



STATE OF MAINE
Department of Environmental Protection

Paul R. Lepage
GOVERNOR

Patricia W. Aho
COMMISSIONER

December 16, 2014

Mr. Donald R. Lagrange
Town Manager
P.O. Box 934
Southwest Harbor, ME. 04679
e-mail: ceo@southwestharbor.org

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100641
Maine Waste Discharge License (WDL) Application #W002676-6C-H-R
Final Permit

Dear Mr. Lagrange:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this permit/license renewal and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State Law and is subject to enforcement action.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Tanya Hovell, DEP/EMRO
Sandy Mojica, USEPA
Olga Vergara, USEPA
Marelyn Vega, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

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

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

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



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

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF SOUTHWEST HARBOR) MAINE POLLUTANT DISCHARGE
PUBLICLY OWNED TREATMENT WORKS) ELIMINATION SYSTEM PERMIT
SOUTHWEST HARBOR) AND
HANCOCK COUNTY, MAINE) WASTE DISCHARGE LICENSE
ME0100641)
W002676-6C-H-R APPROVAL) RENEWAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the TOWN OF SOUTHWEST HARBOR (Town/permittee hereinafter) with its supportive data, agency review comments, and other related material on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The Town has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0100641/ Maine Waste Discharge License #W002676-5L-F-R (permit hereinafter) which was issued by the Department on October 26, 2009, for a five-year term. The permit approved the discharge of up to a monthly average flow of 0.375 MGD of secondary treated sanitary wastewater from a municipal treatment facility to the tidewaters of Southwest Harbor, Class SB, in Southwest Harbor, Maine.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the October 26, 2009 permit except this permit is:

1. Eliminating the water quality based concentration limit for total copper pursuant to a revision to 06-096 CMR Chapter 530, Surface Water Toxics Control Program (subsequent to the issuance of the October 26, 2009 permit) which states "*Unless required by an applicable effluent limitation guideline adopted by the Department, all permit limitations for metals shall be expressed only as mass-based limits.*"
2. Eliminating the option for the facility to report the NODI 9 code when calculating percent removal on the Discharge Monitoring Report (DMR) when the average influent concentration is less than 200 mg/L based on guidance from the U.S. Environmental Protection Agency (EPA).

PERMIT SUMMARY (cont'd)

3. Incorporating previously established average and maximum technology based concentration limits for total mercury so the results can be tracked in the federal Integrated Compliance Information System (ICIS).
4. Reducing the monitoring frequencies for settleable solids from 1/Day to 4/Week and total copper from 1/Quarter to 2/Year based on a statistical evaluation of the monitoring results for the most current five-year period.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated November 4, 2014, 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 MRSA Section 464(4)(F), will be met, in that:
 - a. Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - b. Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - c. 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 quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the application of the TOWN OF SOUTHWEST HARBOR to discharge up to a monthly average flow of 0.375 million gallons per day of secondary treated sanitary waste water from a municipal waste water treatment facility to the tidewaters of Southwest Harbor, Class SB. 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 2, 2001, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent 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)].

DONE AND DATED AT AUGUSTA, MAINE, THIS 17th DAY OF December, 2014.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application August 4, 2014.

Date of application acceptance August 4, 2014

<p>Filed</p> <p>DEC 17 2014</p> <p>State of Maine Board of Environmental Protection</p>

Date filed with Board of Environmental Protection _____

This Order prepared by GREGG WOOD, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Beginning the effective date of the permit, the permittee is authorized to discharge secondary treated wastewater to the tidewaters of Southwest Harbor from **Outfall 001**⁽¹⁾. Such treated waste water discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow [50050]	0.375 MGD [03]	---	---	---	---	---	Continuous [99/99]	Recorder [RC]
Biochemical Oxygen Demand (BOD ₅) [00310]	94 lbs/Day [26]	141 lbs/Day [26]	156 lbs/Day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	24 Hr. Composite [24]
BOD ₅ % Removal ⁽²⁾ [81010]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Total Suspended Solids (TSS) [00530]	94 lbs/Day [26]	141 lbs/Day [26]	156 lbs/Day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Week [01/07]	24 Hr. Composite [24]
TSS % Removal ⁽²⁾ [81011]	---	---	---	85% [23]	---	---	1/Month [01/30]	Calculate [CA]
Settleable Solids [00545]	---	---	---	---	---	0.3 ml/L [25]	4/Week [04/07]	Grab [GR]
Fecal Coliform Bacteria ⁽³⁾ (May 15 – September 30) [31616]	---	---	---	15/100 mL ⁽⁴⁾ [13]	---	50/100 mL [13]	1/Week [01/07]	Grab [GR]
Total Residual Chlorine ⁽⁵⁾ [50060]	---	---	---	0.1 mg/L [19]	---	0.15 mg/L [19]	1/Day [01/01]	Grab [GR]
pH (Std. Units) [00400]	---	---	---	---	---	6.0-9.0 [12]	5/Week [05/07]	Grab [GR]

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001⁽¹⁾

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Total Copper <small>[010-02]</small>	---	---	0.17 lbs/Day <small>[26]</small>	---	---	Report ug/L <small>[28]</small>	2/Year <small>[02/YR]</small>	24 Hr. Composite <small>[2-4]</small>
Mercury (Total) ⁽⁶⁾ <small>[71900]</small>	---	---	---	24 ng/L <small>[3M]</small>	---	36 ng/L <small>[3M]</small>	1/Year <small>[01/YR]</small>	Grab <small>[GR]</small>

SURVEILLANCE-LEVEL TESTING – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee shall conduct surveillance level testing as follows:

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
<u>Whole Effluent Toxicity</u> ⁽⁷⁾ <u>Acute – NOEL</u>						
<i>Mysidopsis bahia</i> <small>[TDM3E]</small> (Mysid Shrimp)	---	---	---	Report % <small>[23]</small>	1/2 Years <small>[01/2Y]</small>	Composite <small>[2-4]</small>
<u>Chronic – NOEL</u>						
<i>Arbacia punctulata</i> <small>[TBH3A]</small> (Sea urchin)	---	---	---	Report % <small>[23]</small>	1/2 Years <small>[01/2Y]</small>	Composite <small>[2-4]</small>
Analytical Chemistry ^(8,10) <small>[51-477]</small>	---	---	---	Report ug/L <small>[28]</small>	1/2 Years <small>[01/2Y]</small>	Composite/Grab <small>[2-4]</small>

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001⁽¹⁾

SCREENING-LEVEL TESTING - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall be limited and monitored by the permittee as specified below.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity ⁽⁷⁾						
Acute – NOEL <i>Mysidopsis bahia</i> [TDM3E] (Mysid Shrimp)	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Chronic – NOEL <i>Arbacia punctulata</i> [TBH3A] (Sea urchin)	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Analytical Chemistry ^(8,10) [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/QO]	Composite/Grab [24]
Priority pollutants ^(9,10) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

SPECIAL CONDITIONS

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

Footnotes:

1. **Effluent sampling** shall be conducted after the dechlorination chamber on a year-round basis. Any change in sampling location(s) must be reviewed and approved by the Department in writing.

Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

All analytical test results from monitoring of parameters required by this license shall be reported to the Department including results which are quantified 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 RL's. A non-detect analytical test result shall be reported as <Y where Y is the minimum level for reporting quantitative data specified by the laboratory in their report for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. Lab data that have an estimated value ("J" flagged) below an established RL shall be reported as "< RL". Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

2. **Percent removal** - The treatment facility shall maintain a minimum of 85 percent removal of both BOD₅ and TSS. The percent removal shall be based on a monthly average calculation using influent and effluent concentrations.
3. **Fecal coliform bacteria** – Limits are seasonal and apply between May 15 and September 30 of each calendar year.
4. **Fecal coliform bacteria** – The monthly average limitation is a **geometric mean** limitation and shall be calculated and reported as such.

SPECIAL CONDITIONS

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

5. **Total residual chlorine (TRC) limits and monitoring requirements** – TRC limits and monitoring requirements are applicable whenever elemental chlorine or chlorine-based compounds are being used to disinfect the discharge. TRC shall be tested using an EPA-approved method that is capable of bracketing the TRC concentration limitations in this permit. The Department reserves the right to require disinfection on a year-round basis to protect the health and welfare of the public.
6. **Mercury** – All mercury sampling (1/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses shall be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment B**, *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

The limitation in the monthly average column in table Special Condition A of this permit is defined as the arithmetic mean of all the mercury tests ever conducted for the facility utilizing sampling Methods 1669 and analysis Method 1631E.

7. **Whole effluent toxicity (WET) testing** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic receiving water concentrations of 8.5 % and 3.3 %, respectively, which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*) and chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*). The critical acute and chronic thresholds were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 11.8:1 and 30:1, respectively. See **Attachment C** of this permit for the Department's form for reporting WET concentration thresholds.
 - a. **Surveillance level testing** - Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee shall conduct surveillance-level WET testing. Acute tests shall be conducted once every two years (1/2 Years) on the mysid shrimp (*Mysidopsis bahia*). Chronic tests shall be conducted 1/2 Years on the sea urchin (*Arbacia punctulata*).

SPECIAL CONDITIONS

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

- b. **Screening level testing** - Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement, the permittee shall conduct screening-level WET testing at a frequency of 2/Year. Acute tests shall be conducted on the mysid shrimp (*Mysidopsis bahia*). Chronic tests shall be conducted on the sea urchin (*Arbacia punctulata*).

Test results must be submitted to the Department no later than the next DMR required by the permit, provided, however, the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory conducting the testing before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 8.5% and 3.3%, respectively.

The permittee is also required to analyze the effluent for the parameters specified in the WET chemistry section, and the parameters specified in the analytical chemistry section on the form in **Attachment A** of this permit each time a WET test is performed.

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

- a. U.S. Environmental Protection Agency. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th ed. EPA 821-R-02-012. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the acute method manual)
- b. U.S. Environmental Protection Agency. 2002. *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms*, 3rd ed. EPA 821-R-02-014. U.S. Environmental Protection Agency, Office of Water, Washington, D.C., October 2002 (the marine chronic method manual)

8. Analytical Chemistry – Refers to a suite of parameters listed in **Attachment A** of this permit.

- a. **Surveillance-level testing** – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit), the permittee shall conduct analytical chemistry testing at a minimum frequency of once every two years (1/2 years).

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for 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 for the classification of the receiving waters.
3. The discharges shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

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

D LIMITATIONS FOR INDUSTRIAL USERS

Pollutants introduced into the wastewater collection and treatment system by a non-domestic source (user) must not pass through or interfere with the operation of the treatment system. The permittee must conduct an Industrial Waste Survey (IWS) any time a new industrial user proposes to discharge within its jurisdiction; an existing user proposes to make a significant change in its discharge; or at an alternative minimum, once every permit cycle and submit the results to the Department. The IWS must identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of the federal Clean Water Act, 40 CFR Part 403 (general pretreatment regulations) or *Pretreatment Program*, 06-096 CMR 528 (last amended March 17, 2008).

SPECIAL CONDITIONS

E. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit accepted for processing on August 4, 2014; 2) the terms and conditions of this permit; and 3) only from Outfall #001. Discharges of wastewater from any other point source is not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

F. NOTIFICATION REQUIREMENT

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

1. Any introduction of pollutants into the waste water collection and treatment system from an indirect discharger in a primary industrial category discharging process waste water; and,
2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:
 - (a) the quality and quantity of waste water introduced to the waste water collection and treatment system; and
 - (b) any anticipated impact caused by the change in the quantity or quality of the waste water to be discharged from the treatment system.

G. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall revise and maintain a Wet Weather Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The staff shall maintain a record that the plan has been reviewed annually and the changes documented, even if no changes have been made to the plan.

Within 90 days of completion of new and/or substantial upgrades of the waste water treatment facility, the permittee shall submit to the Department for review and approval, a new or revised Wet Weather Flow Management Plan which conforms to Department guidelines for such plans. The staff shall maintain a record that the plan has been reviewed annually and the changes documented, even if no changes have been made to the plan. The revised plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic tank wastes and other high-strength wastes if applicable) and provide written operating and maintenance procedures during the events.

SPECIAL CONDITIONS

H. OPERATION & 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.

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

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit [ICIS Code 75305]. See Attachment D of the Fact Sheet of this permit for an acceptable certification form to satisfy this Special Condition.

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

In addition, in the comments section of the certification form, the permittee shall provide the Department with statements describing;

- (d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge.
- (e) Increases in the type or volume of hauled wastes accepted by the facility.

