



STATE OF MAINE  
Department of Environmental Protection

Paul R. Lepage  
GOVERNOR

Patricia W. Aho  
COMMISSIONER

Mr. Drake Bell  
Terminal Manager  
Irving Oil Terminals Inc.  
52 Station Ave.  
Searsport, ME. 04974  
e-mail: [Drake.Bell@irvingoil.com](mailto:Drake.Bell@irvingoil.com)

April 7, 2015

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002461  
Maine Waste Discharge License (WDL) Application #W001373-5S-F-R  
**Final Permit**

Dear Mr. Bell:

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.*"

Sincerely,

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

Enc.

cc: Matt Young, 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  
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PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

**DEPARTMENT ORDER**

**IN THE MATTER OF**

|                                |   |                           |
|--------------------------------|---|---------------------------|
| IRVING OIL TERMINALS INC.      | ) | MAINE POLLUTANT DISCHARGE |
| SEARSPORT, WALDO COUNTY, MAINE | ) | ELIMINATION SYSTEM PERMIT |
| BULK FUEL STORAGE FACILITY     | ) | AND                       |
| W001373-5S-F-R                 | ) | WASTE DISCHARGE LICENSE   |
| ME0002461                      | ) | RENEWAL                   |
| APPROVAL                       | ) |                           |

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

**APPLICATION SUMMARY**

The permittee has submitted a timely and complete application to the Department for the renewal of combination Maine Waste Discharge License (WDL) # W001373-5S-E-R /Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0021181 (permit hereinafter), which was issued by the Department on April 9, 2010, for a five-year term. The permit authorized the discharge of treated storm water runoff and vehicle wash water up to a daily maximum flow rate of 2,038 gallons per minute (gpm) and hydrostatic test water up to a daily maximum flow rate of 7.35 million gallons per day to Long Cove (Penobscot Bay), Class SC. See **Attachment A** of the Fact Sheet for a site location map.

**PERMIT SUMMARY**

This permitting action is carrying forward all of the terms and conditions of the April 9, 2010, permit.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated March 5, 2015, 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 discharge will be subject to effluent limitations that require application of best practicable treatment.

**ACTION**

THEREFORE, the Department APPROVES the application of IRVING OIL TERMINAL, INC., to discharge 2,038 gpm of treated storm water and vehicle wash water and 7.35 MGD of hydrostatic test water from a bulk fuel storage and transfer facility to Long Cove (Penobscot Bay), Class SC, subject to the attached conditions and all applicable standards and regulations:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) years 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 7<sup>th</sup> DAY OF April, 2015.

COMMISSIONER OF ENVIRONMENTAL PROTECTION

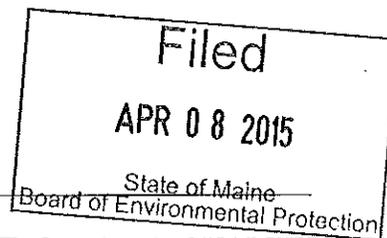
BY: Michael Kuhns  
for Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application September 3, 2014

Date of application acceptance September 4, 2014

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**

1. The permittee is authorized to discharge treated wastewater to Long Cove (Penobscot Bay). Such treated wastewater discharges shall be limited and monitored by the permittee as specified below:

**OUTFALL #001 - Storm water runoff and vehicle wash water<sup>(1)</sup>**

| Effluent Characteristic        | Discharge Limitations               |                                   |                                     |                                   | Minimum Monitoring Requirements           |                                 |
|--------------------------------|-------------------------------------|-----------------------------------|-------------------------------------|-----------------------------------|---|---------------------------------|
|                                | Monthly <u>Average</u> as specified | Daily <u>Maximum</u> as specified | Monthly <u>Average</u> as specified | Daily <u>Maximum</u> As specified | Measurement <u>Frequency</u> as specified | Sample <u>Type</u> as specified |
| Flow <sup>(2,3)</sup> [50050]  | ---                                 | ---                               | ---                                 | 1019 gpm [78]                     | 1/ Quarter [01/90]                        | Measure [MS]                    |
| Total Suspended Solids [00530] | ---                                 | ---                               | 50 mg/L <sup>(4)</sup> [19]         | 100 mg/L [19]                     | 1/ Quarter [01/90]                        | Grab <sup>(5)</sup> [GR]        |
| Oil & Grease [00552]           | ---                                 | ---                               | ---                                 | 15 mg/L [19]                      | 1/Quarter [01/90]                         | Grab <sup>(5)</sup> [GR]        |
| Benzene [34030]                | ---                                 | ---                               | ---                                 | Report mg/L [19]                  | 1/Quarter [01/90]                         | Grab <sup>(5)</sup> [GR]        |

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

FOOTNOTES: See pages 7 – 9 of this permit for applicable footnotes.

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

2. The permittee is authorized to discharge treated storm water runoff to Long Cove (Penobscot Bay). Such treated wastewater discharges shall be limited and monitored by the permittee as specified below.

**OUTFALL #002 - Storm water runoff<sup>(1)</sup>**

| Effluent Characteristic        | Discharge Limitations                  |                                      |  |                                      | Minimum Monitoring Requirements              |                                    |
|--------------------------------|--|--------------------------------------|--|--------------------------------------|--|------------------------------------|
|                                | Monthly <u>Average</u><br>as specified | Daily <u>Maximum</u><br>As specified | Monthly <u>Average</u><br>as specified | Daily <u>Maximum</u><br>as specified | Measurement <u>Frequency</u><br>as specified | Sample <u>Type</u><br>as specified |
| Flow <sup>(2,3)</sup> [50050]  | ---                                    | ---                                  | ---                                    | 1,019 gpm [78]                       | 1/ Quarter [01/90]                           | Measure [MS]                       |
| Total Suspended Solids [00530] | ---                                    | ---                                  | 50 mg/L <sup>(4)</sup> [19]            | 100 mg/L [19]                        | 1/ Quarter [01/90]                           | Grab <sup>(5)</sup> [GR]           |
| Oil & Grease [00552]           | ---                                    | ---                                  | ---                                    | 15 mg/L [19]                         | 1/Quarter [01/90]                            | Grab <sup>(5)</sup> [GR]           |
| Benzene [34030]                | ---                                    | ---                                  | ---                                    | Report mg/L [19]                     | 1/Quarter [01/90]                            | Grab <sup>(5)</sup> [GR]           |

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

FOOTNOTES: See pages 7 – 9 of this permit for applicable footnotes.

**SPECIAL CONDITIONS**

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

3. The permittee is authorized to discharge hydrostatic test water to Long Cove (Penobscot Bay). Such discharges shall be limited and monitored by the permittee as specified below:

**ADMINISTRATIVE OUTFALL #003 - Hydrostatic test water<sup>(1)</sup>**

| Effluent Characteristic                        | Discharge Limitations                     |   |   |   | Monitoring Requirements                         |                                       |
|--|---|---|---|---|---|---------------------------------------|
|  | Monthly<br><u>Average</u><br>as specified | Daily<br><u>Maximum</u><br>as specified | Monthly<br><u>Average</u><br>as specified | Daily<br><u>Maximum</u><br>As specified | Measurement<br><u>Frequency</u><br>As specified | Sample<br><u>Type</u><br>as specified |
| Flow <sup>(3)</sup> [50050]                    | ---                                       | ---                                     | ---                                       | 7.35 MGD [03]                           | 1/Discharge [01/DS]                             | Measure [MS]                          |
| Total Suspended Solids [00530]                 | ---                                       | ---                                     | ---                                       | 50 mg/L [19]                            | 1/Discharge [01/DS]                             | Grab <sup>(5)</sup> [GR]              |
| Oil & Grease <sup>(6)</sup> [00552]            | ---                                       | ---                                     | ---                                       | 15 mg/L [19]                            | 1/Discharge [01/DS]                             | Grab <sup>(5)</sup> [GR]              |
| Total Residual Chlorine <sup>(7)</sup> [50060] | ---                                       | ---                                     | ---                                       | 13 ug/L [28]                            | 1/Discharge [01/DS]                             | Grab <sup>(5)</sup> [GR]              |

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

FOOTNOTES: See pages 7 – 9 of this permit for applicable footnotes.

## SPECIAL CONDITIONS

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

#### Footnotes:

**Sampling Locations:** Discharges from Outfall #001, #002 and #003 shall be sampled independently, prior to co-mingling with any other waste stream(s).

Outfall #001 (storm water and vehicle wash water) samples for all parameters shall be collected after the oil/water separator during the first hour of discharge.

Outfall #002 (storm water) samples for all parameters shall be collected after the oil/water separator during the first hour of discharge.

Outfall #003 (hydrostatic test water) samples for all parameters shall be collected from the tank or piping prior to discharge directly to the receiving waters or before being co-mingled with storm water runoff. The permittee must designate the physical location of the discharge as "#001" or "#002" on Discharge Monitoring Reports when reporting results from Outfall #003.

Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are analyzed in-house or 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).

- (1) The flow through the oil/water separator shall consist of storm water runoff and or vehicle wash water only except as specified for hydrostatic test water discharged through Outfall #003. The direct or indirect discharge of liquids from petroleum product pipelines, transport tanks, vessels or storage tanks through the oil/water separator is not authorized by this permit except as specified for Outfall #003. No chemical treatment such as dispersants, emulsifiers or surfactants may be added to the oil/water separator or any wastewater discharge stream contributing flow to the oil/water separator.
- (2) **Flow** - At no time shall the flow through the oil/water separator exceed the design flow of the separator (1,019 gpm).

## SPECIAL CONDITIONS

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

Footnotes:

- (3) Flow measurement devices or calculated flow estimates via pump curves or tank volumes or other methods must be approved by the Department. Measurement of flow may be suspended upon approval from the Department in the event the permittee limits flow to the separator by installing a permanent constriction to prevent flows from exceeding the design capacity of the separator. The installation, replacement or modification of any flow measurement or constriction device requires prior approval by the Department. For the purposes of this permitting action, utilizing pump curves and run times for measuring flows for Outfalls #001 and #002 and utilizing the strapping chart (a chart showing amount of material stored versus depth of material in tank) for Outfall #003 for measuring flow are approved by the Department.
- (4) **Total Suspended Solids (TSS)** – The monthly average concentration limitation of 50 mg/L for TSS is based on an average over the previous twelve-month period. For the purposes of this permitting action, the **twelve-month rolling average** calculation is based on the test results for the most recent twelve-month period. Months when there is no discharge are not to be included in the calculations
- (5) One grab sample for TSS, benzene and oil & grease analyses for each sampling event shall be taken during the first hour of discharge.
- (6) Oil and grease monitoring is not required if the discharge of hydrostatic test water is from tanks and pipes that are gas-free as certified by a marine chemist. The test water is not required to be pretreated through the oil/water separator, provided the test water is municipal water or from some other source which does not contain oil and grease.
- (7) **Total residual chlorine (TRC)** - When using chlorinated hydrostatic test water, the total residual chlorine shall be measured and limited as specified in the effluent limitations for hydrostatic test water.

