE DISCHARGE LICENSE
W007876-5S-G-R	)	<b>RENEWAL</b>
<b>APPROVAL</b>	)	

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, §1251, *et seq.*, and Maine law, 38 M.R.S.A., §414-A *et seq.*, and applicable regulations, the Maine Department of Environmental Protection (“Department”) has considered the application of PIONEER PLASTICS CORPORATION (“permittee”), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

### APPLICATION SUMMARY

The permittee has applied to the Department for the renewal of Waste Discharge License (WDL) #W007876-5S-F-R / Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0000540 (“permit”), which was issued on December 11, 2006, and will expire on December 11, 2011. The 12/11/06 permit authorized the intermittent discharge of a maximum of 1.2 million gallons per day (MGD) of non-process waste waters and non-contact cooling waters to the Little Androscoggin River, Class C, in Auburn, Maine. A map created by the Department showing the location of the discharge and the receiving waters is included as Fact Sheet **Attachment A**.

### PERMIT SUMMARY

This permitting action is carrying forward the terms and conditions of the 12/11/06 permitting action.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 2, 2011, and subject to the Conditions listed below, the Department makes the following conclusions:

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.
3. The provisions of the State's antidegradation policy, 38 M.R.S.A. §464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
  - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).

**ACTION**

THEREFORE, the Department APPROVES the above noted application of PIONEER PLASTICS CORPORATION to discharge a daily maximum of up to 1.2 million gallons per day (MGD) of non-process waste waters and non-contact cooling waters, on an intermittent basis and when the receiving water flow is at least 75 cubic feet per second, to the Little Androscoggin River, Class C, in Auburn, Maine. The discharges shall be subject to the attached conditions and all applicable standards and regulations:

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 and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A)* (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: September 6, 2011  
Date of application acceptance: September 9, 2011

This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. Beginning the effective date of this permit, the permittee is authorized to discharge **non-process waste waters and non-contact cooling waters via Outfall #002A** to the Little Androscoggin River at Auburn. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1), (2)</sup>:

Effluent Characteristic	Discharge Limitations		Minimum Monitoring Requirements	
	<u>Daily Maximum</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
<b>Flow</b> <i>[00056]</i>	1.2 MGD <i>[03]</i>	---	When Discharging <i>[WH/DS]</i>	Calculate <i>[CA]</i>
<b>Discharge Duration</b> <i>[81381]</i>	Report Total Hours <i>[8A]</i>	---	Once/Discharge <i>[01/DS]</i>	Recorder <i>[RC]</i>
<b>Total Copper</b> <i>[01042]</i>	0.96 lbs./day <i>[26]</i>	144 µg/L <i>[28]</i>	When Discharging <i>[WH/DS]</i>	Composite <sup>(4)</sup> <i>[08]</i>
<b>Effluent Temperature</b> <i>[00011]</i>	78°F <i>[15]</i>	---	Twice/Discharge <i>[02/DS]</i>	Measure <i>[MS]</i>
<b>pH</b> <i>[00400]</i>	6.0 – 8.5 SU <i>[12]</i>	---	Twice/Discharge <i>[02/DS]</i>	Recorder <i>[RC]</i>
<b>Whole Effluent Toxicity</b> <sup>(3)</sup> <b>(A-NOEL) Water Flea</b> <i>[TDA3B]</i>	Report % <i>[23]</i>	---	When Discharging <i>[WH/DS]</i>	Composite <sup>(4)</sup> <i>[08]</i>

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

**FOOTNOTES:** See Pages 5 and 6 of this permit for applicable footnotes.

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

1. **Sampling** – All effluent samples collected for compliance demonstration purposes shall be collected at the “pump house,” so called, located at the edge of the Little Androscoggin River.

Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in Title 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 for waste water testing. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 or laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. See **Attachment A** of this permit for a list of the Department’s RLs. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value (“J” flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **River Flow Restricted Discharge** – The permittee is not authorized to discharge when the receiving water flow rate is less than 75 cubic feet per second as measured at United States Geological Survey (USGS) river gauge #01057000 (Little Androscoggin River near South Paris, Maine), or other methods approved in writing by the Department.
3. **Whole Effluent Toxicity (WET)** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute threshold of 2.4%), 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. This permitting action is not establishing chronic WET testing based on the intermittent nature of the discharge and Department best professional judgment that the discharge does not exhibit chronic effects on the receiving water. The critical acute threshold was derived as the mathematical inverse of the applicable acute dilution factor of 41.4:1.

## SPECIAL CONDITIONS

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

#### FOOTNOTES:

The permittee shall initiate A-NOEL WET testing at a minimum frequency of once per discharge event using the water flea (*Ceriodaphnia dubia*). The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute water quality threshold.

Toxicity tests must be conducted by an experienced laboratory approved by the Department. See **Attachment B** of this permit for a copy of the Department's WET report form. The laboratory must follow procedures as described in the following U.S.E.P.A. 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 parameters specified in the analytical chemistry section in **Attachment A** of this permit each time a WET test is performed.

4. **Composite Samples** – Composite samples collected for total copper and WET testing shall be comprised of eight (8) grab samples collected at equal intervals over the course of a single discharge event. The permittee shall combine all grab samples to form a composite for laboratory analysis.

### B. NARRATIVE EFFLUENT LIMITATIONS

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

## **SPECIAL CONDITIONS**

### **C. AUTHORIZED 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 September 9, 2011; 2) the terms and conditions of this permit; 3) only when the river flow is at least 75 cfs; and 4) only from Outfall #002A. 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), *Bypasses*, of this permit.

### **D. PROCEDURE FOR COOLING POND DISCHARGE**

1. **At least two weeks prior to discharge and at a minimum frequency of twice per week**, the permittee shall:
  - a. Monitor and record the cooling pond waters for the following parameters: total copper, temperature, pH, and water treatment additives (corrosion inhibitors, oxygen scavengers, etc.) used within the previous 30 days in any process contributing waste water flows to the cooling pond.
  - b. Provide written notice to the Department assigned facility inspector that a discharge is scheduled, and provide results of testing as specified in Special Condition D.1.a. of this permit as soon as they become available.
  - c. Notify the Department as to whether or not biocides, or the equivalent, have been used within the previous 60 days in any process contributing waste water flows to the cooling pond. The Department may require additional monitoring or testing prior to discharge, at its discretion, for any chemical or compounds that may be present in the cooling pond waters.
2. **Upon termination of the discharge** (the point at which the gravity fed discharges ceases), the permittee shall cover/plug the outlet pipe(s) in the cooling pond to ensure that any residual water and sludge remaining in the pond is not discharged to the river. Any residual water or sludge removed from the pond shall be properly disposed of as solid waste in accordance with applicable Department rules and Maine laws.

### **E. NOTIFICATION REQUIREMENTS**

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

1. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.
2. For the purposes of this section, adequate notice shall include information on:
  - a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and

## SPECIAL CONDITIONS

### E. NOTIFICATION REQUIREMENTS (cont'd)

- b. Any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

### F. OPERATIONS AND MAINTENANCE (O&M) PLAN

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

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

### G. 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 (13<sup>th</sup>) 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 (15<sup>th</sup>) 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  
Southern Maine Regional Office  
Bureau of Land and Water Quality  
Division of Water Quality Management  
312 Canco Road  
Portland, Maine 04103

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 15<sup>th</sup> 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 (13<sup>th</sup>) 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 (15<sup>th</sup>) day of the month** following the completed reporting period. **Electronic**

## **SPECIAL CONDITIONS**

### **G. MONITORING AND REPORTING (cont'd)**

**documentation** in support of the eDMR must be submitted **not later than close of business on the 15<sup>th</sup> day of the month** following the completed reporting period.

### **H. REOPENING OF PERMIT FOR MODIFICATIONS**

Upon evaluation of the tests results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at 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 monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

### **I. SEVERABILITY**

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

# **ATTACHMENT A**

**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)<sup>(1)</sup>  Flow Avg. for Month (MGD)<sup>(2)</sup>   
 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.