SPECIAL CONDITIONS

I. 06-096 CMR 530(2)(D)(4) STATEMENT FOR REDUCED/WAIVED TOXICS TESTING (cont'd)

The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds.

J. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

Maine Department of Environmental Protection
Eastern Maine Regional Office
Bureau of Land & Water Quality
106 Hogan Road
Bangor, ME 04401

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

SPECIAL CONDITIONS

K. REOPENING OF PERMIT FOR MODIFICATIONS

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

L. SEVERABILITY

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

ATTACHMENT A

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

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

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

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

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

Laboratory _____ Telephone _____
Address _____

Last Revision - April 24, 2014

Lab Contact _____ Lab ID # _____

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

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

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

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

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

PRIORITY POLLUTANTS ⁽⁴⁾		Effluent Limits			Reporting Limit Check	Possible Exceedence ⁽⁷⁾		
	Reporting Limit	Acute ⁽⁶⁾	Chronic ⁽⁶⁾	Health ⁽⁶⁾		Acute	Chronic	Health
M	ANTIMONY	5						
M	BERYLLIUM	2						
M	MERCURY (5)	0.2						
M	SELENIUM	5						
M	THALLIUM	4						
A	2,4,6-TRICHLOROPHENOL	5						
A	2,4-DICHLOROPHENOL	5						
A	2,4-DIMETHYLPHENOL	5						
A	2,4-DINITROPHENOL	45						
A	2-CHLOROPHENOL	5						
A	2-NITROPHENOL	5						
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25						
A	4-NITROPHENOL	20						
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5						
A	PENTACHLOROPHENOL	20						
A	PHENOL	5						
BN	1,2,4-TRICHLOROENZENE	5						
BN	1,2-(O)DICHLOROENZENE	5						
BN	1,2-DIPHENYLHYDRAZINE	20						
BN	1,3-(M)DICHLOROENZENE	5						
BN	1,4-(P)DICHLOROENZENE	5						
BN	2,4-DINITROTOLUENE	6						
BN	2,6-DINITROTOLUENE	5						
BN	2-CHLORONAPHTHALENE	5						
BN	3,3'-DICHLOROENZIDINE	16.5						
BN	3,4-BENZO(B)FLUORANTHENE	5						
BN	4-BROMOPHENYLPHENYL ETHER	5						
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	5						
BN	BENZO(G,H,I)PERYLENE	5						
BN	BENZO(K)FLUORANTHENE	5						
BN	BIS(2-CHLOROETHOXY)METHANE	5						
BN	BIS(2-CHLOROETHYL)ETHER	6						
BN	BIS(2-CHLOROISOPROPYL)ETHER	6						
BN	BIS(2-ETHYLHEXYL)PHTHALATE	10						
BN	BUTYLBENZYL PHTHALATE	5						
BN	CHRYSENE	5						
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.
- (3a) Cyanide, Available (Cyanide Amenable to Chlorination) is not an analytical chemistry parameter, but may be required by certain discharge permits.
- (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.

Printed 5/5/2014

**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.

Comments:

ATTACHMENT B

Effluent Mercury Test Report

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

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

SAMPLE COLLECTION INFORMATION

Sampling Date:	<input type="text"/> <input type="text"/> <input type="text"/>	Sampling time:	_____ AM/PM
	mm dd yy		
Sampling Location:	_____		
Weather Conditions:	_____		
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:			
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:			
Suspended Solids	_____ mg/L	Sample type:	_____ Grab (recommended) or _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory:	_____		
Date of analysis:	_____	Result:	_____ ng/L (PPT)
Please Enter Effluent Limits for your facility			
Effluent Limits:	Average = _____ ng/L	Maximum = _____ ng/L	
Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.			

CERTIFICATION

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

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT C

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

Facility Name _____ MEPDES Permit # _____
Pipe # _____

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

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

Chlorinated? _____ Dechlorinated? _____

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

Data summary	mysisd shrimp	sea urchin
	% survival	% fertilized
QC standard	>90	>70
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

Salinity Adjustment
brine
sea salt
other

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____
Mailing Address _____ Company Rep. Signature _____
City, State, ZIP _____ Company Telephone # _____

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

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.

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

FACT SHEET

Date: November 4, 2014

PERMIT NUMBER: **ME0100641**
LICENSE NUMBER: **W002676-6C-H-R**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF SOUTHWEST HARBOR
P.O. Box 745
Southwest Harbor, ME 04679**

COUNTY: **Hancock County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**9 Apple Lane
Southwest Harbor, ME 04679**

RECEIVING WATER/CLASSIFICATION: **Tidewaters of Southwest Harbor, Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Donald Lagrange, Town Mgr.
(207) 244-7915
ceo@southwestharbor.org**

1. APPLICATION SUMMARY

The Town of Southwest Harbor (Town/permittee) has submitted a timely and complete application to the Department for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0100641/ Maine Waste Discharge License #W002676-5L-F-R (permit hereinafter) which was issued by the Department on October 26, 2009, for a five-year term. The permit approved the discharge of up to a monthly average flow of 0.375 MGD of secondary treated sanitary wastewater from a municipal treatment facility to the tidewaters of Southwest Harbor, Class SB, in Southwest Harbor, Maine.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description – The permittee engages in the collection and treatment of municipal sanitary wastewater. The collection system is approximately 10 miles in length, has three pump stations and is a completely separated system. There are no significant industrial users within the collection system. The permittee is not authorized to receive transported wastes.
- c. Wastewater Treatment – Wastewater is first conveyed through a comminutor and then receives secondary treatment via two aeration basins fitted with fine bubble diffusers. Settling is achieved in two rectangular clarifiers. The wastewater is disinfected in a chlorine contact chamber with dechlorination capabilities. The treated effluent is discharged to Southwest Harbor through a 16-inch diameter concrete pipe fitted with a 16-inch cast iron diffuser. The outfall is located at 6 feet below mean low water depth to the top of the diffuser. The sludge generated at the facility is pumped into a truck and transported to the Bar Harbor Wastewater Treatment Facility where it is dewatered and composted.