For the purposes of this permit, compliance with the daily maximum limitation in this permit will be based on EPA's current minimum level (ML) of detection of 20 ug/L (0.02 mg/L). The permittee shall utilize approved test methods that are capable of producing analytical results down to or below 20 ug/L. All analytical test results shall be reported to the Department including results which are detected below the ML. Results reported below the RL will be considered to be in compliance with the permit. The Discharge Monitoring Reports will be coded with the RL of 20 ug/L such that detectable results reported below 20 ug/L but greater than the daily maximum water quality based limit established in this permit will not be recorded as violations of the permit.

## **SPECIAL CONDITIONS**

### **B. NARRATIVE EFFLUENT LIMITATIONS**

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time that would impair the uses 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 uses designated for the classification of the receiving waters.
3. The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the uses designated for the classification of the receiving waters.
4. Notwithstanding specific conditions of this license 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. OIL/WATER SEPARATOR MAINTENANCE**

The permittee shall maintain up-to-date Operations and Maintenance Plans for the oil/water separators. The plans shall include, but not be limited to, measures to ensure the separators perform within the designed performance standards of the system, are maintained on a routine basis to maximize the design capacity and efficiency of the systems and that adequate staffing and training of personnel are provided to ensure compliance with discharge limitations. The Operations and Maintenance Plans shall remain on site at all times and will be subject to periodic inspection by Department personnel.

For the purposes of minimizing suspended solids in the storm water directed to the separator, the permittee shall implement best management practices (BMP's) for erosion and sedimentation control. See Department publication entitled, Maine Erosion And Sedimentation Control BMP's for guidance. The permittee shall periodically inspect, maintain and repair erosion and sedimentation control structures as necessary.

### **D. HYDROSTATIC TEST WATER**

Tanks and pipes being hydrostatically tested must be clean of product and all construction debris, including sandblasting grit, prior to testing and discharge through Outfall #003. The discharge must be dechlorinated if test results indicate that discharged water will violate water quality standards. Oil and grease monitoring is not required if the discharge of hydrostatic test water is from tanks and pipes that are gas-free as certified by a marine chemist. The test water is not required to be pretreated through the oil/water separator, provided the test water is municipal water or from some other source which does not contain oil and grease. The permittee shall notify the Department of an intended discharge of hydrostatic test water at least three days, excluding weekends, prior to the discharge.

## SPECIAL CONDITIONS

### E. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

The permittee shall develop, implement, maintain and annually update a Storm Water Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in Part V of the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated April 26 2011. See **Attachment B** of the attached Fact Sheet for a copy of Part V of the Multi-Sector General Permit. The permittee shall maintain a copy of the SWPPP on-site for Department or USEPA staff inspection. **Within 60 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in storm water, the permittee shall amend the SWPPP and note all changes.

**At a minimum frequency of once per calendar quarter**, the permittee shall perform and document a visual examination of a storm water discharge in accordance with Department guidance document #DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities*, including *Instructions for Completing the Visual Monitoring Form* and *Visual Monitoring Form* (all included as **Attachment C** of the Fact Sheet of this permit). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the observation date.

### F. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on December 18, 2009; 2) the terms and conditions of this permit; and 3) only from Outfalls #001, #002 and #003. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypass*, of this permit.

### G. REOPENING OF PERMIT FOR MODIFICATIONS

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

## **SPECIAL CONDITIONS**

### **H. MONITORING AND REPORTING**

Monitoring results obtained during the previous calendar quarter shall be summarized for each quarter and reported in the months of March, June, September and December of each year on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13<sup>th</sup>) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15<sup>th</sup>) day of the month following the completed reporting period.

A signed copy of the DMR and all other reports required herein shall be submitted to the following address:

Department of Environmental Protection  
Eastern Maine Regional Office  
Bureau of Land and Water Quality  
Division of Water Quality Management  
106 Hogan Road  
Bangor, Maine 04401

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

### **I. 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.

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

**FACT SHEET**

Date: March 5, 2015

PERMIT NUMBER:                   **ME0002461**  
LICENSE NUMBER:                 **W001373-5S-F-R**

NAME AND ADDRESS OF APPLICANT:

**IRVING OIL TERMINALS INC.  
52 Station Avenue  
Searsport, ME 04974**

COUNTY WHERE DISCHARGE OCCURS: **Waldo**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Mack Point  
Searsport, ME 04974**

RECEIVING WATER AND CLASSIFICATION: **Long Cove (Penobscot Bay),  
Class SC**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Drake Bell  
(207) 548-2541  
[Drake.Bell@irvingoil.com](mailto:Drake.Bell@irvingoil.com)**

**1. APPLICATION SUMMARY**

- a. Application - Irving Oil Terminals Inc. (Irving/permittee hereinafter) submitted a timely and complete application to the Department for the renewal of combination Maine Waste Discharge License (WDL) # W001373-5S-E-R /Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0002461 (permit hereinafter), which was issued on April 9, 2010, for a five-year term. The permit authorized the discharge of treated storm water runoff and vehicle wash water up to a daily maximum flow rate of 2,038 gallons per minute (gpm) and hydrostatic test water up to a daily maximum flow rate of 7.35 million gallons per day to Long Cove (Penobscot Bay), Class SC. See Attachment A of the Fact Sheet for a site location map.

**1. APPLICATION SUMMARY (cont'd)**

- b. Source Description: The permittee's facility is engaged in the transfer (ship to shore), storage and distribution of refined petroleum products such as gasoline and distillate oils. The site has thirteen (13) above-ground storage tanks having a gross capacity of approximately 1,078,000 barrels (45,316,000 gallons) for gasoline and distillate oils. The facility is broken up into two tank farms, Tank Farm #1 and Tank Farm #3.

Tank Farm #1 has six (6) storage tanks having a total capacity of 34,020,000 gallons with the largest tank having a volume of 7,350,000 gallons. Tank Farm #1 also has six loading bays that are covered by a canopy to minimize the quantity of precipitation coming into contact with minor quantities of product spilled during the loading of trucks. Storm water generated in Tank Farm #1 is discharged to Long Cove via Outfall #002. Hydrostatic test water generated in Tank Farm #1 is discharged to Long Cove via Administrative Outfall #003.

Tank Farm #3 has seven (7) storage tanks having a total capacity of 11,246,000 gallons with the largest tank having a volume of 4,620,000 gallons. Storm water and vehicle wash water generated in Tank Farm #3 are discharged to Long Cove via Outfall #001. Hydrostatic test water generated in Tank Farm #3 is discharged to Long Cove via Administrative Outfall #003.

In addition to tankage, there is an extensive above-ground and below-ground network of piping. It is noted Tank Farm #1 and Tank Farm #3 are associated with a much smaller bulk fuel storage and transfer facility referred to as, "Tank Farm #2" that is also owned and operated by Irving. Tank Farm #2 is located approximately 0.5 miles to the southwest of Tank Farms #1 and #3. Tank Farm #2 has two storage tanks with a total capacity of 5,670,000 gallons. Discharges of treated storm water to Searsport Harbor (west side of Mack Point) from Tank Farm #2 are permitted under a separate MEPDES permit/WDL.

A marine docking facility at Tank Farms #1 and #3 transfers product from ships and or barges to shore and a loading rack area. Product from the storage tanks is transferred to tanker trucks to be distributed to local fuel oil dealers and gasoline stations for distribution to the general public.

Each of the storage tanks is enclosed in an unlined area of earthen dikes composed of clay material with earthen walls. The diked areas are designed to contain the contents of the enclosed tanks plus an additional volume to contain any extinguishment chemicals or water and precipitation. The dikes are required by the Town of Searsport for safety to prevent product from spilling from one tank area to another or directly into a receiving waterbody, provide temporary containment in the event of a tank failure and isolate tanks in the event of a major fire in a tank. The total drainage area of the site contributing to the discharge from the facility is approximately 6.3 acres.

## 1. APPLICATION SUMMARY (cont'd)

Hydrostatic test water is used to test the structural integrity of the storage tanks. The test water is from tanks which have been washed and cleaned in preparation for repair and then cleaned before testing. The permittee has indicated that hydrostatic testing of its largest tank would discharge approximately 7.4 million gallons.

Outfalls #001 or #002 are designated as Administrative Outfall #003 when hydrostatic test water is discharged. As of this permitting cycle, Administrative Outfall #003 is now identified as the only outfall for hydrostatic test water. The discharge locations are shown in **Attachment A** of this Fact Sheet.

Sanitary wastewater generated by employees is conveyed to the Town of Searsport's wastewater treatment facility which is also regulated by the Department via a separate MEPDES permit/WDL.

- c. Wastewater treatment: The majority of wastewater discharged through Outfall #001 and Outfall #002 is storm water that is collected in the diked areas around the various tanks. All storm water that accumulates in the diked areas is inspected by facility personnel for evidence of oil prior to being discharged from the dike. If personnel determine that the storm water is contaminated by petroleum, measures are taken to recover the oil prior to being discharged from the dike. The diked areas are either manually drained by gravity or pumped out and conveyed to an oil/water separator where it receives best practicable treatment prior to discharge. The drain valves are kept closed for safety and must be opened each time a diked area is drained. The oil/water separators are cleaned annually and any recovered oily waste is disposed offsite via a State of Maine licensed waste handler. The permittee has indicated in the application for permit renewal that the oil/water separators are rated for 1,019 gallons per minute. This permit does not require further treatment of the hydrostatic test water unless dechlorination is required to protect water quality.

All waste streams described in this section are discharged to Long Cove through two outfall pipes designated as Outfall #001 for storm water and vehicle maintenance discharges and as Outfall #002 for storm water discharges. Outfall #003 is an administrative outfall designation for hydrostatic test water discharges. The outfall pipes are each two (2) inches in diameter and are exposed at mean low water.