**FRESH WATER 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 <sup>(7)</sup>		
		Acute	Chronic	Acute					Chronic		
	Trout - Acute										
	Trout - Chronic										
	Water Flea - Acute										
	Water Flea - Chronic										
WET CHEMISTRY											
	pH (S.U.) <sup>(9)</sup>				(8)						
	Total Organic Carbon (mg/L)				(8)						
	Total Solids (mg/L)										
	Total Suspended Solids (mg/L)										
	Alkalinity (mg/L)				(8)						
	Specific Conductance (umhos)										
	Total Hardness (mg/L)				(8)						
	Total Magnesium (mg/L)				(8)						
	Total Calcium (mg/L)				(8)						
ANALYTICAL CHEMISTRY <sup>(3)</sup>											
	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 <sup>(7)</sup>		
			Acute <sup>(6)</sup>	Chronic <sup>(6)</sup>	Health <sup>(6)</sup>				Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) <sup>(9)</sup>	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 <sup>(4)</sup>		Effluent Limits			Reporting Limit Check	Possible Exceedence <sup>(7)</sup>		
	Reporting Limit	Acute <sup>(6)</sup>	Chronic <sup>(6)</sup>	Health <sup>(6)</sup>		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-TRICHLOROBENZENE	5						
BN	1,2-(O)DICHLOROBENZENE	5						
BN	1,2-DIPHENYLHYDRAZINE	10						
BN	1,3-(M)DICHLOROBENZENE	5						
BN	1,4-(P)DICHLOROBENZENE	5						
BN	2,4-DINITROTOLUENE	6						
BN	2,6-DINITROTOLUENE	5						
BN	2-CHLORONAPHTHALENE	5						
BN	3,3'-DICHLOROBENZIDINE	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  
FRESH 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	
	water flea	trout	A-NOEL	C-NOEL
A-NOEL				
C-NOEL				

Data summary	water flea			trout		
	% survival		no. young	% survival		final weight (mg)
QC standard	A>90	C>80	>15/female	A>90	C>80	> 2% increase
lab control						
receiving water control						
conc. 1 ( %)						
conc. 2 ( %)						
conc. 3 ( %)						
conc. 4 ( %)						
conc. 5 ( %)						
conc. 6 ( %)						
stat test used						

place \* next to values statistically different from controls

for trout show final wt and % incr for both controls

Reference toxicant	water flea		trout	
	A-NOEL	C-NOEL	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 (Fresh Water Version), March 2007."**

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

**FACT SHEET**

**December 2, 2011**

PERMIT NUMBER: **ME0000540**  
WASTE DISCHARGE LICENSE: **W007876-5S-G-R**

NAME AND ADDRESS OF APPLICANT:

**PIONEER PLASTICS CORPORATION  
1 PIONITE ROAD  
AUBURN, MAINE 04210**

COUNTY: **ANDROSCOGGIN**

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

**PIONEER PLASTICS CORPORATION  
1 PIONITE ROAD  
AUBURN, MAINE 04210**

RECEIVING WATER/CLASSIFICATION: **LITTLE ANDROSCOGGIN RIVER/CLASS C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MICHAEL RODRIGUE**  
**(207) 784-9111**  
[Mrodrigue@pionite.com](mailto:Mrodrigue@pionite.com)

**1. APPLICATION SUMMARY**

Application: Pioneer Plastics Corporation (“permittee”) has applied to the Department of Environmental Protection (“Department”) for the renewal of Waste Discharge License (WDL) #W007876-5S-F-R / Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0000540 (‘permit’), which was issued on December 11, 2006, and will expire on December 11, 2011. The 12/11/06 permit authorized the intermittent discharge of a maximum of 1.2 million gallons per day (MGD) of non-process waste waters and non-contact cooling waters to the Little Androscoggin River, Class C, in Auburn, Maine. A map created by the Department showing the location of the discharge and the receiving waters is included as Fact Sheet **Attachment A**.

## 2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward the terms and conditions of the 12/11/06 permitting action.
- b. History: This section provides a summary of significant licensing/permitting actions and milestones that have been completed for the permittee.