2. PERMIT SUMMARY

- a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the October 26, 2009 permit except this permit is;
 1. Eliminating the water quality based concentration limit for total copper pursuant to a revision to 06-096 CMR Chapter 530, Surface Water Toxics Control Program (subsequent to the issuance of the October 26, 2009 permit) which states *“Unless required by an applicable effluent limitation guideline adopted by the Department, all permit limitations for metals shall be expressed only as mass-based limits.”*
 2. Eliminating the option for the facility to report the NOD1 9 code when calculating percent removal on the Discharge Monitoring Report (DMR) when the average influent concentration is less than 200 mg/L based on guidance from the U.S. Environmental Protection Agency (EPA).
 3. Incorporating previously established average and maximum technology based concentration limits for total mercury so the results can be tracked in the federal Integrated Compliance Information System (ICIS).
 4. Reducing the monitoring frequencies for settleable solids from 1/Day to 4/Week and total copper from 1/Quarter to 2/Year based on a statistical evaluation of the monitoring results for the most current five-year period.

2. PERMIT SUMMARY (cont'd)

c. History - The most recent licensing/permitting actions include the following:

September 30, 1999 – The U.S. Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0100641 to the Town of Southwest Harbor.

June 7, 2000 – The Department administratively modified WDL #W002676-5L-B-R to incorporate monthly average and daily maximum mercury concentration limits of 24.0 nanograms per liter (ng/L) and 36.0 ng/L, respectively. The sampling frequency was established at 4 tests per year.

July 5, 2000 – The Department issued Waste Discharge License (WDL) #W002676-5L-C-R, for a five-year term.

January 12, 2001 – The Department received authorization from the EPA to administer the NPDES permitting program in Maine. From that point forward, the program has been referred to as the MEPDES permitting program.

August 6, 2001 - The Town of Southwest Harbor submitted an application to the Department to modify WDL #W002676-5L-C-R to incorporate the terms and conditions of the MEPDES permit program.

October 2, 2001 – The Department issued combination MEPDES permit #ME0100641/WDL #W002676-5L-D-M that superseded the 9/30/99 NPDES permit issued by the EPA.

December 27, 2004 – The Department issued combination MEPDES permit #ME0100641/WDL #W002676-5L-E-R for a five-year term.

April 10, 2006 – The Department issued a modification of the 12/27/04 combination MEPDES Permit/WDL by incorporating the testing requirements of Department rules Chapter 530 and Chapter 584.

July 24, 2009 – The permittee submitted a complete and timely application for renewal of WDL/MEPDES permit # ME0100641/WDL #W002676-5L-E-R.

October 26, 2009 - The Department issued combination MEPDES permit #ME0100641/WDL #W002676-6C-F-R for a five-year term.

August 4, 2014 – The permittee submitted a timely and complete application for renewal of WDL/MEPDES permit # ME0100641/WDL #W002676-6C-F-R.

3. CONDITIONS OF PERMITS

Maine law, 38 M.R.S.A. Section 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System.

In addition, 38 M.R.S.A., Section 420 and Department rule 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, require the regulation of toxic substances not to exceed levels set forth in Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

4. RECEIVING WATER QUALITY STANDARDS

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

Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find

4. RECEIVING WATER QUALITY STANDARDS (cont'd)

that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.

5. RECEIVING WATER QUALITY CONDITIONS

A document entitled, *The State of Maine, Department of Environmental Protection 2012 Integrated Water Quality Monitoring and Assessment Report*, published by the Department, designates a 0.9 square mile segment associated with Southwest Harbor (Waterbody ID #714-1) as "Category 2: Estuarine and Marine Waters Attaining Some Designated Uses, Insufficient Information for Other Uses." Attainment in this context is in regard to the designated use of harvesting of shellfish. Currently, the Maine Department of Marine Resources (MeDMR) lists Area #44 (Southwest Harbor, Mount Desert and Cranberry Islands) of the receiving water as closed to the harvesting of shellfish due to the presence of overboard discharges.

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

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. **Flow:** The previous permit established a monthly average flow limitation of 0.375 MGD that is being carried forward in this permitting action and is considered to be representative of the monthly average dry weather design flow for the wastewater treatment facility.

A review of the monthly DMR data for the period December 2011 – June 2014 indicates the following:

Flow (DMRs=31)

Value	Limit (MGD)	Range (MGD)	Average (MGD)
Monthly Average	0.375	0.169 – 0.459	0.278

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

- b. Dilution Factors: 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, §D(3)(b) states that for discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis and at mean tide for the chronic exposure analysis using appropriate models determined by the Department, such as MERGE or CORMIX. Using plan and profile information provided by the permittee and an average of both MERGE and CORMIX model runs, the Department has determined the dilution factors for the discharge of 0.375 MGD from the wastewater treatment facility to be as follows:

Acute = 11.8:1

Chronic = 30:1

Harmonic mean ⁽¹⁾ = 90:1

Footnote:

- (1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "*Technical Support Document for Water Quality-Based Toxics Control*" (Office of Water; EPA/505/2-90-001, page 88.

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

As for mass limitations, the previous permit established monthly average, weekly average and daily maximum BOD5 and TSS mass limitations based on the monthly average design flow capacity of 0.375 MGD and the corresponding concentration limits cited above. BOD and TSS mass loading calculations at 0.375 MGD are as follows:

Monthly average = (30 mg/L) (0.375 MGD)(8.34) = 94 lbs/day

Weekly average = (45 mg/L) (0.375 MGD)(8.34) = 141 lbs/day

Daily maximum = (50 mg/L) (0.375 MGD)(8.34) = 156 lbs/day

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

A review of the monthly DMR data for the period December 2011 – June 2014 indicates the following:

BOD mass (DMRs = 31)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	94	27 – 68	45
Daily Maximum	156	31 – 103	61

BOD concentration (DMRs=31)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	14 – 26	19
Daily Maximum	50	14 - 31	22

TSS mass (DMRs=31)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	94	17 - 54	31
Daily Maximum	156	19 - 97	44

TSS concentration (DMRs = 31)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	30	7 - 19	13
Daily Maximum	50	9 – 26	15

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

A review of the DMR data for the period of December 2011 through June 2014 indicates percent removal values for BOD and TSS have reported as follows:

BOD % Removal (DMRs = 31)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	88 - 91	90

TSS % Removal (DMRs = 31)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	88 – 97	93

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

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

- d. Settleable Solids: The previous permit established a daily maximum technology based concentration limit of 0.3 ml/L based on a Department BPJ of BPT along with monitoring frequency of 1/Day based on Department guidance for facilities discharging between 0.1 MGD and 0.5 MGD.