## 2. PERMIT SUMMARY

- a. Terms & conditions: This permitting action is carrying forward all of the terms and conditions of the April 9, 2010.
- b. History: The most current/relevant licensing/permitting actions include:

*April 11, 1979* - The EPA issued NPDES permit #ME0002461 for a five-year term.

## 2. PERMIT SUMMARY (cont'd)

*March 3, 2000* – The Department issued WDL #W001373-5S-C-R renewal for a five-year term.

*March 9, 2005* – The Department issued WDL #W001373-5S-D-R/ MEPDES permit #ME0002461 renewal for a five-year term.

*April 9, 2010* – The Department issued WDL #W001373-5S-E-R/ MEPDES permit #ME0002461 renewal for a five-year term.

*September 3, 2014* – Irving Oil Terminals Inc. submitted a timely and complete application to renew the April 9, 2010, MEPDES permit/WDL.

## 3. CONDITIONS OF PERMITS

*Conditions of licenses*, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A., § 420 and 06-096 CMR 530 require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective October 9, 2005), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

## 4. RECEIVING WATER QUALITY STANDARDS

*Classifications of estuarine and marine waters*, 38 M.R.S.A. §469 (C)(1) classifies Long Cove at the point of discharge as a Class SC waterway. 38 M.R.S.A §465 (B)(3) describes the classification standards for Class SC as waters that shall be suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and restricted harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation and navigation and as habitat for fish and other estuarine and marine life. Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community.

## 5. RECEIVING WATER CONDITIONS

*The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report*, published by the Department lists Long Cove as a portion of Waterbody #722-24/Department of Marine Resources Area #33 in a table entitled "*Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed.*" Current sampling of the 4.36 square mile area, indicated the presence of elevated fecal levels. The Department completed the TMDL in 2009 and it was approved by USEPA on September 28, 2009.

## 5. RECEIVING WATER CONDITIONS (cont'd)

The report also lists the tidewaters of Searsport as "Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants." All estuarine and marine waters capable of supporting American lobster are listed in Category 5-D for shellfish consumption due to elevated levels of PCBs and other persistent, bioaccumulating substances in tomalley.

## 6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Discharges from activities associated with bulk petroleum stations and terminal operations must satisfy best conventional technology (BCT) and best available technology (BAT) requirements and must comply with more stringent water quality standards if BCT and BAT requirements are not adequate. On September 25, 1992, EPA promulgated through its General Permit for Storm Water Discharge Associated with Industrial Activity, that the minimum BAT/BCT requirement for storm water discharges associated with industrial activity is a Storm Water Pollution Prevention Plan (SWPPP) [57 FR, 44438]. This permitting action is carrying forward the requirement for the permittee to maintain a SWPPP. This permitting action is carrying forward numeric effluent limitations and/or monitoring requirements for petroleum constituents from the previous permitting action to ensure the discharges do not contribute to violations of the State's water quality standards.

This permit authorizes the discharge of treated storm water, vehicle wash water and hydrostatic test water by applying numeric effluent limitations which are within applicable water quality standards. The effluent parameters for each waste stream are discussed in more detail below. The sections are arranged according to the effluent characteristic(s) being regulated.

### a. Storm Water Runoff and Vehicle Maintenance Wastewater-- Outfall #001

1. Flow - Typically, the treatment technology for storm water runoff employed by bulk storage petroleum terminals is an oil/water [O/W] separator. This device uses gravity to separate the lower-density oils from water, resulting in an oil phase above the oil/water interface and a heavier particulate (sludge) phase on the bottom of the O/W separator. It follows that the sizing of O/W separators is based on the following design parameters: water flow rate, density of oil to be separated, desired percentage removal of oil and the operating temperature range.

The O/W separator daily maximum flow limit of 1,019 gpm is based on the capacity rating information provided by the permittee. The O/W separator daily maximum flow limit and minimum monitoring frequency requirement of once every calendar quarter is being carried forward in this permitting action.

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

a. Storm Water Runoff and Vehicle Maintenance Wastewater– Outfall #001 (cont'd)

A review of the quarterly discharge flow data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicates the following:

**Flow**

| Value         | Limit (gpm) | Range (gpm) | Average (gpm) | #DMRs |
|---------------|-------------|-------------|---------------|-------|
| Daily Maximum | 1019        | 50 – 50     | 50            | 15    |

2. Total Suspended Solids (TSS) – Total suspended solids are limited in this permit to minimize the potential carryover of petroleum fractions to the receiving water(s) by adsorption to particulate matter or suspended solids. Both heavy metals and polynuclear aromatic hydrocarbons (PAHs) readily adsorb to particulate matter. This permitting action is carrying forward the daily maximum TSS concentration limit of 100 mg/L based on an EPA Region I BPJ determination that the technology guidelines promulgated at 40 CFR Part 423—*Steam Electric Power Generating Point Source Category*, for point source discharges of low-volume wastewater were appropriate to control the discharge of sediment particles and oils from bulk storage petroleum terminals in the region.

This permitting action is carrying forward the twelve-month rolling averaging period for compliance with the monthly average TSS concentration limit of 50 mg/L based on the Department's BPJ.

As stated in Footnote #4 of Special Condition A, *Effluent Limitations and Monitoring Requirements*, the 12-month rolling averaging period is based on the most recent twelve months with sampling data. Months where no discharge took place are excluded (i.e., do not figure in a zero) in the calculation.

A review of the quarterly TSS data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicates the following:

**TSS**

| Value                    | Limit (mg/L) | Range (mg/L) | Average (mg/L) | #DMR's |
|--------------------------|--------------|--------------|----------------|--------|
| Daily Maximum            | 100          | 4.3 – 77     | 11             | 15     |
| 12-month Rolling Average | 50           | <2.9 - 36    | 10             | 15     |

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

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

a. Storm Water Runoff and Vehicle Maintenance Wastewater– Outfall #001 (cont'd)

3. Oil and Grease (O&G) – This permitting action is carrying forward the daily maximum oil and grease concentration limit of 15 mg/L based on Department BPJ as facilities equipped with properly designed, operated and maintained oil/water separator systems are capable of reducing oil content to 15 mg/L or less.

A review of the quarterly O&G data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicate the following:

**Oil and Grease**

| Value         | Limit (mg/L) | Range (mg/L) | Average (mg/L) | #DMR's |
|---------------|--------------|--------------|----------------|--------|
| Daily Maximum | 15           | < 1- 12      | 3              | 15     |

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

4. Benzene – Three gasoline compounds with the highest solubilities are: naphthalene, propylene, and benzene. Propylene and naphthalene, however, are minor constituents of gasoline. In the past, benzene has been selected as the main pollutant of concern in light distillates such as gasoline since it existed in light distillates at significant concentrations.

A traditional approach to limiting effluents contaminated with gasoline or other light distillates has been to limit the aggregate parameter of: benzene, ethylbenzene, toluene, and total xylenes (BETX). This approach stems from the petroleum industry's practice of determining the quality of fuels by measuring BETX, which can be highly variable among gasoline products. Of the four aromatics, benzene is by far the most soluble in water. Because of its relatively high solubility in water, benzene can be considered the "limiting pollutant parameter." Therefore, a “report only” monitoring requirement of the daily maximum concentration of benzene is being carried forward in this permitting action as a screening parameter for BETX compounds.

A review of the quarterly benzene data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicate the following:

**Benzene**

| Value         | Limit (mg/L) | Range (mg/L)   | Average (mg/L) | #DMR's |
|---------------|--------------|----------------|----------------|--------|
| Daily Maximum | Report       | <0.001 – 0.008 | 0.001          | 14     |

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

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

b. Storm Water Runoff – Outfall #002

1. Flow - The O/W separator daily maximum flow limit of 1,019 gpm is based on the capacity rating information provided by the permittee. The O/W separator daily maximum flow limit and minimum monitoring frequency requirement of once every calendar quarter is being carried forward in this permitting action.

A review of the quarterly discharge flow data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicates the following:

**Flow**

| Value         | Limit (gpm) | Range (gpm) | Average (gpm) | #DMR's |
|---------------|-------------|-------------|---------------|--------|
| Daily Maximum | 1019        | 50 – 50     | 50            | 15     |

2. Total Suspended Solids (TSS) – This permitting action is carrying forward the twelve-month rolling averaging period for compliance with the monthly average TSS concentration limit of 50 mg/L based on the Department's BPJ.

As stated in Footnote #4 of Special Condition A, *Effluent Limitations and Monitoring Requirements*, the 12-month rolling averaging period is based on the most recent twelve months with sampling data. Months where no discharge took place are excluded (i.e., do not figure in a zero) in the calculation.

A review of the quarterly TSS data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicates the following:

**TSS**

| Value                    | Limit (mg/L) | Range (mg/L) | Average (mg/L) | #DMR's |
|--------------------------|--------------|--------------|----------------|--------|
| Daily Maximum            | 100          | 4.4 - 63     | 12             | 15     |
| 12-month Rolling Average | 50           | <3.2 - 24    | 9              | 15     |

Results reported as "less than" were considered to be present at the minimum detection limit for calculation purposes.

3. Oil and Grease (O&G) – This permitting action is carrying forward the daily maximum oil and grease concentration limit of 15 mg/L based on Department BPJ as facilities equipped with properly designed, operated and maintained oil/water separator systems are capable of reducing oil content to 15 mg/L or less.

A review of the quarterly O&G data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicate the following:

**Oil and Grease**

| Value         | Limit (mg/L) | Range (mg/L) | Average (mg/L) | #DMR's |
|---------------|--------------|--------------|----------------|--------|
| Daily Maximum | 15           | < 1 – 4      | 1              | 15     |

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

b. Storm Water Runoff – Outfall #002 (cont'd)

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

4. Benzene – A “report only” monitoring requirement of the daily maximum concentration of benzene is being carried forward in this permitting action as a screening parameter for BETX compounds.