August 30, 1995 – The USEPA issued a renewal of National Pollutant Discharge Elimination System (NPDES) permit #ME0000540 to Pioneer Plastics Corporation. The 8/30/95 permit superseded the NPDES permit issued to this facility by the USEPA on December 20, 1974 (earliest NPDES permit on file with the Department).

September 24, 2001 – The Department issued WDL #W007876-5S-E-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five year term. The 9/24/01 permit superseded WDL Modification #W007876-57-C-M issued on May 22, 1997 and previous WDLs and WDL Transfers.

October 31, 2005 – Pioneer Plastics submitted to the Department, for review and acceptance, a Notice of Intent (NOI) to Comply with the Maine Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activity. The NOI was assigned #MER05B360.

December 11, 2006 – The Department issued WDL #W007876-5S-F-R / MEPDES permit #ME0000540 to Pioneer Plastics for a five-year term.

September 6, 2011 – Pioneer Plastics Corporation submitted a timely and complete General Application to the Department for renewal of the 12/11/06 MEPDES permit. The application was accepted for processing on September 9, 2011 and was assigned WDL #W007876-5S-G-R / MEPDES #ME0000540.

- c. Source Description: The permittee manufactures high pressure decorative laminates, treated papers and specialty resins. The manufacturing process requires cooling waters to cool critical plant equipment. The permittee utilizes a 130-foot by 160-foot by 8-foot deep concrete structure as a reservoir for a closed loop cooling system. Water is drawn from the Little Androscoggin River and pumped to the cooling water pond and then distributed to various manufacturing processes for cooling presses in the press room and reactor vessels and scrubber rollers in the specialty resins room. In addition to river water, municipal water is utilized for product manufacturing and make-up water for steam production in the facility boilers. Cooling waters are recycled through the cooling water pond and distributed through a series of spray nozzles in the pond to dissipate the heat in the water to the atmosphere.

Daily cooling water sources include: river make-up water for the cooling pond reservoir; blowdown and make-up waters from the facility's boilers; steam condensate from presses/reactors; and from critical equipment components such as mechanical seals and optical sensors. Although the facility cooling water system is a closed loop system, the cooling water pond and internal cooling system must be periodically taken off-line for inspection or routine maintenance. Intermittent cooling waters associated with the

**2. PERMIT SUMMARY (cont'd)**

shutdown include bleeding off internal systems that include steam condensate and hot water from the accumulators, make-up water from the boilers, reactors, and presses, and waters from the chilled water system.

Approximate volumes are as follows:

<b>Contributing Flow</b>	<b>Volume (gallons)</b>
Stream condensate/hot water from the accumulators	66,300
Water discharged from boilers	8,820
Water discharged from reactors and presses	10,000
Water discharged from closed cooling loop	10,000
Water discharged from chilled water system	1,000

In order to maintain heat transfer efficiency in the facility's boilers, the permittee adds chemicals to the make-up water for neutralization, oxygen scavenging, scaling prevention and maintaining the proper levels of alkalinity. The permittee also utilizes a biocide and corrosion inhibitors to prevent biological growth and corrosion in the system.

All manufacturing process and sanitary wastewaters generated are conveyed to the Lewiston-Auburn Water Pollution Control Authority (LAWPCA) located in Lewiston, Maine. It is noted that in the past, the permittee reported that their request to convey cooling pond waste waters to LAWPCA as an alternative to direct discharge to the river was not accepted. Cooling pond discharges are typically performed in the spring of the year which coincides with periods of high flows to publicly owned treatment facilities, and for certain facilities, discharges from combined sewer overflow points.

- d. Wastewater Treatment: The permittee does not provide a formal level of treatment to the wastewater. Rather, the facility implements operational constraints before discharging to the receiving water.