A review of the monthly DMR data for the period December 2011 – June 2014 indicates the following:

Settleable solids (DMRs=31)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily maximum	0.3	0.10 – 0.30	0.16

On April 19, 1996, the USEPA issued a guidance document entitled, “*Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies*” (USEPA 1996) as the basis for determining reduced monitoring frequencies. The guidance document was issued to reduce unnecessary reporting while at the same time maintaining a high level of environmental protection for facilities that have a good compliance record and pollutant discharges at levels below permit requirements. Monitoring requirements are not considered effluent limitations under section 402(o) of the Clean Water Act and therefore, anti-backsliding prohibitions would not be triggered by reductions in monitoring frequencies

The EPA Guidance indicates “...*the basic premise underlying a performance-based reduction approach is that maintaining a low average discharge relative to the permit limits results in a low probability of the occurrence of a violation for a wide range of sampling frequencies.*” The monitoring frequency reductions in EPA’s guidance were designed to maintain approximately the same level of reported violations as that experienced with the existing baseline sampling frequency in the permit. To establish baseline performance the long term average (LTA) discharge rate for each parameter is calculated using the most recent two-year data set of monthly average effluent data representative of current operating conditions. The LTA/permit limit ratio is calculated and then compared to the matrix in Table I of EPA’s guidance to determine the potential monitoring frequency reduction. It is noted Table I of EPA’s guidance was derived from a probability table that used an 80% effluent variability or coefficient of variation (cv). The permitting authority can take into consideration further reductions in the monitoring frequencies if the actual cv for the facility is significantly lower than the default 80% utilized by the EPA in Table I.

In addition to the parameter-by-parameter performance history via the statistical evaluation cited above, the EPA recommends the permitting authority take into consideration the facility enforcement history and the parameter-by-parameter compliance history and factors specific to the State or facility. If the facility has already been given monitoring reductions due to superior performance, the baseline may be a previous permit.

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

Though EPA's 1996 Guidance recommends evaluation of the most current two-years of effluent data for a parameter, the Department is considering 31 months of data (December 2011 – June 2014).

A review of the monitoring data for settleable solids indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as follows:

SS

Long term average = 0.16 ml/L
Monthly average limit = 0.3 ml/L
Current monitoring frequency = 1/day

$$\text{Ratio} = \frac{0.16 \text{ ml/L}}{0.3 \text{ ml/l}} = 53\%$$

According to Table I of the EPA Guidance, a 1/Day monitoring requirement can be reduced to 4/Week. The Department is making a best professional judgment that a monitoring frequency of 4/Week is sufficient to determine on-going compliance at the facility. Therefore, the monitoring frequency for settleable solids has been reduced to 4/Week in this permitting action.

- e. **Fecal Coliform Bacteria**: The previous permit established monthly average and daily maximum fecal coliform limits of 15 colonies/100 mL and 50 colonies/100 mL, respectively, based on the Water Classification Program criteria for the Class SB waterways and are consistent with the National Shellfish Sanitation Program. The testing frequency of 1/week was based on Department guidance for facilities discharging between 0.1 MGD and 0.5 MGD. The effluent limits and seasonal monitoring requirements are being carried forward in this permitting action.

A review of the monthly DMR data for the period May 2012 – June 2014 indicates the following:

Fecal coliform bacteria (DMRs = 12)

Value	Limit (col/100 mL)	Range (col/100 mL)	Mean (col/100 mL)
Monthly Average	15	7-15	10
Daily Maximum	50	9-19	12

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

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

With a permitted flow of 0.375 MGD, water quality based thresholds for TRC may be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	0.013 mg/L	0.0075 mg/L	11.8:1	30:1	0.15 mg/L	0.22 mg/L

Example calculation: Acute - $(0.013 \text{ mg/L})(11.8) = 0.15 \text{ mg/L}$

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine based compounds unless the calculated acute water quality based threshold is lower than 1.0 mg/L. For facilities that need to dechlorinate the discharge to meet water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. Because the permittee needs to dechlorinate the discharge in order to meet the calculated water quality thresholds, this permitting action is carrying forward the more stringent daily maximum water quality based limit of 0.15 mg/L and the more stringent monthly average BPT limitation of 0.1 mg/L.

This permitting action is carrying forward the 1/Day TRC monitoring frequency from the previous permitting action based on Department guidance for facilities discharging between 0.1 MGD and 0.5 MGD.

A review of the monthly DMR data for the period May 2012 – June 2014 indicates the following:

Total Residual Chlorine (DMRs = 12)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Daily Maximum	0.15	0.04 - 0.09	0.05
Monthly Average	0.10	0.04 – 0.09	0.07

- g. **pH:** The previous permit established a pH range limit of 6.0 –9.0 standard units (SU) pursuant to Department rule found at Chapter 525(3)(III)(c) along with a 5/Week monitoring requirement.

A review of the monthly DMR data for the period December 2011 – June 2014 indicates the following:

pH (DMRs = 12)

Value	Limit (su)	Minimum (su)	Maximum (su)
Range	6.0 – 9.0	6.1	6.7

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

- h. Whole Effluent Toxicity (WET) and Chemical Specific Testing – Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department Rules, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants* set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

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

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

Department rule Chapter 530 (1)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee falls into the Level II frequency category as the facility has a chronic dilution factor of greater than or equal to 20:1 but less than 100:1.

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

Screening-level testing – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement:

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	2 per year	1 per year	4 per year

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

Surveillance-level testing – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit);

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	1 per year	None required	2 per year

A review of the permittee’s data on 8/8/14 indicates that they have fulfilled the Chapter 530 testing requirements to-date. See **Attachment B** of this Fact Sheet for a summary of the WET test results and **Attachment C** of this Fact Sheet for a summary of the chemical-specific test dates.

WET Evaluation

On August 8, 2014, the Department conducted a statistical evaluation on the most recent 60 months of WET test results on file with the Department in accordance with the statistical approach in Chapter 530. The evaluation indicates there are no WET test results that exceed or have a reasonable potential to exceed the critical acute and chronic water quality thresholds of 8.5% and 3.3% respectively.

06-096 CMR 530(2)(D)(3)(c) states, in part, *“Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).”*

Based on the results of the 8/8/14 statistical evaluation, the permittee qualifies for the 530(2)(D)(3)(c) testing reduction for the mysid shrimp and sea urchin as follows:

Surveillance-level testing – Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit).

Level	WET Testing
II	1 per 2 years for sea urchin 1 per 2 years for mysid shrimp

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

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

Screening-level testing – Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement.