A review of the quarterly benzene data as reported on the DMRs submitted to the Department for the period January 2011 – June 2014 indicate the following:

**Benzene**

| Value         | Limit (mg/L) | Range (mg/L)     | Average (mg/L) | #DMR's |
|---------------|--------------|------------------|----------------|--------|
| Daily Maximum | Report       | <0.001 - <0.001. | <0.001         | 15     |

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

c. Hydrostatic test waters – Outfall #003

1. Flow – The March 2005 permitting action established a flow limitation of 7.35 MGD which was based on the largest tank volume on the site. The only discharge that occurred during the previous five-year period was in June 2014 with a flow of 42,000 gallons.
2. Total Suspended Solids – The March 2005 permit established a daily maximum limit of 50 mg/L based on a Department BPJ of limits that are achievable given the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing. The only discharge that occurred during the previous five-year period was in June 2014 with a TSS value of <2.5 mg/L.
3. Oil & Grease: The March 2005 permitting action established a daily maximum concentration limit of 15 mg/L that is a Department BPJ of limits that are achievable given the tanks that are hydrostatically tested have been washed and cleaned in preparation for repair and testing. The only discharge that occurred during the previous five-year period was in June 2014 with an oil & grease value of <1.1 mg/L.

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

4. Total residual chlorine (TRC): The March 2005 permit established a daily maximum TRC limit of 0.013 mg/L. The limitation is water quality based limitation that is equivalent to the acute ambient water quality criteria (AWQC) for marine waters given the lack of dilution (1:1) associated with the discharge as the pipe is exposed at mean low tide. . The only discharge that occurred during the previous five-year period was in June 2014 with a TRC value of <1.1 mg/L.

Should the permittee utilize non-chlorinated water for hydrostatic testing purposes, TRC monitoring is not required when discharging.

**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 SC classification.

**8. PUBLIC COMMENTS**

Public notice of this application was made in the *Bangor Daily News* on August 18, 2014. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

**9. DEPARTMENT CONTACTS**

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

Gregg Wood  
Division of Water Quality Management  
Bureau of Land and Water Quality  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 email: [gregg.wood@maine.gov](mailto:gregg.wood@maine.gov) Tel: (207) 287-7693

**10. RESPONSE TO COMMENTS**

During the period of March 5, 2015, 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.

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**A. GENERAL PROVISIONS**

**1. General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

**2. Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

(a) They are not

- (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
- (ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

**3. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**4. Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**5. Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6. Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

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7. **Oil and hazardous substances.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

8. **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

9. **Confidentiality of records.** 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

10. **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

11. **Other laws.** The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

12. **Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**B. OPERATION AND MAINTENANCE OF FACILITIES**

**1. General facility requirements.**

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

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maximize removal of pollutants unless authorization to the contrary is obtained from the Department.

- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
- (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
- (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
- (e) The permittee shall install flow measuring facilities of a design approved by the Department.
- (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

**2. Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**3. Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**4. Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**5. Bypasses.**

(a) Definitions.

- (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
- (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

- (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

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(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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**C. MONITORING AND RECORDS**

**1. General Requirements.** This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

**2. Representative sampling.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

- (A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
- (B) Any upset which exceeds any effluent limitation in the permit.
- (C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

- (g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.
- (h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**2. Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**3. Availability of reports.** Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

**4. Existing manufacturing, commercial, mining, and silvicultural dischargers.** In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

- (a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) One hundred micrograms per liter (100 ug/l);
  - (ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

**5. Publicly owned treatment works.**

- (a) All POTWs must provide adequate notice to the Department of the following:
- (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

**E. OTHER REQUIREMENTS**

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

## MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

### STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**Discharge Monitoring Report ("DMR")** means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Flow weighted composite sample** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**Grab sample** means an individual sample collected in a period of less than 15 minutes.

**Interference** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Maximum daily discharge limitation** means the highest allowable daily discharge.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Pass through** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**Permit** means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

**Person** means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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**Point source** means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

**Time weighted composite** means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

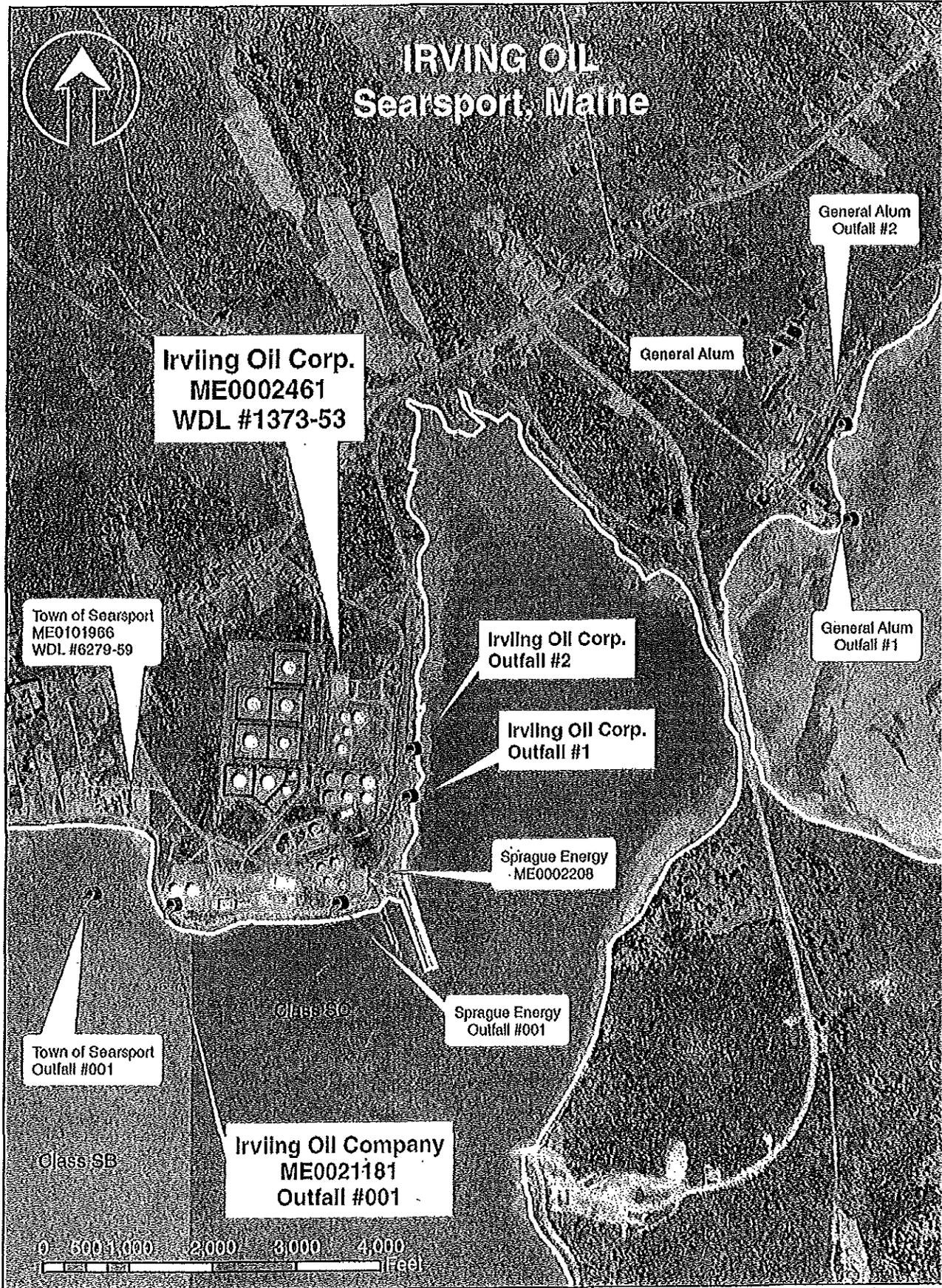
**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.

