

AUTHORIZATION TO DISCHARGE UNDER CLEAN WATER ACT SECTION 301 (h)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. §1251 et seq.; the "CWA"), and Title 38 Maine Revised Statutes § 414-A et seq.,

Town of North Haven – ME0101907

is authorized to discharge from a facility located at

**Waste Water Treatment Facility
Waterman’s Lane
North Haven, Maine 04853**

to receiving water named **Fox Island Thorofare - Class SB**

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

This NPDES permit shall become effective on the first day of the calendar month following 60 days after signature by both the EPA Director and the Commissioner of the Maine Department of Environmental Protection.* This Waste Discharge License (WDL) shall become effective immediately upon signature by the Commissioner of the Maine Department of Environmental Protection.

Both the NPDES permit and WDL shall expire concurrently at midnight, five (5) years from the last day of the month preceding the effective date of the NPDES permit

This permit supersedes the NPDES permit/WDL issued on November 21, 2003. This permit consists of the *Maine Pollutant Discharge Elimination System Permit and Standard Conditions Applicable To All Permits* (last revised July 1, 2002), and *EPA NPDES Part II Standard Conditions (January 2007)* copies attached, and the attached Special Conditions, including effluent limitations and monitoring requirements.

Signed this ____ day of _____

Signed this ____ day of _____

Ken Moraff, Director
Office of Ecosystems Protection
Environmental Protection Agency
Boston, Massachusetts

Patricia W. Aho, Commissioner
Maine Department of Environmental
Protection
Augusta, Maine

* Pursuant to 40 CFR 124.15(b)(3), if no comments requesting a change to the draft permit are received, the NPDES permit will become effective upon the date of signature by the Commissioner of the Maine DEP

IN THE MATTER OF

TOWN OF NORTH HAVEN)	NATIONAL POLLUTANT
NORTH HAVEN, KNOX COUNTY, MAINE)	DISCHARGE ELIMINATION SYSTEM
PUBLICLY OWNED TREATMENT WORKS)	
ME0101907)	WASTE DISCHARGE LICENSE
W001671-6B-F-R)	RENEWAL
	APPROVAL	

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

APPLICATION SUMMARY

The Town has applied for renewal of a combined National Pollutant Discharge Elimination System (NPDES) permit #ME0101907 and Maine Waste Discharge License (WDL) #W001671-5L-D-R that was issued on November 21, 2003 and expired on November 21, 2008. The permit/license (permit hereinafter) authorizes the discharge of up to a monthly average flow of 0.040 million gallons per day (MGD) of primary treated sanitary waste water to the Fox Island Thorofare, Class SB, in North Haven, Maine.

PERMIT SUMMARY

This permitting action is similar to the previous permitting action in that it carries forward;

1. The monthly average flow limitation of 0.040 MGD (but is being expressed in gallons per day (gpd)).
2. The monthly average technology-based requirements to achieve a minimum of 30% removal of biochemical oxygen demand (BOD) and a minimum of 50% removal for total suspended solids (TSS).
3. The monthly average technology-based mass limitations for BOD and TSS.
4. The daily maximum concentration reporting requirement for settleable solids.

This permitting action is different than the previous permitting action in that it;

5. The daily maximum technology-based concentration limit of 0.3 mg/L for total residual chlorine but reducing the monitoring frequency from 5/Week to 3/Week. The draft permit includes a new average monthly 0.1 mg/L limit.
6. The technology-based pH range limitation of 6.0 - 9.0 standard units but reducing the monitoring frequency from 5/Week to 1/Week.
7. Eliminates the monthly average concentration reporting requirement for settleable solids and reduces the monitoring frequency to 1/Week.

8. Requires the permittee to take influent samples for BOD and TSS and use the data to calculate the monthly average percent removal for both parameters.
9. Requires sludge reporting. There are EPA requirements for operations and maintenance of the treatment plant and the permittee must have a Wet Weather Flow Management Plan.