Level	WET Testing
II	2 per year for sea urchin 2 per year for mysid shrimp

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

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

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

Analytical chemistry & priority pollutant evaluation

Chapter 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 of the Atlantic Ocean in the vicinity of the permittee’s outfall. 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.*"

As with WET test results, on 8/8/14, the Department conducted a statistical evaluation on the most recent 60 months of analytical chemistry and priority pollutant test results on file with the Department in accordance with the statistical approach outlined in Chapter 530. See **Attachment D** of this Fact Sheet for a summary of the priority pollutant test results.

The statistical evaluation indicates the discharge from the permittee's facility had one test result (45 ug/L on 1/2/12) for total copper that has a reasonable potential to exceed the acute AWQC for total copper.

The previous permit established a water quality based daily maximum mass and concentrations limitations of 0.17 lbs/day and 80 ug/L respectively. The limitations were based on a permitted flow of 0.375 MGD, and the calculations are as follows:

Copper

Acute AWQC = 5.78 ug/L

Acute dilution factor = 11.8:1

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]

EOP concentration = [11.8 x 0.75 x 5.78 ug/L] + [0.25 x 5.78 ug/L] = 53 ug/L

EOP mass limit: $\frac{(53 \text{ ug/L})(8.34)(0.375 \text{ MGD})}{1000 \text{ ug/mg}} = 0.17 \text{ lbs/day}$

The daily maximum mass limitation of 0.17 lbs/day is being carried forward in this permitting action.

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

In May 2012, Maine law 38 M.R.S.A. §464, ¶¶ K was enacted which reads as follows, “Unless otherwise required by an applicable effluent limitation guideline adopted by the department, any limitations for metals in a waste discharge license may be expressed only as mass-based limits.” There are no applicable effluent limitation guidelines adopted by the Department or the USEPA for metals from a publicly owned treatment works. Therefore, the concentration limit for total copper in the previous permitting action is being eliminated in this permitting action.

Chapter 530 does not establish specific monitoring frequencies for parameters that exceed or have a reasonable to exceed AWQC. Monitoring frequencies are established based on a best professional judgment given the timing, frequency and severity of the exceedence or reasonable potential to exceed AWQC. The previous permitting action established a monitoring frequency of 1/Quarter for total copper which was consistent with the routine screening level testing frequency found in Chapter 530.

A review of the monthly DMR data for the period October 2009 – May 2014 indicates the following:

Total Copper mass (DMRs = 20)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Daily Maximum	0.17	0.02 – 0.16	0.048

Total Copper concentration (DMRs = 20)

Value	Limit (ug/L)	Range (ug/L)	Average (ug/L)
Daily Maximum	80	8.1 - 45	20

A review of the monitoring data for total copper indicates the ratios (expressed in percent) of the long term effluent average to the average limits can be calculated as follows:

Total copper

Long term average = 0.048 lbs/day
 Daily maximum limit = 0.17 lbs/day
 Current monitoring frequency = 1/Quarter

$$\text{Ratio} = \frac{0.048 \text{ lbs/day}}{0.17 \text{ lbs/day}} = 28\%$$

Given the ratio cited above, the monitoring frequency of 1/Quarter for total copper in the previous permit is being reduced to 2/Year which is equivalent to routine surveillance level monitoring pursuant to 06-096 CMR Chapter 530.

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

With the exception of total copper, monitoring frequencies for priority pollutant and analytical chemistry testing established in this permitting action are based on the Chapter 530 rule. 06-096 CMR 530(2)(D)(3)(c) states in part, "*Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*"

Based on the results of the 8/8/14 statistical evaluation, the permittee qualifies for the testing reduction. Therefore, the surveillance monitoring frequency for the first three years and the fifth year of this permit is as follows:

Surveillance-level testing: Beginning upon permit issuance and lasting through 24 months prior to permit expiration (Years 1, 2 & 3 of the term of the permit) and commencing again 12 months prior to permit expiration (Year 5 of the term of the permit).

Level	Priority pollutant testing	Analytical chemistry
II	Not required	1/2 Years

Department rule Chapter 530(2)(D)(1) specifies that screening testing is to be established as follows:

Screening-level testing: Beginning 24 months prior to permit expiration and lasting through 12 months prior to permit expiration (Year 4 of the term of the permit) and every five years thereafter if a timely request for renewal has been made and the permit continues in force, or is replaced by a permit renewal containing this requirement.

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

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

In the event future statistical evaluations demonstrate that the reasonable potential to exceed AWQC is no longer applicable for total copper or that the result in question falls outside the 60-month evaluation period, this permit may be reopened pursuant to Special Condition K, *Reopening of Permit For Modifications*, of this permit to remove the limitation(s) and/or reduce the monitoring requirement(s).

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

- i. Mercury – Pursuant to *Certain deposits and discharges prohibited*, Maine law, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), on June 7, 2000, the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W002676-5L-C-R by establishing interim monthly average and daily maximum effluent concentration limits of 24.0 parts per trillion (ppt) and 36.0 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per year for mercury.

Maine law 38 M.R.S.A., §420 1-B,(B)(1) states that a facility is not in violation of the AWQC for mercury if the facility is in compliance with interim discharge limits established by the Department pursuant to section 413, subsection 11. A review of the Department's database for the period 2004 through the present indicates mercury test results (n=33) reported have ranged from 2.1 ppt to 38.0 ppt with an arithmetic mean of 9.5 ppt.

Pursuant to Maine law 38 M.R.S.A. §420, sub-§1-B, ¶F, and a minor permit revision issued on February 6, 2012, this permitting action is carrying forward a reduced monitoring frequency of 1/Year given the permittee has maintained at least 5 years of mercury testing data.