# ATTACHMENT A



# IRVING OIL Searsport, Maine



**Irving Oil Corp.**  
ME0002461  
WDL #1373-53

**Town of Searsport**  
ME0101966  
WDL #6279-59

**Town of Searsport**  
Outfall #001

Class SB

**Irving Oil Company**  
ME0021181  
Outfall #001

**Irving Oil Corp.**  
Outfall #2

**Irving Oil Corp.**  
Outfall #1

**Sprague Energy**  
ME0002208

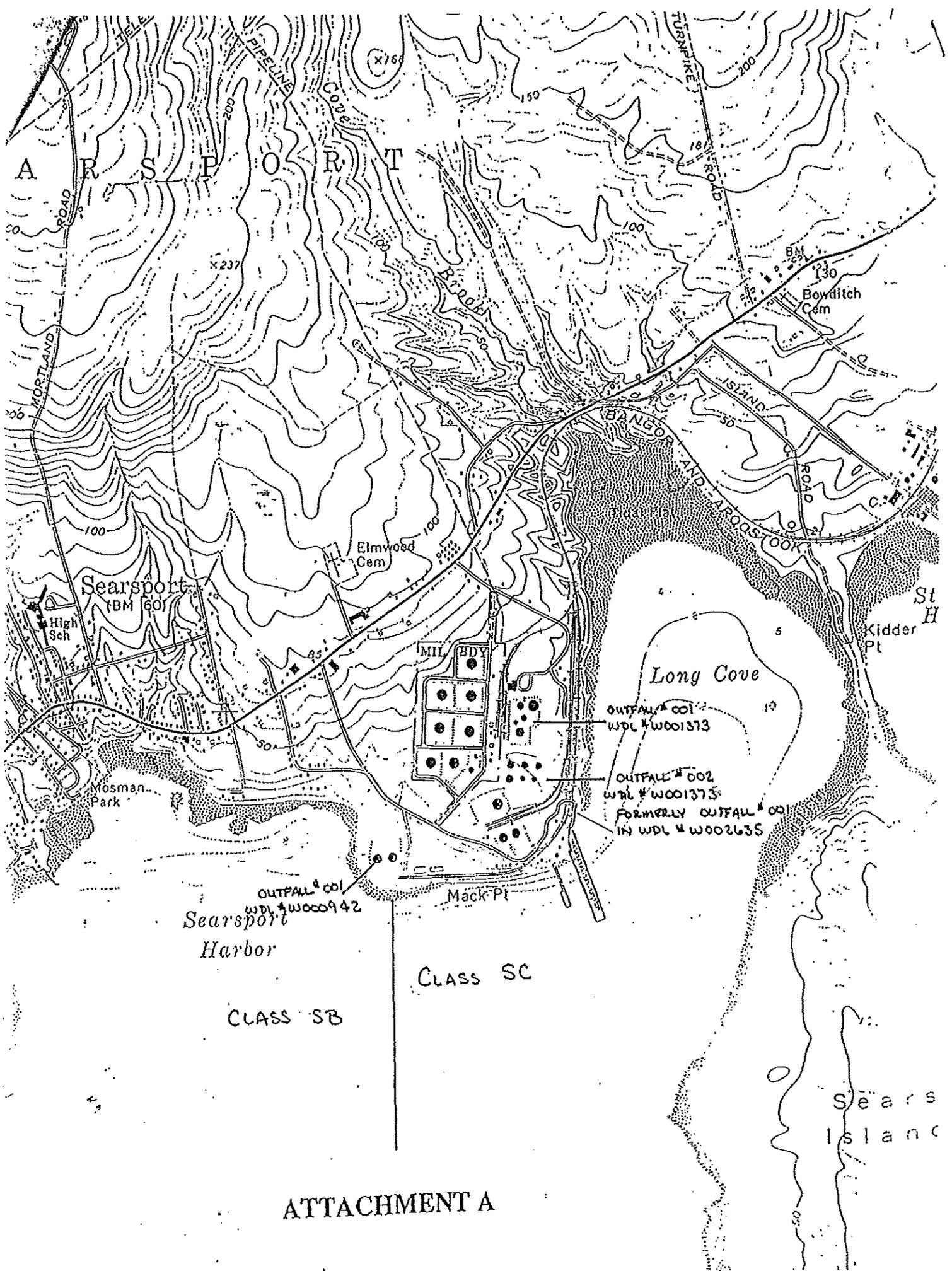
**Sprague Energy**  
Outfall #001

**General Alum**

**General Alum**  
Outfall #2

**General Alum**  
Outfall #1





ATTACHMENT A

# ATTACHMENT B

7. Additional information required by the Department as part of the NOI, to determine whether or not to authorize the discharge under this General Permit.
- E. Where to Submit. A completed and signed NOI, in accordance with Part VIII(E), must be submitted with the appropriate fee to:
- Maine Department of Environmental Protection  
Municipal and Industrial Stormwater Coordinator  
17 State House Station  
Augusta ME 04333-0017
- F. Deficient NOI. If any portion of the NOI does not meet one or more of the minimum requirements of this part, the applicant will be notified of the deficiency within the 30-day review period. It is the responsibility of the applicant to make all required changes and resubmit the NOI. The review period will begin when the revised NOI is received by the Department.

**Part V. STORMWATER POLLUTION PREVENTION PLAN REQUIREMENTS**

- A. Stormwater Pollution Prevention Plan (SWPPP) Preparation. Each facility seeking coverage under this General Permit must prepare a SWPPP as described in Part III(A) prior to submitting a NOI for permit coverage. The SWPPP must be prepared in accordance with good engineering practices and identify potential pollutant sources which may reasonably be expected to affect the quality of stormwater discharges associated with industrial activity from the facility. The SWPPP must describe and ensure the implementation and maintenance of Best Management Practices (BMPs) and Control Measures as identified in this Part. Implementation of the SWPPP must reduce or eliminate polluted stormwater discharges associated with industrial activity, and assure compliance with this General Permit.
- B. Control Measures. The permittee shall select, design, install and implement control measures (including BMPs) to address potential pollutant sources and any discharge(s) associated with industrial activity. Control measures must be evaluated in conjunction with monitoring to meet the terms and conditions of this General Permit. The selection of these control measures must be in accordance with good engineering practices, and the requirements of each Sector. (See Appendix A-AD.) The SWPPP must fully describe these control measures, including their implementation and maintenance schedules.
- C. Non-Numeric Technology Based Effluent Limits. When developing control measures the following must be performed as applicable using the best practicable technology, best available technology, best control technology (BPT/BAT/BCT). The below listed Best Management Practices are considered limits of this General Permit which must be met for compliance. Additional Non-Numeric Technology Based Effluent Limits may also be

required as noted in the Sector specific requirements in Appendices A-AD. The methods utilized to meet these limits must be documented in the SWPPP:

1. The permittee shall minimize exposure of the manufacturing process, and material or product storage areas to stormwater (where practicable) by locating industrial activities and materials inside or by protecting them with storm resistant coverings. By eliminating the exposure of the manufacturing process, and material or product storage areas as required by Appendix AB, the facility may qualify for No Exposure Certification. The Department also encourages methods and designs which minimize or mitigate impervious area and reduce runoff.
2. The permittee shall perform good housekeeping procedures, and keep all exposed areas that are potential sources of pollutants clean and orderly. Implement at regular intervals, measures such as sweeping impervious areas, proper labeling of containers, and the storage of liquids within proper secondary containment.
3. The permittee shall regularly inspect, test, maintain and repair all industrial equipment, systems and BMPs to prevent situations that may result in leaks, spills or other releases of pollutants. If the permittee or Department inspector finds that a structural control measure(s) must be repaired or modified to ensure proper function, the permittee shall make the required repairs or modifications as quickly as possible, but no later than twelve (12) weeks from discovery unless otherwise authorized by the Department. Temporary control measures must be in place during this time to reduce or prevent discharges of pollutants. If a non-structural control measure is found to be deficient, the correction of the deficiency for that control measure must be initiated within five (5) days and completed no later than thirty (30) days from discovery. (See Part V(B).)

D. SWPPP Contents. The SWPPP must contain the following components:

1. **Pollution Prevention Team.** The SWPPP must identify the individual(s) (by name or title) whom comprise the facility's stormwater Pollution Prevention Team. The Pollution Prevention Team is responsible for assisting the facility/plant manager in developing, implementing, maintaining and revising the facility's SWPPP. Responsibilities of each team member must be listed.
2. **Site Description.** The SWPPP must include a narrative site description of the activities conducted at the site.
3. **Site Map.** The site map must include:
  - a. Approximate drainage boundaries including directions of stormwater flow and outfall locations (use arrows to show flow path);
  - b. Boundary of impervious surfaces;

- c. Locations of all existing structural BMPs to reduce pollutants in stormwater runoff;
  - d. Locations of all surface waters including wetlands and streams;
  - e. Locations of potential pollutant sources identified under Part V(D)(4) below;
  - f. Locations where major spills or leaks identified under Part V(D)(5) have occurred within the past three years. For the purpose of the site map, mark only areas of frequent spills (greater than three occurrences per year) or large spills (greater than 10 gallons). ALL locations of fuel spills must be documented within the SWPPP;
  - g. Locations of the following activities exposed to stormwater: fueling stations, vehicle and equipment maintenance, storage and cleaning areas; loading or unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; material processing, transfer or storage areas; access roads, rail cars or tracks;
  - h. Locations of stormwater conveyance systems including swales, ditches, culverts, subsurface stormwater infrastructure, outfalls, including boat ramps, and an approximate outline of the area draining to each outfall;
  - i. Location and description of non-stormwater discharges (e.g., wastewater licensed outfall);
  - j. Location and source of run-on from adjacent property that contains either significant quantities of pollutants or volume to the facility; and
  - k. The name of the nearest receiving water(s), including intermittent streams and wetland(s) that may receive discharges from the facility. An unnamed stream or wetland must be designated as such. The status of the receiving water in terms of water quality classification must also be noted. Contact a regional Stormwater Inspector for assistance if you are not aware of the classification status of the water body to which the facility discharges.
4. **Summary of Potential Pollutant Sources.** The permittee shall identify each separate area where industrial materials or activities are exposed, or have the potential to be exposed to stormwater. Industrial materials or activities include, but are not limited to, material handling equipment or activities; industrial machinery; cleaning, fueling and maintenance of vehicles; equipment storage; and, storage of raw materials, intermediate products, by-products, final products, or waste products. Material handling activities include the storage, loading or unloading, transportation, or movement of any raw material, intermediate product, final product or

waste product. If applicable, include an evaluation of how the quality and quantity of the stormwater flowing onto the facility from adjacent properties impacts the stormwater discharges from the permitted facility. For each separate area identified, the description must include:

- a. Industrial activities area. A list of the activities (e.g., material storage, loading, access areas, equipment fueling and cleaning, cutting, grinding, or processing). Each drainage area must be described and include a prediction of the direction of flow and an estimate of the types of pollutants which may be present in the stormwater discharge. The flow of stormwater across the site must be clearly depicted on the site map;
  - b. Pollutants. A list of the associated pollutant(s) or pollutant parameter(s) (e.g., crankcase oil, iron, biochemical oxygen demand, pH, sediment, etc.) for each activity. The pollutant list must include all significant materials that have been handled, treated, stored or disposed of in a manner that may allow exposure to stormwater three (3) years prior to review of or development of the SWPPP; and
  - c. Method of on-site storage or disposal. A storage practice or disposal method must be detailed for all raw materials, intermediate materials, final products and waste materials. Waste materials must be handled in accordance with Maine's Solid Waste Management Rules.
5. Potential for Spills and Leaks. The permittee shall clearly identify areas where potential spills and leaks, may occur, along with the accompanying drainage points, and provide a list of spills and leaks that occurred during the three (3) year period prior to submitting a NOI or latest revision of the SWPPP for any area exposed to precipitation or area which drains to a stormwater conveyance.

Spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of quantities that are reportable under Clean Water Act (CWA) §311 (See 40 CFR 110 and 40 CFR 117.21), section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or 38 M.R.S.A. §§ 543, 550 and 1318-B. Unlicensed discharges of oil and hazardous matter are prohibited (See 38 M.R.S.A. §§ 543 & 1317-A). These discharges must be removed to the Commissioner's satisfaction (See 38 M.R.S.A. §§ 1318-B, 548, 568). Hazardous matter discharges must be reported (See 38 M.R.S.A. §§ 1318-B). Oil and hazardous matter have "safe harbor" incentives for reporting (See 38 M.R.S.A. §§ 550 & 1318).

6. Wastewater/Process Water Containment. The location of all wastewater or process water containment tanks must be clearly noted in the SWPPP.

and on the site map. Any stationary above ground tank, container, or container storage area used for the storage of wastewater or process water that has the potential to discharge to surface waters or a stormwater conveyance during a malfunction must be held in a secondary containment device capable of containing 100% of the contents of the tank, plus precipitation. The containment devices must meet all Federal and State rules for primary and secondary containment. Secondary containment may be waived if the tank is equipped with a level sensor and alarm to signal an overflow or leak and the facility has a contingency plan in place to remove excess liquid to a second containment structure or off site treatment facility to prevent exposure to stormwater. The containment structures must be visually inspected for signs of deterioration at least once per year. The contingency plan and tank inspection procedure must be documented in the SWPPP. (See CMR 06-096 520 for definitions.)