CONCLUSIONS

BASED on the findings in the Fact Sheet dated , 2013, and subject to the Conditions listed below, the USEPA and the Department make 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) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause of 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 USEPA and the Department APPROVE the above noted application of the TOWN OF NORTH HAVEN, to discharge up to a monthly average flow of 40,000 gpd of primary treated waste waters to the Fox Island Thorofare, Class SB, in North Haven, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. “*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,*” revised July 1, 2002, and *EPA NPDES Part II, Standard Conditions,* January 2007) copies attached.
2. The Special Conditions on the following pages.
3. Both the NPDES permit and WDL shall expire concurrently at midnight, five (5) years from the date of signature by the Director of the EPA Office of Ecosystem Protection (See 40 CFR §124.12). 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 shall remain in effect until a final decision on the renewal application becomes effective (See 40 CFR §122.6). [*Maine Administrative Procedure Act, 5 M.R.S.A. § 10002 and Rules Concerning the Processing of Applications and Other Administrative Matters, 06-096 CMR 2(21)(A) (effective April 1, 2003)*].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: September 26, 2008.
Date of application acceptance: September 26, 2008.

Date filed with Maine Board of Environmental Protection _____

This order prepared by jointly GREGG WOOD, Bureau of Land & Water Quality and DOUG CORB, EPA Region I.

North Haven 2013

11/27/2013

SPECIAL CONDITIONS

A. REGULATORY AUTHORITY

1. This authorization to discharge includes two separate and independent permit authorizations. The two permit authorizations are (i) a federal National Pollutant Discharge Elimination System permit issued by the U.S. Environmental Protection Agency (EPA) pursuant to the Federal Clean Water Act, 33 U.S.C. §§1251 et seq.; and (ii) an identical state Waste Discharge License (WDL) issued by the Commissioner of the Maine Department of Environmental Protection (MDEP) pursuant to the Maine law, 38 M.R.S.A., Section 414-A et seq., and applicable regulations. All of the requirements contained in this authorization, as well as the standard conditions contained in 314 CMR 3.19, are hereby incorporated by reference into this surface water discharge permit/license (permit hereinafter).
2. This authorization also incorporates the state water quality certification issued by MDEP under § 401(a) of the Federal Clean Water Act, 40 C.F.R. 124.53, M.G.L. c. 21, § 27. All of the requirements (if any) contained in MDEP's water quality certification for the permit are hereby incorporated by reference into this state permit.
3. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit/license as issued by the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law such permit shall remain in full force and effect under federal law as a NPDES Permit issued by the U.S. Environmental Protection Agency. In the event this permit/license is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a WDL issued by the State of Maine.

SPECIAL CONDITIONS

B. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge treated primary treated sanitary waste waters from **Outfall 001** to the Fox Island Thorofare and must monitor and limit discharges as follows:

Effluent Characteristic	Discharge Limitations				Monitoring Requirement	
	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	40,000 gpd [07]	---	---	---	Continuous [99/99]	Recorder [RC]
BOD ⁽¹⁾ [00310]	68 lbs/day [26]	Report lbs/day [26]	203 mg/L [19]	Report, mg/L [19]	2/Month [02/30]	Composite [24]
BOD % Removal ⁽²⁾ [50076]	---	---	30 % [23]	---	1/Month [01/30]	Calculate[CA]
TSS ⁽¹⁾ [00530]	48 lbs/day [26]	Report lbs/day [26]	145 mg/L [19]	Report, mg/L [19]	2/Month [02/30]	Composite [24]
TSS % Removal ⁽²⁾ [81011]	---	---	50 % [23]	---	1/Month [01/30]	Calculate[CA]
Settleable Solids [00545]	---	Report (ml/L) [25]	---	Report (ml/L) [25]	1/Week [01/07]	Grab [GR]
Fecal Coliform Bacteria ^{(3),(4)} [31615] (May 15 – September 30 each year)	---	---	15/100 ml	50/100ml [30]	2/Month [02/30]	Grab [GR]
Total Residual Chlorine [50060] ⁽⁴⁾	---	---	0.1 mg/L [19]	0.3 mg/L [19]	3/Week [03/07]	Grab [GR]
pH (Std. Units) [00400]	The pH shall not be less than 6.0 or greater than 9.0 at any time.				1/Week [01/07]	Grab [GR]

The italicized numeric values bracketed in the table above are code numbers that Department personnel use to code the monthly Discharge Monitoring Reports (DMR's).