- j. Nitrogen - The permittee has not been conducting total nitrogen testing on its discharge to date. However, the USEPA requested the Department evaluate the reasonable potential for the discharge of total nitrogen to cause or contribute to non-attainment of applicable water quality standards, namely algal blooms, in marine waters. As of the date of this permitting action, the State of Maine has not promulgated numeric ambient water quality criteria for any of the nitrogen compounds. The Department has 50 total nitrogen data results collected on effluent from five municipally-owned treatment works and one industrial facility that discharge to Casco Bay. The mean discharge concentration was calculated to be 14.3 mg/L and is being considered by the Department as being representative of the total nitrogen concentration from a municipal waste water treatment facility in the absence of facility specific effluent data. Therefore, with an arithmetic mean total nitrogen discharge concentration of 14.3 mg/L and a near field dilution factor of 30:1 for the Southwest Harbor facility, an in-stream concentration can be calculated as follows:

Total nitrogen concentrations in effluent = 14.3 mg/L
Chronic dilution factor = 30:1

In-stream concentration after dilution: $\frac{14.3 \text{ mg/L}}{30} = 0.48 \text{ mg/L}$

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

Because nitrogen is not acutely toxic, the Department is considering a far-field dilution to be more appropriate when evaluating impacts of total nitrogen to a marine environment. Far field dilutions are significantly higher than the near-field dilution, ranging from 100 – 10,000 times higher depending on the location of the outfall pipe. With outfalls located in protected coves or small embayments without significant flushing, the far field dilutions factors would tend to be on the order of 100 – 1,000 times higher. With open ocean discharges, far field dilutions would tend to be 1,000 – 10,000 times higher.

The discharge from the permittee's facility to Southwest Harbor would be consider a discharge to a small embayment thus, the far field dilution would likely be on the lower end of the 100 – 1,000 range. As a result, the far-field dilution may be as high as 3,000:1, thereby limiting the increase in the ambient total nitrogen to 0.0048 mg/L based on the following calculation:

Total nitrogen concentrations in effluent = 14.3 mg/L
Chronic dilution factor = 3,000:1

In-stream concentration after dilution: $\frac{14.3 \text{ mg/L}}{3,000} = 0.0048 \text{ mg/L}$

The Department has been collecting ambient total nitrogen data in close proximity to the Maine coastline to support an effort to develop statewide nutrient criteria for marine waters. For the Southwest Harbor facility, the Department calculated a mean background concentration of 0.22 mg/l based on ambient data collected in the vicinity of Mt. Desert Island. As a result, after reasonable opportunity for far field mixing, the concentration of total nitrogen in the receiving water will be $0.22 \text{ mg/L} + 0.0048 \text{ mg/L} = 0.225 \text{ mg/L}$. The in-stream concentration is less than the Department and USEPA's best professional judgment based total nitrogen threshold of 0.45 mg/L considered necessary to protect aquatic life in the receiving water, using dissolved oxygen as the indicator of whether this designated use is achieved. Therefore, the Department is making a best professional judgment determination that the discharge of total nitrogen from the permittee's facility does not exhibit a reasonable potential to exceed applicable water quality standards for Class SB waters.

In order to obtain more accurate effluent and ambient (background) total nitrogen data for Southwest Harbor and the Southwest facility to assess the potential impact (or lack thereof) of the discharge, the Department has requested the permittee conduct effluent monitoring (outside of this permit) for nitrate, nitrite, and total kjeldahl nitrogen at a frequency of once per month from May 1st through October 31st during calendar year 2015. Once the testing is completed, the Department will again evaluate the discharge's reasonable potential exceed applicable water quality standards, the necessity to establish water quality based limits and the appropriate monitoring requirements for the remainder of the term of the permit.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

8. PUBLIC COMMENTS

Public notice of this application was made in the *Mount Desert Islander* newspaper on or about July 24, 2014. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Tel: (207) 287-7693 Fax: (207) 287-3435
e-mail: gregg.wood@maine.gov

10. RESPONSE TO COMMENTS

During the period of November 4, 2014, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, 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