7. Sampling Data. All stormwater sampling data, including visual monitoring results collected during the term of this General Permit must be maintained in the SWPPP.
8. Stormwater Controls. Describe the type and location of existing non-structural and structural BMPs selected for each area where industrial materials or activities are exposed to stormwater. All the areas identified in Part V(D)(4) and (5) must have a BMP(s) identified for the area's discharges. For areas where BMPs are not currently in place, describe appropriate BMPs to control pollutants in stormwater discharges. The SWPPP must include an implementation schedule for all proposed BMPs. Refer to individual Sector(s) for additional requirements or guidelines for new BMP installations. Selection of all BMPs must take into account:
  - The quantity and nature of the pollutants, and their potential to impact the water quality of receiving waters;
  - Opportunities to combine the dual purposes of water quality protection and local flood control benefits (including physical impacts of high flows on streams such as bank erosion, impairment of aquatic habitat, etc.); and
  - Opportunities to offset stormwater and temperature impacts from impervious areas on dry weather flows and low flow situations to streams.
9. BMP Types Considered. (See Part V(C) Non-Numeric Technology Based Effluent Limits.) The permittee shall describe how each BMP is currently implemented, or will be implemented. The following types of structural, and non-structural BMPs must be considered for implementation at the facility. This requirement may have been fulfilled with the area-specific BMPs identified under Part V(D)(8), in which case, the previous description is sufficient. However, many of the following BMPs may be more generalized or non site-specific and therefore not previously

considered. If the permittee, agent or Department stormwater inspector determines that any of these BMPs are not appropriate or are inadequate to reduce or eliminate pollutants, an explanation of this determination along with corrective actions must be documented in the SWPPP. The BMP examples listed below are not intended to be a comprehensive list. The permittee is encouraged to keep abreast of new BMPs or new applications of existing BMPs to find the most cost effective means of permit compliance for the facility. If BMPs are planned at the facility which are not listed previously in the SWPPP (e.g., replacing a chemical with a less toxic alternative, adopting a new or innovative BMP, etc.), include an implementation timeline within this section of the SWPPP.

a. Non-Structural BMPs.

**Good Housekeeping:** The permittee shall keep all exposed areas free of materials which could contribute pollutants to stormwater discharges by performing good housekeeping measures such as sweeping, and proper material containment. Measures must include compliance with the Non-Numeric Technology Based Effluent limits noted in Part V(C) and the Individual Sector requirements in Appendices A-AD.

**Minimizing Exposure:** Where practicable industrial materials and activities should be protected by a storm resistant shelter to prevent exposure to stormwater, or located in an area that does not discharge to a surface water or a MS4.

**Preventive Maintenance:** The permittee shall implement a preventive maintenance program which includes the timely inspection and maintenance of stormwater management devices, (e.g., cleaning oil/water separators, catch basins) as well as inspecting, testing, maintaining and repairing facility equipment and systems to avoid breakdowns or failures that may result in discharges of pollutants to surface waters.

**Spill Prevention and Response Procedures:** The permittee shall describe spill prevention and clean up procedures for spills or leaks. These procedures, and the necessary spill response equipment, must be made available to employees who may cause or encounter a spill or leak. Where appropriate, the permittee shall explain existing or planned material handling procedures, storage requirements, secondary containment, and equipment (e.g., diversion valves) in the SWPPP which are intended to minimize spills or leaks at the facility. Unlicensed discharges of oil and hazardous matter are prohibited (See 38 M.R.S.A. §§ 543 & 1317-A). These discharges must be removed to the Commissioner's satisfaction (See 38 M.R.S.A. §§ 1318-B, 548, 568). Hazardous matter discharges must be reported (See 38 M.R.S.A. §§ 1318-B).

Oil and hazardous matter have "safe harbor" incentives for reporting (See 38 M.R.S.A. §§ 550 & 1318).

- Procedures to properly label all storage containers.
- Preventative measures such as barriers between material storage and traffic areas, secondary containment provisions and procedures for material storage and handling.
- Procedures for quick response to stop leaks, spills and other releases. Employees who may cause, detect or respond to a spill situation shall be properly trained. The training must be documented in the SWPPP.
- Procedures to notify trained facility personnel, emergency response and regulatory agencies in the event of a spill or release. Documentation of spills and releases must be included in the facility SWPPP.

**Employee Training:** The permittee shall describe the annual stormwater employee training program for the facility. The description must include the topics to be covered, (such as spill response, good housekeeping and material management practices). The permittee shall provide employee training for all employees who work in areas where industrial materials or activities are exposed to stormwater, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, spill responders and maintenance staff). The employee training must address the components and goals of the SWPPP.

b. **Structural BMPs.**

**Sediment and Erosion Control:** The permittee shall identify areas at the facility which, due to topography, land disturbance or other factors, have a potential for soil erosion. The permittee shall describe and implement structural, vegetative, or stabilization BMPs to manage runoff and limit erosion and sediment transport and the resulting discharge of pollutants.

**Stormwater Velocity Control:** The permittee shall install stormwater velocity dissipation controls where appropriate.

**NOTE:** This Permit requires compliance with Maine's Erosion and Sedimentation Control Law. Installation of Structural BMPs may require a separate permit pursuant to the Natural Resources Protection Act, Maine Stormwater Management or the Site Location of Development Act.

**Stormwater structural devices:** The permittee shall describe the stormwater management practices (permanent structural BMPs other than those which control the generation or source(s) of pollutants) that currently exist or are planned for the facility.

These types of BMPs typically are used to divert, filter, reuse, or otherwise reduce pollutants in stormwater discharges from the site.

10. Other Controls. No solid materials, including floatable debris, may be discharged to waters of the State, except as authorized by a permit issued under section 404 of the Clean Water Act. Off-site vehicle tracking, or blowing, of raw, final, waste materials or sediments, and the generation of dust, must be minimized and documented in the SWPPP.
- E. Maintenance. All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary, to maintain the continued effectiveness of stormwater controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and implemented as soon as practicable, but not later than twelve (12) weeks from the date of discovery unless authorized by the Department. The maintenance schedule and reason for delay must be documented in the SWPPP. The Department will take into account the size and cost of the project, the need to obtain supplies, construction timeframes, weather, the amount of pollution discharged and the condition of receiving waters in determining if a delay is acceptable. In the case of non-structural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., available spill response supplies, training, etc.). Maintenance and BMP follow up actions must comply with Part V(I)(3) of this General Permit.
- F. Allowable Non-Stormwater Discharges. Allowable non-stormwater discharges are listed in Parts I(D) and (B). Except for flows from fire fighting activities, the permittee shall identify all sources of allowable non-stormwater discharge(s) in the SWPPP and include:
- Identification of each allowable non-stormwater source;
  - The location where it is likely to be discharged; and
  - Descriptions of appropriate BMPs for each source.
- If mist blown from cooling towers is listed as an allowable non-stormwater discharge, the permittee shall specifically evaluate the potential for the discharge(s) to be contaminated by chemicals used in the cooling tower and determine that the levels of such chemicals would not cause or contribute to a violation of an applicable water quality standard.
- G. Applicable State or Local Plans. The SWPPP must be consistent and updated with applicable state or local stormwater, waste disposal, sanitary sewer or septic system regulations to the extent these apply to the facility and are more stringent than the requirements of this General Permit.
- H. Monitoring Frequency and Procedure Documentation. The SWPPP must document the procedures for conducting the three types of analytical

monitoring (Benchmark, Numeric, and Impaired Waters) and Visual Monitoring where applicable. These procedures are outlined in Part VI of this General Permit. SWPPP documentation must include the following:

1. Location of sample collection (outfall designation).
  2. Sampling parameters and sampling frequency for each parameter including the benchmark or limit associated with that parameter.
  3. Monitoring schedule including monitoring exceptions, adverse weather conditions and waivers.
- I. Site Compliance Evaluations and Follow-up Corrective Actions. This General Permit requires the completion of quarterly site inspections or Site Compliance Evaluations. The SWPPP must include procedures for conducting and documenting the evaluations as required by this part.
1. Frequency of Inspections. The permittee shall conduct Site Compliance Evaluations a minimum of four (4) times a year, one of which must be conducted within 24 hours of a qualifying storm event. These inspections must be evenly spaced with a minimum of sixty (60) days between inspections. Inspections must be done by qualified personnel as defined by the permittee. Qualified personnel may be either a facility employee or agent provided the inspector can accurately assess facility conditions that may impact stormwater discharges and BMP effectiveness. These inspections may be conducted in conjunction with Part (VI)(B), Quarterly Visual Monitoring, or be conducted separately. If the permittee decides to conduct more frequent inspections, the SWPPP must specify the frequency of inspections.
  2. Scope of the Site Compliance Evaluation. The evaluation/inspection must include all areas where industrial materials or activities are exposed to stormwater, as identified in Part V(D)(4), and all associated stormwater conveyances and areas where spills and leaks have occurred within the past three (3) years. Inspectors shall evaluate and document:
    - a. Industrial materials, residue, or trash on the ground that could contaminate stormwater;
    - b. Leaks or spills from industrial equipment, drums, barrels, tanks or similar containers;
    - c. Offsite tracking of industrial materials or sediment where vehicles enter or exit the site;
    - d. Tracking, blowing or whirling of raw, final, or waste materials and the evidence of, or the potential for, pollutants to contact stormwater;
    - e. Stormwater BMPs identified in the SWPPP must be inspected and evaluated to ensure that they are operating correctly. Inspect

stormwater conveyances and outfalls for erosion, integrity and potential pollutants. Where discharge locations or outfalls are inaccessible, nearby downstream locations must be inspected if possible; and

- f. The once per year Non-Stormwater Discharge Certification may be incorporated into one of the four Site Compliance Evaluations.
3. Site Compliance Evaluation Follow-up Actions. Based on the results of the Site Compliance Evaluation, the permittee shall:
- a. Complete a Site Compliance Evaluation Report. This report summarizes the scope of the inspection as noted in Part V(I)(2) above. The permittee shall prepare a Site Compliance Evaluation Report upon completing the inspection. This report must include the name(s) or position(s) of personnel performing the inspection, the date(s) of the evaluation, and major observations relating to the implementation of the SWPPP. The inspection report(s) must identify any incidents of non-compliance and proposed or implemented follow-up action(s). Where an inspection report does not identify any incidents of non-compliance, the report must contain a certification that the facility is in compliance with the SWPPP and this General Permit. The Department has prepared a guidance checklist that may be used or modified for reporting.
  - b. Develop a Corrective Action Report (CAR). A Corrective Action Report is a description of actions, BMPs, site modifications or behaviors necessary to meet the terms and conditions of this General Permit. Two types of CARs may be generated.
  - c. Structural BMP Corrective Action Report. This CAR includes modification(s) or addition(s) and implementation of a structural BMP(s). If a noted deficiency is related to a structural BMP excluding routine maintenance, the permittee shall notify the regional stormwater inspector within fourteen (14) business days by phone, email or USPS. Notwithstanding the timeframes described above, the Department reserves the right to take enforcement actions for unpermitted discharges.