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

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

All detectable analytical test results shall be reported to the Department and EPA including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the detection limit achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL is not acceptable and will be rejected by the Department. For mass, if the analytical result is reported as <Y or if a detectable result is less than a RL, report a <X lbs/day, where X is the parameter specific limitation established in the permit.

Footnotes

1. **BOD and TSS sampling** – Sampling of both influent and effluent required.
2. **Percent removal** - The permittee shall achieve at least 30% removal for BOD and 50% removal for TSS. For the purposes of calculating a monthly average percent removal, the permittee shall use the measured monthly average influent and effluent concentrations.
3. **Fecal coliform bacteria** – Limitations and monitoring requirements are in effect from May 15 through September 30 of each year. The Department and EPA reserve the right to impose year-round disinfection to protect the health, safety and welfare of the public, by letter notification to the permittee. The monthly average limitation is a geometric mean limitation and results shall be reported as such.
4. **Total residual chlorine (TRC)** – Limitations and monitoring requirements for TRC are in effect whenever elemental chlorine or chlorine-based compounds are utilized for disinfection or cleaning. The permittee shall utilize approved test methods that are capable of bracketing the limitations in this permit.

C. NARRATIVE EFFLUENT LIMITATIONS

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

D. TREATMENT PLANT OPERATOR (specific to Maine DEP)

The treatment facility must be operated by a person holding a minimum of a **Grade I** certificate or higher (or Registered Maine Professional Engineer) pursuant to *Sewerage Treatment Operators*, Title 32 M.R.S.A., Sections 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 CMR 531 (effective May 8, 2006). All proposed contracts for facility operation by any person must be approved by the Department before the permittee may engage the services of the contract operator.

E. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on September 26, 2008, 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

F. NOTIFICATION REQUIREMENT

In accordance with EPA Part II Standard Condition D, the permittee shall notify the Department and the EPA of the following:

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

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

G. OPERATIONS AND MAINTENANCE FOR THE TREATMENT PLANT

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

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

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

Within ninety (90) days of the effective date of this permit, [PCS Code 00701], the permittee shall submit to the Maine Department of Environmental Protection for review and approval, a public education program designed to minimize the entrance of non-industrial toxic pollutants and pesticides into the collection system and waste water treatment facility.

Within one hundred and twenty (120) days of the effective date of this permit, [PCS Code 53399], the permittee shall provide written notice to the Maine Department of Environmental Protection, that the approved public education program has been implemented.

H. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall maintain a Wet Weather Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department and EPA acknowledge that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall.

The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events.

The permittee shall review their plan annually and record necessary changes to keep the plan up to date.

I. SLUDGE USE/DISPOSAL

1. The permittee shall comply with all existing federal and state laws and regulations that apply to sewage sludge use and disposal practices, including EPA regulations promulgated at 40 CFR Part 503, which prescribe “Standards for the Use or Disposal of Sewage Sludge” pursuant to Section 405(d) of the CWA, 33 U.S.C. § 1345(d).
2. If both state and federal requirements apply to the permittee’s sludge use and/or disposal practices, the permittee shall comply with the more stringent of the applicable requirements.
3. The requirements and technical standards of 40 CFR Part 503 apply to the following sludge use or disposal practices.
 - a. Land application - the use of sewage sludge to condition or fertilize the soil
 - b. Surface disposal - the placement of sewage sludge in a sludge only landfill
 - c. Sewage sludge incineration in a sludge only incinerator
4. The requirements of 40 CFR Part 503 do not apply to facilities which dispose of sludge in a municipal solid waste landfill. 40 CFR § 503.4. These requirements also do not apply to facilities which do not use or dispose of sewage sludge during the life of the permit but rather treat the sludge (e.g. lagoons, reed beds), or are otherwise excluded under 40 CFR § 503.6.
5. The 40 CFR. Part 503 requirements including the following elements:
 - a. General requirements
 - b. Pollutant limitations
 - c. Operational Standards (pathogen reduction requirements and vector attraction reduction requirements)
 - d. Management practices
 - e. Record keeping
 - f. Monitoring
 - g. Reporting