**3. CONDITIONS OF PERMIT**

*Conditions of Licenses*, 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, *Certain Deposits and Discharges Prohibited*, 38 M.R.S.A. Section 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530, require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584, and that ensure safe levels for

### 3. CONDITIONS OF PERMIT (cont'd)

the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

### 4. RECEIVING WATER QUALITY STANDARDS

*Classification of major river basins*, 38 M.R.S.A. §467 (1)(B)(1)(b) classifies the Little Androscoggin River, main stem, from the Maine Central Railroad bridge in South Paris to its confluence with the Androscoggin River, which includes the river at the point of discharge, as Class C waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. §465(4) describes the standards for Class C waters.

### 5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 24.5-mile reach of the Little Androscoggin River below the State Route 121 Bridge in Oxford (Hydrologic Unit Code #ME0104000209 / Waterbody ID #417R\_01) as, *Category 2: Rivers and Streams Attaining Some Designated Uses – Insufficient Information for Other Uses*. The Report lists all of Maine's fresh waters as, *Category 4A: Waters Impaired by Atmospheric Deposition of Mercury (TMDL Completed)*. The Report states, "*Impairment caused by atmospheric deposition of mercury; a regional scale TMDL has been approved. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources.*"

The Department has no information at this time that the discharge from the permittee causes or contributes to the failure of the receiving water to meet the designated uses of its ascribed classification.

### 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: The previous permitting action established a daily maximum discharge flow limitation of 1.2 million gallons per day based on the maximum discharge rate proposed by the permittee, and utilized this flow limit to calculate applicable discharge limitations for total copper, phenols and temperature. This permitting action is carrying forward the flow limitation from the previous permitting action.

The previous permitting action revised the permittee's effluent discharge prohibition from 23.3 cubic feet per second (cfs) to a minimum stream flow of 75 cfs as measured at United States Geological Survey (USGS) gauge #01057000, or other method approved in writing by the Department.

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

A review of the daily maximum discharge flow data as reported on the DMRs submitted to the Department for the period January 1, 2007 – September 23, 2011 (n=1) indicates that the permittee has discharged wastewater once during the specified period. The permittee reported a total discharge flow of 0.5 MGD, over a 20-hour period of time, to the Little Androscoggin River on April 2 – 3, 2010.

- b. Dilution Factors: The acute dilution factor associated with the daily maximum discharge of 1.2 MGD at a minimum stream flow of 75 cubic feet per second (cfs) was derived in accordance with *Surface Water Toxics Control Program*, 06-096 CMR 530 § 4.A. Due to the intermittent nature of the discharge (historically once every 4-5 years) and short discharge duration (historically for less than 48 hours), the Department is regulating the discharge for acute effects on the receiving water. By prohibiting discharges when the river flow is below 75 cfs, this permitting action ensures that, following a reasonable opportunity for dilution with the receiving waters, the permit effluent limits will not exceed the critical acute water quality-based thresholds for the Little Androscoggin River. With a prohibition on discharges when river flow is less than 75 cfs, the acute dilution factor was derived as follows:

$$\text{River Flow} = 75 \text{ cfs} \quad \Rightarrow \quad \frac{(75 \text{ cfs})(0.6464) + 1.2 \text{ MGD}}{1.2 \text{ MGD}} = 41.4:1$$

- c. Temperature: *Regulations Relating To Temperature*, 06-096 CMR 582 limits thermal discharges to an in-stream temperature increase ( $\Delta T$ ) of 0.5°F above the ambient receiving water temperature when the weekly average temperature of the receiving water is greater than or equal to 66° F or when the daily maximum temperature is greater than or equal to 73° F. The temperature thresholds are based on EPA water quality criteria for the protection of brook trout and Atlantic salmon. The weekly average temperature of 66°F was derived to protect for normal growth of the brook trout and the daily maximum threshold temperature of 73° F protects for the survival of juveniles and adult Atlantic salmon during the summer months. The Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average.

To promote consistency, the Department also interprets the  $\Delta T$  of 0.5° F as a weekly rolling average criterion when the receiving water temperature is  $\geq 66^\circ$  F and  $< 73^\circ$  F.