Note: If temporary stabilization measures are needed in emergency situations, a permittee may begin installation provided the addition of the BMP or stabilization measure is not in violation of State or Federal laws. The Department should be contacted within 24 hours in these situations.

- d. Non-Structural BMP Corrective Action Report. This CAR notes the addition or modification of a non-structural BMP(s) which must be developed, implemented and kept with the SWPPP.

- e. Content of a Corrective Action Report. All CARs must contain at a minimum the initial inspection date, a summary of the deficiency and corrective action(s) planned or implemented including temporary measures. The date the corrective action(s) was initiated, completed or expected to be completed.

Inspection reports and follow-up CARs must be signed by the permittee in accordance with Part VIII(G).

- f. SWPPP Modification and Timeline for Completion of Corrective Actions. Modify the SWPPP as necessary (e.g., to show additional controls on the site map) as required by Part V(D)(3) and revise the description of controls as required by Part V(D)(8) to include additional or modified BMPs to correct problems identified in the Site Compliance Evaluation and Corrective Action Report. The permittee shall complete revisions to the SWPPP within thirty (30) calendar days following the inspection, and initiate changes to non-structural BMPs within five (5) business days. If existing structural BMPs require modification or if additional structural BMPs are necessary, implementation must be completed before the next anticipated storm event to the extent practicable, but not more than twelve (12) weeks after discovery of the deficiency unless otherwise authorized by the Department. Temporary BMPs must be utilized during the design and construction phase of new structural BMPs. These temporary BMPs must be implemented as soon as practicable after the Site Compliance Evaluation is complete. The permittee shall retain a record of actions taken in accordance with Part V(I) of this General Permit as part of the SWPPP for at least three (3) years from the date that permit coverage expires or is terminated.

- J. SWPPP Documentation Requirements. The permittee shall keep the following inspection, monitoring and certification records on site with the facility's SWPPP. The complete and up-to-date records which demonstrate full compliance with the conditions of this General Permit include:

1. A copy of the NOI submitted to the Department along with any correspondence exchanged between the permittee and the Department specific to coverage of this General Permit.
2. A copy of the Department's acknowledgement letter assigning the facility Permit ID number, and discharge authorization.
3. A copy of the General Permit, (electronic is acceptable), which can be made available to SWPPP team members.
4. Dates and descriptions of spills, leaks, or other releases that resulted in discharges of pollutants to waters of the State through stormwater or

otherwise; the circumstances leading to the release and actions taken in response to the release; and, the measures taken to prevent the recurrence of such releases.

5. Records of annual employee training, including topics covered, training date(s), and printed names and signatures of participating employees.
  6. Documentation of maintenance and repairs of stormwater control measures, including dates of regular maintenance, discovery dates of areas in need of repair or replacement; repair date when control measure(s) returned to full function; and, the justification for any extended maintenance or repair schedules.
  7. Documentation of inspections and monitoring data.
  8. Description of any deviations from monitoring schedules.
  9. Corrective Action Reports and summary of completed actions taken at the site, including event(s) and date(s) when problems were discovered and modifications occurred.
  10. Documentation of monitoring exceedances and the facility's response including corrective actions; additional monitoring; documentation indicating the benchmark exceedance was due to natural background pollutant levels; or a finding of no further pollutant reductions were technologically, or economically, practicable, and achievable in light of best industry practice.
  11. Documentation to support any determination that pollutants of concern are not expected to be present above natural background levels if the permittee discharges directly to impaired waters, and that such pollutants were not detected in the discharge or were solely attributable to natural background sources.
  12. Documentation of the annual non-stormwater discharge certification.
- K. Requirement to Maintain Updated SWPPP. The permittee shall amend the SWPPP within thirty (30) days of completion of any of the following:
1. A change in design, construction, operation, or maintenance at the facility that has a significant effect on the discharge or potential for discharge of pollutants from the facility including the addition or reduction of industrial activity;
  2. Monitoring, inspections, or investigations by the permittee or by local, State, or Federal officials which determine the SWPPP is ineffective in eliminating or significantly minimizing pollutants from sources identified under Part V(D)(4), or is otherwise not achieving the general objectives of controlling pollutants in discharge(s) from the facility;

3. A release of hazardous substances and oil (see 38 M.R.S.A. § 543, 550 and 1318-B); and
  4. A discharge authorized under this General Permit that is determined by Department notification to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard. The SWPPP must document actions necessary to ensure future discharge(s) do not cause or contribute to the violation of a water quality standard.
- L. Department Review. Department staff may notify the permittee at any time that a SWPPP does not meet one or more of the minimum requirements of this General Permit.
- M. Signature, SWPPP Review and SWPPP Availability. The SWPPP must be signed in accordance with Part VIII(E), and a working copy retained at the facility covered by this General Permit. (See Part III(E) for records retention requirements.) The permittee shall only submit a copy of the SWPPP to the Department upon written notification. Upon the Department's request, the SWPPP must be submitted electronically via e-mail or saved to a compact disc and mailed or hand delivered to the Department.
- N. Additional Requirements for SARA Title III Facilities. Potential pollutant sources for which the permittee has reporting requirements under EPCRA 313 must be identified in the summary of potential pollutant sources as per Part V(D)(4). Note this additional requirement only applies to the permittee if the permittee is subject to reporting requirements under EPCRA 313.
- O. Salt Storage Pile Requirements. Salt storage pile(s) used for deicing or commercial or industrial purposes located at the facility, must be enclosed or covered to prevent exposure to precipitation, with exception of adding or removing materials from the pile, and for sand/salt storage piles at municipal public works facilities. See 06-096 CMR 574, and 38 M.R.S.A. §413(2-D) for additional requirements.

**Part VI. MONITORING REQUIREMENTS**

- A. Monitoring Requirements and Limitations. The monitoring requirements and numeric limitations applicable to a facility depend on the types of industrial activities conducted. The permittee shall review Parts III (Permit Conditions), VI (Monitoring Requirements) and VII (Sector Specific Requirements) of this General Permit to determine which monitoring requirements and numeric limitations apply to the industrial activity or activities at the facility.
1. Sector-specific monitoring requirements. Sector-specific monitoring requirements and limitations are applied outfall by outfall at facilities with multiple Sector-specific industrial activities. Where stormwater from multiple Sector-specific industrial mixes, the monitoring requirements and limitations are additional.

**ATTACHMENT C**



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Bureau of Land and Water Quality  
Date: April 20, 2006  
Doc num: DEPLW0768

**Bureau of Land and Water Quality  
Division of Watershed Management  
Industrial Stormwater Program**

Standard Operating Procedure  
Guidelines For Visual Monitoring of Stormwater Discharges Associated With Industrial Activities.

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under the Maine Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity regardless of the facility's industrial sector code. All permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges associated with industrial activity as part of their Stormwater Pollution Prevention Plans (SWPPP) in order to achieve compliance with the Multi-Sector General Permit.
2. **PURPOSE.** To provide guidelines for standardized methods for sample collection and visual examination of industrial stormwater discharges for indicators of stormwater pollution as defined in Part V of the Maine MSGP. To provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data. These guidelines are described in Part 5 of the MSGP.
3. **DEFINITIONS.**
  - 3.1. **Multi-Sector General Permit (MSGP)** A general permit for Stormwater Discharges Associated with Industrial Activities. Authorizes the direct discharge of stormwater associated with industrial activity to waters of the State other than groundwater, provided the discharge meets the requirements stated in this permit. This permit is effective October 11, 2005 and expires October 11, 2010. It replaces EPA's MSGP for Industrial Activities issued October 30, 2000.
  - 3.2. **SWPPP.** Stormwater Pollution Prevention Plan. A plan developed and implemented by each industrial facility. It outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State. The Plan identifies in writing a SWPPP team of facility personnel as well as a SWPPP team leader who is ultimately responsible for SWPPP implementation.
  - 3.3. **GRAB SAMPLE.** Sample of stormwater discharge taken as a single uninterrupted event (i.e., grabbed at one time) from a single stormwater outfall from the industrial facility. The sample may be collected manually or with an automatic sampler.
  - 3.4. **OUTFALL.** Any location such as a ditch, rill, pipe, storm drain, boat ramp, or detention pond exit where shallow concentrated flow of stormwater leaves an industrial facility.
  - 3.5. **MEASURABLE STORM EVENT.** Any storm event that yields at least 0.1 inch of precipitation.

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#### 4. RESPONSIBILITIES.

- 4.1. **MONITORING PROGRAM IMPLEMENTATION.** The schedule for performing visual examinations should be clearly documented in the facility's SWPPP. The permittee must perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.
- 4.2. **OUTFALL IDENTIFICATION.** The permittee must identify each industrial stormwater outfall at the facility. All outfalls shall be clearly identified on the facility site map which is part of the facility's SWPPP and also listed in the written text of the SWPPP.
- 4.3. **EMPLOYEE TRAINING.** The permittee is responsible for ensuring that all facility personnel involved in stormwater sampling are properly trained to do so. Staff involved in sampling should:
- Be familiar with the site map and outfall locations
  - Walk the site to physically identify each sampling location
  - Become familiar with local rainfall and drainage patterns
  - Learn proper procedures for measuring rainfall
  - Become competent with proper sample collection procedures

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. Where practicable the same individual should carry out the collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be maintained onsite with the SWPPP.

- 4.4. **SAMPLE COLLECTION FREQUENCY.** Visual examinations of industrial stormwater discharges must be performed once per monitoring quarter. If no measurable storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided the permittee documents in the monitoring records that no runoff occurred. Schedule of monitoring quarters is listed below.
- First: October 1 to December 31
  - Second: January 1 to March 31
  - Third: April 1 to June 30
  - July 1 to September 30

All other time specific sampling requirements are to be performed in accordance with the parameters outlined in the procedures section of this document.