The 40 C.F.R. Part 503 requirements that apply to the permittee will depend upon the use or disposal practice followed and upon the quality of material produced by a facility. The EPA Region 1 Guidance document, “EPA Region 1 - NPDES Permit Sludge Compliance Guidance” (November 4, 1999), may be used by the permittee to assist it in determining the applicable requirements.¹

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

6. The sludge shall be monitored for pollutant concentrations (all Part 503 methods) and pathogen vector attraction reduction (land application and surface disposal) at the following frequency. This frequency is based upon the volume of sewage sludge generated at the facility in dry metric tons per year

less than 290	1/ year
290 to less than 1,500	1 /quarter
1,500 to less than 15,000	6 /year
15,000 +	1 /month

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

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

J. MONITORING AND REPORTING

1. **For a period of one year from the effective date of the permit**, the permittee may submit monitoring data to EPA and the Maine Department of Environmental Protection (“MDEPMDEP”) either in hard copy form or report electronically using Maine’s electronic Discharge Monitoring Report (“eDMR”) System, a web-based tool that allows permittees to electronically record and report discharge monitoring reports (DMRs) via a secure internet connection.

Beginning no later than one year after the effective date of the permit, the permittee shall begin reporting using eDMR, unless the facility is able to demonstrate a reasonable basis that precludes the use of eDMR for submitting DMRs. Specific requirements regarding submittal of data and reports in hard copy form and for submittal using eDMR are described below:

a. Submittal of DMRs Using eDMR

eDMR can be accessed from the Maine Department of Environmental Protection website: <http://www.maine.gov/dep/water/wwtreatment/#edmr> . Within one year of the effective date of this permit, the permittee shall begin submitting DMRs required under this permit electronically to EPA and the MDEP using eDMR, unless the facility is able to demonstrate a reasonable basis, such as technical or administrative infeasibility, that precludes the use of eDMR for submitting DMRs (“opt-out request”).

DMRs shall be submitted electronically to EPA and the MDEP using eDMR no later than the 15th day of the month following the completed reporting period. Once a permittee begins submitting DMRs using eDMR, it will no longer be required to submit hard copies of DMRs to EPA and the MDEP. However, permittees shall continue to send hard copies of all other permit-required reports to EPA and the MDEP until further notice from the EPA.

b. Submittal of eDMR Opt-Out Requests

Opt-out requests must be submitted in writing to EPA for written approval at least sixty (60) days prior to the date a facility would be required under this permit to begin using eDMR.

This demonstration shall be valid for twelve (12) months from the date of EPA approval and shall thereupon expire. At such time, DMRs shall be submitted electronically to EPA and the MDEP unless the permittee submits a renewed opt-out request and such request is approved by EPA. All opt-out requests should be sent to the following addresses:

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

And

Maine Department of Environmental Protection
Division of Water Quality Management, Compliance & Technical Assistance Unit
17 State House Station, 28 Tyson Drive
Augusta, Maine 04333

c. Submittal of Reports in Hard Copy Form

Monitoring results shall be summarized for each calendar month and reported on separate hard copy Discharge Monitoring Report Form(s) (DMRs) postmarked no later than the 15th day of the month following the completed reporting period. All reports required under this permit, shall be submitted as an attachment to the DMRs prior to a facility using eDMR. Once a facility begins using eDMR, the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15th day of the month following the completed reporting period. All other reports required under this permit shall be submitted as separate hard copies to EPA and the MDEP. Signed and dated originals of hard copies of the DMRs, and all other reports or notifications required herein or in Part II shall be submitted to the Director at the following address:

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

Duplicate signed copies of all reports or notifications required above shall be submitted to the State at the following addresses:

Department of Environmental Protection
Central Maine Regional Office
Bureau of Land and Water Quality
Division of Compliance, Engineering & Technical Assistance
17 State House Station
Augusta, Maine 04333

K. RE-OPENING OF PERMIT FOR MODIFICATIONS

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

L. SEVERABILITY

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

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

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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

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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).