The assimilative capacity of the Little Androscoggin River (thermal load that would cause the stream to increase by 0.5°F) at a stream flow of 75 cfs can be calculated as follows:

$$(75 \text{ cfs})(0.6464)(0.5^\circ\text{F})(8.34 \text{ lbs/day})(10^6 \text{ gallons}) = 2.0 \times 10^8 \text{ BTU/day}$$

Based on the data cited above, the Department established a best professional judgment daily maximum temperature limit of 78°F in the previous permitting action. Due to the intermittent nature of the discharge and short-term discharge duration, the Department is regulating temperature associated with this discharge as an acute effect.

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

When the receiving water is  $>73^{\circ}\text{F}$ , the in-stream temperature difference of  $0.5^{\circ}\text{F}$  is a daily maximum limit thus, the thermal heat load based on a daily maximum flow of 1.2 MGD at  $78^{\circ}\text{F}$  can be calculated as follows:

$$(1.2 \text{ MGD})(78^{\circ}\text{F} - 73^{\circ}\text{F})(8.34 \text{ lbs/gal})(10^6) = 5.0 \times 10^7 \text{ BTU/day}$$

The calculated thermal heat load using the maximum discharge flow rate and temperature is lower than the assimilative capacity of the river. Therefore, compliance with the daily maximum effluent temperature limitation of  $78^{\circ}\text{F}$  ensures that the discharge will not cause an in-stream temperature increase ( $\Delta\text{T}$ ) of  $0.5^{\circ}\text{F}$  above the ambient receiving water temperature. The calculation above is an example of thermal loading based on worst case scenarios for both the ambient receiving water and discharge from Outfall #002A. It is noted the Department determines compliance based on actual ambient receiving water flows and temperatures and actual discharge flows and temperatures.

DMR monitoring data for the period January 1, 2007 through September 23, 2011 (n=1) indicates the permittee discharged the cooling pond effluent on April 2, 2010 and the daily maximum temperature was  $72^{\circ}\text{F}$ .

- d. Whole Effluent Toxicity (WET) and Chemical Specific Testing: 38 M.R.S.A., §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. *Surface Water Toxics Control Program*, 06-096 CMR 530 and *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584, set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

WET and analytical chemistry testing as required by 06-096 CMR 530 are included in this permit to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after the evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater and existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. The 2001 permitting action established acute WET testing to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. (Chronic WET testing was not required due to the intermittent nature and short-term duration of the discharge.) Acute WET tests are performed on the invertebrate water flea (*Ceriodaphnia dubia*).

06-096 CMR 530 §(2)(A) specifies the dischargers subject to the rule as, "all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute

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

*to exceedences of narrative or numerical water quality criteria.”* The Department established acute WET testing at a frequency of once per discharge event based on best professional judgment (BPJ) that the effluent “may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria” and this permitting action is carrying forward acute WET testing on the same BPJ basis.

Analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant, in the case of the permittee, to acute AWQC as established in 06-096 CMR 584.

06-096 CMR 530 §(3)(E) states “*For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*”

06-096 CMR 530 §4(E), states “*In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity.*” Therefore, the Department is reserving 15% of the applicable water quality criteria is used in the calculations of this permitting action.

06-096 CMR 530 (3) states, “*In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations.*”

06-096 CMR 530 §4(C), states, “*The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions.*” The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations. The Department has no information on the background levels of metals in the water column in the Little Androscoggin River in the vicinity of the permittee’s discharge. Therefore, a default background concentration of

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

10% of the applicable water quality criteria is being used in the calculations of this permitting action.

### WET evaluation

On 9/23/11, the Department conducted a statistical evaluation on the most recent 60 months of WET tests results on file at the Department. The statistical evaluation indicates the discharge from the permittee does not exceed or have a reasonable potential to exceed the critical acute critical ambient water quality criteria (AWQC) threshold of 2.4% (mathematical inverse of the acute dilution factor of 41.4:1). Therefore, no numeric WET limitations for the water flea are being established in this permitting action. This permitting action is carrying forward the requirement for the permittee to conduct acute WET tests on the water flea when discharging.