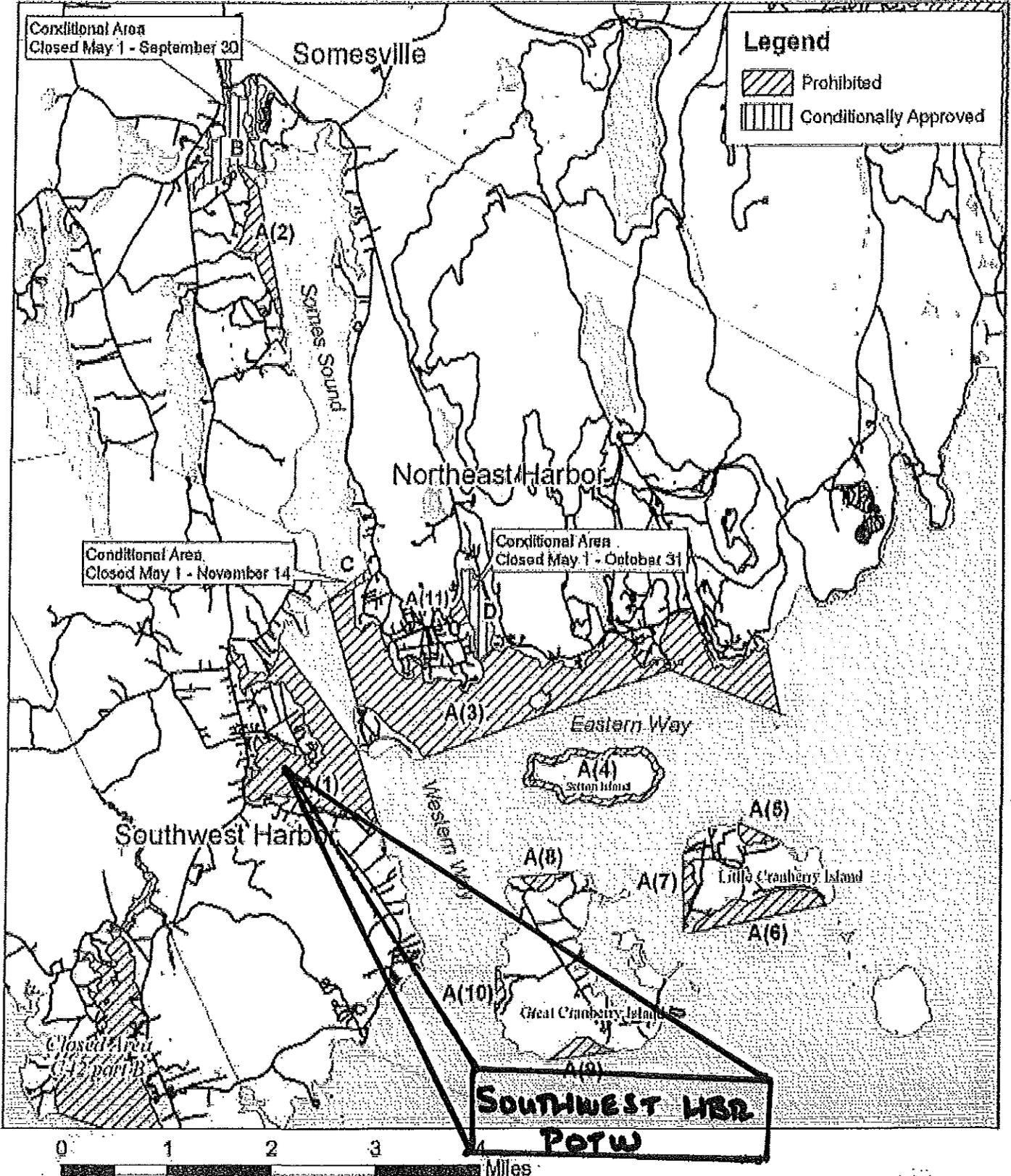


Maine Department of Marine Resources

Pollution Closed Area No. 44



Southwest Harbor, Somes Sound, Somesville, Northeast Harbor, and the Cranberry Isles
(Southwest Harbor, Mount Desert, and Cranberry Isles) 03/18/09



ATTACHMENT B

8/19/2014

WET TEST REPORT

Data for tests conducted for the period

19/Aug/2009 - 19/Aug/2014



SOUTHWEST HARBOR

NPDES= ME010064

Effluent Limit: Acute (%) = 8.475

Chronic (%) = 3.333

Species	Test	Percent	Sample date	Critical %	Exception	RP
MYSID SHRIMP	A_NOEL	100	10/03/2011	8.475		
MYSID SHRIMP	A_NOEL	100	04/07/2013	8.475		
MYSID SHRIMP	A_NOEL	100	03/25/2014	8.475		
SEA URCHIN	C_NOEL	100	10/03/2011	3.333		
SEA URCHIN	C_NOEL	25	04/07/2013	3.333		
SEA URCHIN	C_NOEL	100	03/25/2014	3.333		

ATTACHMENT C

8/19/2014

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 19/Aug/2009 - 19/Aug/2014



Facility Name: SOUTHWEST HARBOR

NPDES: ME0100641

Test Date	Monthly (Flow MGD)	Daily	Total Test Number	Test # By Group						Clean	Hg
				M	V	BN	P	O	A		
10/04/2009	0.33	0.25	11	10	0	0	0	1	0	F	0
02/06/2011	0.27	0.42	1	1	0	0	0	0	0	F	0
05/01/2011	0.30	0.25	1	1	0	0	0	0	0	F	0
08/07/2011	0.22	0.29	1	1	0	0	0	0	0	F	0
10/03/2011	0.29	0.47	17	10	0	0	0	7	0	F	0
11/14/2011	0.29	0.27	1	1	0	0	0	0	0	F	0
01/22/2012	0.28	0.20	1	1	0	0	0	0	0	F	0
05/02/2012	0.34	0.32	1	1	0	0	0	0	0	F	0
08/21/2012	0.23	0.29	1	1	0	0	0	0	0	F	0
10/22/2012	0.29	0.28	1	1	0	0	0	0	0	F	0
03/03/2013	0.35	0.38	1	1	0	0	0	0	0	F	0
04/07/2013	0.28	0.23	16	10	0	0	0	6	0	F	0
06/23/2013	0.32	0.24	1	1	0	0	0	0	0	F	0

Key:

A = Acid O = Others P = Pesticides
 BN = Base-Neutral M = Metals V = Volatiles

8/19/2014

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 19/Aug/2009 - 19/Aug/2014



Facility Name: SOUTHWEST HARBOR

NPDES: ME0100641

Test Date	Monthly (Flow MGD)	Daily	Total Test Number	Test # By Group						Clean	Hg
				M	V	BN	P	O	A		
09/18/2013	0.25	0.20	1	1	0	0	0	0	0	F	0
11/24/2013	0.19	0.15	1	1	0	0	0	0	0	F	0
03/24/2014	0.31	0.28	131	14	28	46	25	7	11	F	0

Key:

A - Acid O - Others P - Pesticides
 BN - Base Neutral M - Metals V - Volatiles

8/19/2014

FACILITY PRIORITY POLLUTANT DATA REPORT

Data Date Range: 19/Aug/2009 - 19/Aug/2014



Facility name: SOUTHWEST HARBOR

Permit Number: ME0100641

Parameter: COPPER	Test date	Result (ug/l)	Lsthan
	10/04/2009	29.700	N
	02/06/2011	23.000	N
	05/01/2011	18.000	N
	08/07/2011	25.000	N
	10/03/2011	14.500	N
	11/14/2011	16.000	N
	01/22/2012	45.000	N
	05/02/2012	10.000	N
	08/21/2012	19.000	N
	10/22/2012	13.300	N
	03/03/2013	10.800	N
	04/07/2013	12.000	N
	06/23/2013	8.120	N
	09/18/2013	13.100	N
	11/24/2013	27.800	N
	03/24/2014	14.800	N

ATTACHMENT D



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
Commissioner

MEPDES# _____ Facility Name _____

Since the effective date of your permit, have there been;		NO	YES Describe in comments section
1	Increases in the number, types, and flows of industrial, commercial, or domestic discharges to the facility that in the judgment of the Department may cause the receiving water to become toxic?	<input type="checkbox"/>	<input type="checkbox"/>
2	Changes in the condition or operations of the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
3	Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge?	<input type="checkbox"/>	<input type="checkbox"/>
4	Increases in the type or volume of hauled wastes accepted by the facility?	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS:

Name (printed): _____

Signature: _____ Date: _____

This document must be signed by the permittee or their legal representative.

This form may be used to meet the requirements of Chapter 530.2(D)(4). This Chapter requires all dischargers having waived or reduced toxic testing to file a statement with the Department describing changes to the waste being contributed to their system as outlined above. As an alternative, the discharger may submit a signed letter containing the same information.

Scheduled Toxicity Testing for the next calendar year

Test Conducted	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
WET Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Priority Pollutant Testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Analytical Chemistry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other toxic parameters ¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please place an "X" in each of the boxes that apply to when you will be conducting any one of the three test types during the next calendar year.

¹ This only applies to parameters where testing is required at a rate less frequently than quarterly.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

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

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

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. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board 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 the Board's 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 a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of 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

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of 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 on the appeal 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, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that 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 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.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, 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.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder 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 receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the 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 or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

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.