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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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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.

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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.

NPDES PART II STANDARD CONDITIONS
(January, 2007)

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NPDES PART II STANDARD CONDITIONS
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PART II. A. GENERAL REQUIREMENTS

1. Duty to Comply

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

- a. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the sludge use or disposal established under Section 405(d) of the CWA 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 requirements.
- b. The CWA provides that any person who violates Section 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Section 402 (a)(3) or 402 (b)(8) of the CWA is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who negligently violates such requirements is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who knowingly violates such requirements is subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both.
- c. Any person may be assessed an administrative penalty by the Administrator for violating Section 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

Note: See 40 CFR §122.41(a)(2) for complete “Duty to Comply” regulations.

2. 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 notifications of planned changes or anticipated noncompliance does not stay any permit condition.

3. Duty to Provide Information

The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator 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 Regional Administrator, upon request, copies of records required to be kept by this permit.

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4. Reopener Clause

The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

For any permit issued to a treatment works treating domestic sewage (including “sludge-only facilities”), the Regional Administrator or Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under Section 405 (d) of the CWA. The Regional Administrator or Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or contains a pollutant or practice not limited in the permit.

Federal regulations pertaining to permit modification, revocation and reissuance, and termination are found at 40 CFR §122.62, 122.63, 122.64, and 124.5.

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from responsibilities, liabilities or penalties to which the permittee is or may be subject under Section 311 of the CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

6. Property Rights

The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

7. Confidentiality of Information

- a. In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).
- b. Claims of confidentiality for the following information will be denied:
 - (1) The name and address of any permit applicant or permittee;
 - (2) Permit applications, permits, and effluent data as defined in 40 CFR §2.302(a)(2).
- c. Information required by NPDES application forms provided by the Regional Administrator under 40 CFR §122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

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8. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

9. State Authorities

Nothing in Part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

10. Other Laws

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

PART II. B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. 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 and with the requirements of storm water pollution prevention plans. 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 only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Need to Halt or Reduce 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.

3. 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.

4. Bypass

a. Definitions

- (1) *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.

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- (2) *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 be reasonably 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 provision of Paragraphs B.4.c. and 4.d. of this section.

c. Notice

- (1) 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.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D.1.e. of this part (Twenty-four hour reporting).

d. Prohibition of bypass

Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) 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 preventative maintenance; and
- (3)
 - i) The permittee submitted notices as required under Paragraph 4.c. of this section.
 - ii) The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed above in paragraph 4.d. of this section.

5. Upset

- a. Definition. *Upset* means an exceptional incident in which there is an 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 B.5.c. of this section are met. No determination made during

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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:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated;
 - (3) The permittee submitted notice of the upset as required in paragraphs D.1.a. and 1.e. (Twenty-four hour notice); and
 - (4) The permittee complied with any remedial measures required under B.3. above.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

PART II. C. MONITORING REQUIREMENTS

1. Monitoring and Records

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- b. Except for records for 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 (or longer as required by 40 CFR Part 503), 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 except for the information concerning storm water discharges which must be retained for a total of 6 years. This retention period may be extended by request of the Regional Administrator at any time.
- c. Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed;
 - (4) The individual(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
- d. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit.
- e. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by

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imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

2. Inspection and Entry

The permittee shall allow the Regional Administrator or an authorized representative (including an authorized contractor acting as a representative of the 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 CWA, any substances or parameters at any location.