### Chemical specific evaluation

06-096 CMR 530 §(3)(E) states, *“For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.”*

06-096 CMR 530 §3 states, *“In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations.”*

06-096 CMR 530 §4(C), states, *“The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions.”* The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations. The Department has very limited information on the background levels of metals in the water column in and around Peabbles Cove. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

06-096 CMR 530 4(E), states, *“In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity.”* Therefore, the Department is reserving 15% of the applicable water quality criteria in the calculations of this permitting action.

06-096 CMR 530 §(3)(E) states *“... that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.”*

On 10/03/11, the Department conducted a statistical evaluation on the most recent 60 months of analytical chemistry data from the permittee that indicates one test result of 96 ug/L on 4/02/11 demonstrated a reasonable potential to exceed the acute critical ambient water quality criteria (AWQC) for total copper. Therefore, this permitting action is carrying forward the total copper numerical concentration and mass limitations of 144.3 ug/L and 0.96 lbs/day, respectively, and the requirement for the permittee to monitor for total copper when discharging.

This permitting action addresses all known pollutants consistent with 06-096 CMR 530 § 2.D.5, and the Department has determined that priority pollutant and chronic WET testing for Outfall #002A is not warranted at this time.

- e. **pH:** This permitting action is carrying forward a pH range limitation of 6.0 – 8.5 SU (standard units) from the previous permitting action, which is considered by the Department as a best practicable treatment standard. A review of the DMR data for the period January 1, 2007 through September 23, 2011 (n=1) indicates the daily maximum pH was 8.0 S.U. This permitting action is carrying forward the minimum pH monitoring frequency requirement of twice per discharge event.

## 7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The Department has made a best professional judgment determination that as permitted, the discharge will not cause or contribute the failure of the receiving water to meet Class C standards and the designated uses of the river will continue to be maintained and protected.

## 8. PUBLIC COMMENTS

Public notice of this application was made in the *Lewiston Sun Journal* newspaper on or about September 2, 2011. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## 9. DEPARTMENT CONTACTS