- 4.5. **RECORD KEEPING AND REPORTING.** The permittee must maintain reports of all visual examinations conducted onsite with the SWPPP. The permittee is not required to submit visual examination results to DEP unless specifically asked to do so. Requirements for recording visual examination data are outlined in the procedures section of this document.

## 5. PROCEDURES

- 5.1. **MEASURING RAINFALL.** All facilities required to perform visual monitoring of industrial stormwater discharges should have a rain gauge on site for measuring rainfall. The rain gauge may be a standard rain gauge, tipping bucket gauge, weighing type gauge, float recording gauge, or any other National Weather Service approved device for measuring rainfall to the nearest 0.1 inch. To minimize measurement errors, the gauge should be placed on a level surface that is not windswept and is away from trees or buildings that might interfere with the path of rainfall. The gauge should be regularly inspected by sampling personnel to ensure that it is in good working order and capable of accurately measuring rainfall to the nearest 0.1 inch.
- 5.2. **SAMPLE COLLECTION TIMING.** A grab sample must be collected from each facility outfall once per monitoring quarter during a measurable storm event that occurs at least 72 hours from the previously measurable storm event. The 72 hour interval is waived when the preceding measurable storm did not yield a measurable discharge. During a measurable storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours of when runoff begins discharging from areas of exposed industrial activity. During monitoring quarters when snowmelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snowmelt within the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours) of when snowmelt begins discharging from areas of exposed industrial activity. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.
- 5.3. **SAMPLE CONTAINER CLEANING AND PREPARATION.** The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue by the container manufacturer, or cleaned according to the following procedure.
- 5.3.1. Wash containers in a non-phosphate detergent and tap water wash.
  - 5.3.2. Thoroughly fill and rinse containers with tap water at least three (3) times.
  - 5.3.3. Store containers closed, and in an area free of dust and other potential sample contaminants.



- 5.3.4. If additional containers are needed to collect samples from less accessible outfalls (i.e. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.
- 5.4. **SAMPLE COLLECTION.** Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.
- 5.4.1. **MANUAL GRAB SAMPLE COLLECTION.** Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. Small containers (ideally 250 ml to 750 ml or approximately 8 to 24 ounces in size) are recommended in order to be able to submerge the container opening under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (i.e., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.
- 5.4.2. **COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER.** Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.



- 5.5. **SAMPLE EXAMINATION.** Visual examination of all grab samples collected must be performed within the first sixty (60) minutes (or as soon thereafter as practicable, but not to exceed 2.25 hours) of when the runoff or snowmelt begins discharging from the facility. Collect the samples and bring them to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff cone. The cone should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, this assures all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter. It is also recommended that a sample of tap water be collected in the same type of container used to collect the samples and used as a comparison to aid in evaluating the samples for the criteria stated above.

\*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. See section 6 for a list of suppliers.

- 5.6. **SAMPLE DATA RECORDING.** Record all sample data on the visual monitoring form (Attachment B) after examining the sample for all of the criteria listed in the instructions (Attachment A). The form should include the examination date and time, examination personnel, the nature of the discharge (i.e., rain or snowmelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VII (E) of the Maine MSGP. All visual examination reports must be maintained on site with the SWPPP.
- 5.7. **RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS.** Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.
- **PROBLEM:** Sampling where stormwater combines with process or non process water.  
**RECOMMENDATION:** Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge both during dry and wet weather and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.
  - **PROBLEM:** Numerous small point channels make up an outfall from which it is difficult to collect a sample.



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**RECOMMENDATION:** Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic to prevent infiltration and/or high levels of sediment.

- **PROBLEM:** Inaccessible discharge point (examples include underwater discharges or unreachable discharges (e.g., out of a cliff).  
**RECOMMENDATION:** Go up the pipe to sample (i.e., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.
- **PROBLEM:** Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.  
**RECOMMENDATION:** Have a sampling crew ready for mobilization when forecasts indicate a measurable storm event is likely to occur. If this is not possible, sample missed outfall locations during other measurable storm events.
- **PROBLEM:** Commingling of parking lot runoff with discharge associated with industrial activity.  
**RECOMMENDATION:** The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.
- **PROBLEM:** Sampling in manholes  
**RECOMMENDATION:** Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training if manhole has to be entered.
- **PROBLEM:** Run-on from other property.  
**RECOMMENDATION:** If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.
- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.



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## 6. REFERENCES

- 6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT  
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001(January, 1999)
- 6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT  
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)
- 6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY  
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-A-N (October 11, 2005)

**\*Notes: List of Vendors that Supply One Liter (1L) Clear Polycarbonate Imhoff Cones**

Forestry Suppliers Inc.  
PO Box 8397  
Jackson, MS 39284  
(800) 752-8460  
[www.forestry-suppliers.com](http://www.forestry-suppliers.com)

Lab Safety Supply Inc.  
PO Box 1368  
Janesville, WI 53547-1368  
(800) 356-0783  
[www.labsafety.com](http://www.labsafety.com)

Nalge Nunc International  
International Dept.  
75 Panorama Creek Dr.  
Rochester, NY 14625  
(800) 625-4327  
[www.nalgenelabware.com](http://www.nalgenelabware.com)

Pollard Water  
200 Atlantic Ave.  
Hyde Park, NY 11040  
800-437-1146  
[www.pollardwater.com](http://www.pollardwater.com)

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Visual Monitoring Form

|  |                          |
|--|--------------------------|
| Facility Name _____                      | Sampler's Name _____     |
| Facility Address _____<br>_____<br>_____ | MSGP Permit Number _____ |

| OUTFALL NUMBER                                |  |  |  |  |  |  |
|---|--|--|--|--|--|--|
| OBSERVATION TIME                              |  |  |  |  |  |  |
| EST. TIME FROM ONSET OF RUNOFF                |  |  |  |  |  |  |
| DISCHARGE TYPE<br>Rain or Snowmelt            |  |  |  |  |  |  |
| COLOR   |  |  |  |  |  |  |
| ODOR  |  |  |  |  |  |  |
| CLARITY                                       |  |  |  |  |  |  |
| FLOATING SOLIDS*                              |  |  |  |  |  |  |
| SETTLED SOLIDS*                               |  |  |  |  |  |  |
| SUSPENDED SOLIDS*                             |  |  |  |  |  |  |
| FOAM  |  |  |  |  |  |  |
| OIL SHEEN                                     |  |  |  |  |  |  |
| Probable source of any observed contamination |  |  |  |  |  |  |

\*Enter description of these criteria in the general comments section for each outfall on the back of this page.

Sampler's Signature \_\_\_\_\_ Date \_\_\_\_\_



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General Comments

In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.

|           |   |
|-----------|---|
| Outfall 1 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
| Outfall 2 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
| Outfall 3 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
| Outfall 4 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
| Outfall 5 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
| Outfall 6 | <p><u>Comments:</u> _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |



### Instructions for Completing the Visual Monitoring Form

1. Completely fill out all required information on the top of the visual monitoring form.
2. Pour the sample into a 1 L clear polycarbonate Imhoff cone. Record the total sample volume measured in the cone to the nearest milliliter. Evaluate the sample for the following parameters according to the following instructions.
  - **Foam:** This must be done first. Examine the sample for foam immediately after pouring it into the cone. Record foam results on the visual monitoring form as they most closely match one of the descriptions listed below.
    - I. **None**-Most bubbles break down within ten (10) seconds of pouring; only a few large bubbles persist longer than ten (10) seconds.
    - ii. **Moderate**-Many small bubbles are present but these bubbles persist for less than two (minutes) after pouring.
    - iii. **High**-Many small bubbles are present and they persist longer than two (2) minutes after pouring.
3. Examine the sample for the following criteria after it has settled for ten (10) minutes. Record the results on the visual monitoring form as they most closely match the descriptions listed below.
  - **Color:** Record the best description of the sample color in the appropriate space on the visual monitoring form.
  - **Odor:** If sample has no odor other than natural rainwater or snowmelt write "normal" on the visual monitoring form. Note the presence of any of the following odors if detected: Gasoline, diesel, oil, solvents (WD-40, other petroleum products, etc.), landfill, fishy, glycol; any other unusual odors not normally present in clean runoff from the area sampled.
  - **Clarity:** Record sample clarity results as they most closely match one of the descriptions listed below.
    - i. **Clear**-Sample doesn't filter out any light, can be seen through regardless of color.
    - ii. **Cloudy**-Sample filters out some light; not clear but objects can still be identified when looking through the cone.
    - iii. **Very Cloudy**-Sample filters out most light; objects are indiscernible when looking through the cone.
    - iv. **Opaque**-Sample doesn't allow any light to pass through; objects cannot be seen when looking through the cone.



Standard Operating Procedure  
Attachment A  
Bureau of Land and Water Quality  
Date: April 20, 2006  
Doc num: DEPLW0768

- **Floating Solids:** Give a general description of the type of floating solids present (wood chips, leaf debris, algae, etc) in the general comments section for each sample. Record results for amount floating solids present as they most closely match the descriptions listed below. Record amount data in the appropriate box on page 1 of the visual monitoring form.
    - I. **None-** No floating solids present on the surface of the sample.
    - II. **Slight-** Only a few floating particles observed on the surface of the sample.
    - III. **Moderate-** Less than 20% of the surface of the sample is covered with floating solids.
    - iv. **High-** More than 20% of the surface of the sample is covered with floating solids.
  - **Settled Solids:** Give a general description of the type of settled solids present (sand, decayed plant matter, rust particles etc) in the general comments section for each sample. Allow settle for one hour. Measure the settled solids in the bottom of the cone to the nearest milliliter and record the results in the appropriate box on page 1 of the visual monitoring form.
  - **Suspended solids:** In the general comments section for each sample, give a general description of the type of solids present if any are observed suspended below the sample surface. Record whether or not settled solids were present in the appropriate box on page 1 of the visual monitoring form.
  - **Oil Sheen:** Record whether or not an oil sheen is present in the sample.
  - **General Comments Section on Page 2:** Make sure you have described the type of floating, settled and suspended solids observed in the samples in the general comments section provided for each outfall sample. Also note the following conditions at each outfall during the time sampled: General volume of water and flow, algae (if any is present), odor, color, and any other unusual characteristics noticed at the sampling location. Record the number of days since the last known measurable storm or runoff event.
4. Ensure that all visual monitoring forms are filed on site with the Stormwater Pollution Prevention Plan (SWPPP) each time visual monitoring is done.



# 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.

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**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.**

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