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

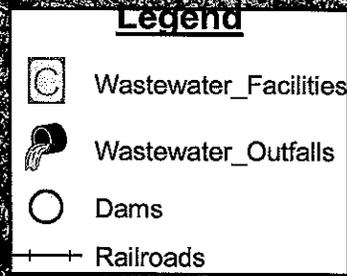
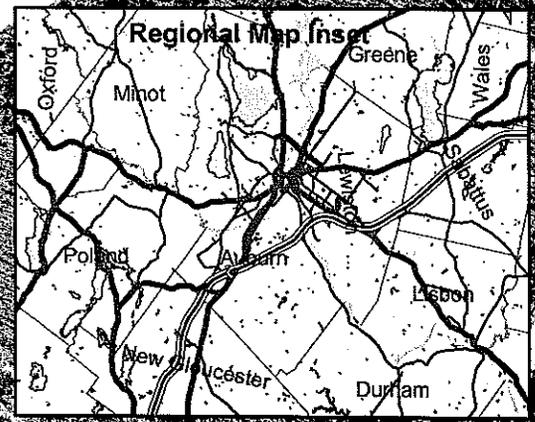
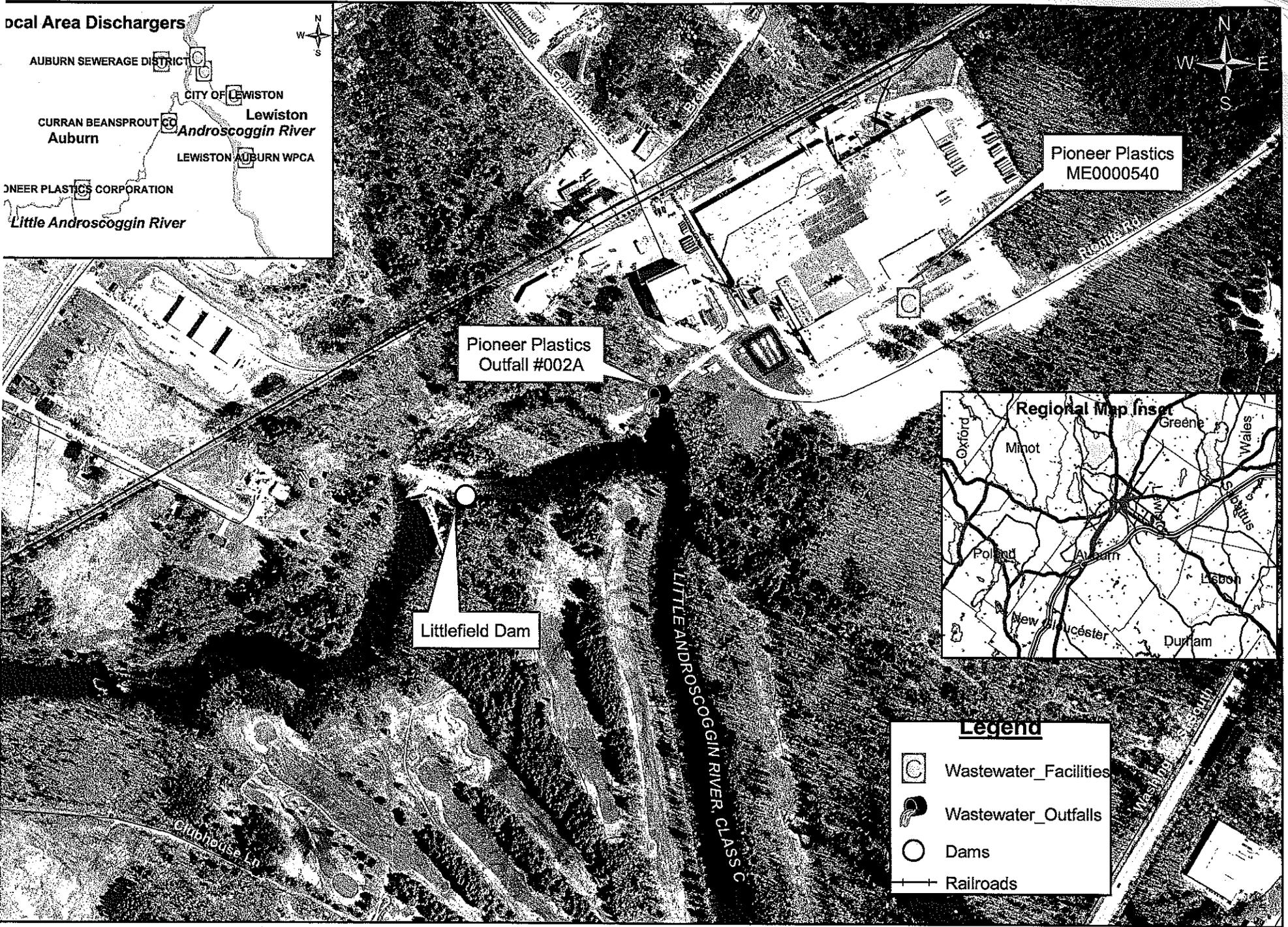
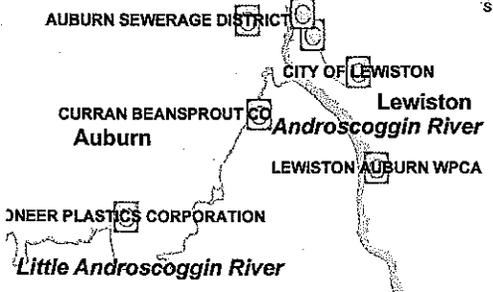
Phyllis Arnold Rand  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 287-7658 Fax: (207) 287-3435  
e-mail: [phyllis.a.rand@maine.gov](mailto:phyllis.a.rand@maine.gov)

## 10. RESPONSE TO COMMENTS

During the period of October 24, 2011 through the issuance date of the permit, the Department solicited comments on the proposed draft permit to be issued for the discharge(s) from the permittee. No comments were received from state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

# **ATTACHMENT A**

Local Area Dischargers



Pioneer Plastics on Little Androscoggin River, Auburn, Maine

Map created by Maine DEP  
May 17, 2006



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.**

---