PART II. D. REPORTING REQUIREMENTS

1. Reporting Requirements

- a. **Planned Changes.** The permittee shall give notice to the Regional Administrator as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is only required when:
 - (1) 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
 - (2) The alteration or addition could significantly change the nature or increase the quantities of the pollutants discharged. This notification applies to pollutants which are subject neither to the effluent limitations in the permit, nor to the notification requirements at 40 CFR§122.42(a)(1).
 - (3) 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 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 Regional Administrator 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 after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and

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incorporate such other requirements as may be necessary under the CWA. (See 40 CFR Part 122.61; in some cases, modification or revocation and reissuance is mandatory.)

- d. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.
 - (2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of the monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
 - (3) Calculations for all limitations which require averaging or measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- e. Twenty-four hour reporting.
- (1) 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 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.
 - (2) 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. (See 40 CFR §122.41(g).)
 - (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 Regional Administrator in the permit to be reported within 24 hours. (See 40 CFR §122.44(g).)
 - (3) The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph D.1.e. if the oral report has been received within 24 hours.

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- f. Compliance Schedules. Reports of compliance or noncompliance with, 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.
 - g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under Paragraphs D.1.d., D.1.e., and D.1.f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph D.1.e. 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 Regional Administrator, it shall promptly submit such facts or information.
2. Signatory Requirement
- a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See 40 CFR §122.22)
 - b. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 2 years per violation, or by both.
3. Availability of Reports.

Except for data determined to be confidential under Paragraph A.8. above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

PART II. E. DEFINITIONS AND ABBREVIATIONS

1. Definitions for Individual NPDES Permits including Storm Water Requirements

Administrator means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

Applicable standards and limitations means all, State, interstate, and Federal standards and limitations to which a “discharge”, a “sewage sludge use or disposal practice”, or a related activity is subject to, including “effluent limitations”, water quality standards, standards of performance, toxic effluent standards or prohibitions, “best management practices”, pretreatment standards, and “standards for sewage sludge use and disposal” under Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of the CWA.

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Application means the EPA standard national forms for applying for a permit, including any additions, revisions, or modifications to the forms; or forms approved by EPA for use in “approved States”, including any approved modifications or revisions.

Average means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For total and/or fecal coliforms and Escherichia coli, 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.

Average weekly discharge limitation means the highest allowable average of “daily discharges” measured during the calendar week divided by the number of “daily discharges” measured during the 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 United States.” 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.

Best Professional Judgment (BPJ) means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT), or other appropriate technology-based standard based on an evaluation of the available technology to achieve a particular pollutant reduction and other factors set forth in 40 CFR §125.3 (d).

Coal Pile Runoff means the rainfall runoff from or through any coal storage pile.

Composite Sample means a sample consisting of a minimum of eight grab samples of equal volume collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample consisting of the same number of grab samples, or greater, collected proportionally to flow over that same time period.

Construction Activities - The following definitions apply to construction activities:

- (a) Commencement of Construction is the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.
- (b) Dedicated portable asphalt plant is a portable asphalt plant located on or contiguous to a construction site and that provides asphalt only to the construction site that the plant is located on or adjacent to. The term dedicated portable asphalt plant does not include facilities that are subject to the asphalt emulsion effluent limitation guideline at 40 CFR Part 443.
- (c) Dedicated portable concrete plant is a portable concrete plant located on or contiguous to a construction site and that provides concrete only to the construction site that the plant is located on or adjacent to.

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- (d) Final Stabilization means that all soil disturbing activities at the site have been complete, and that a uniform perennial vegetative cover with a density of 70% of the cover for unpaved areas and areas not covered by permanent structures has been established or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.
- (e) Runoff coefficient means the fraction of total rainfall that will appear at the conveyance as runoff.

Contiguous zone means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone.

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 similar activities.

CWA means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117; 33 USC §§1251 et seq.

Daily Discharge means the discharge of a pollutant measured during the calendar day or any other 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 measurements, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

Director normally means the person authorized to sign NPDES permits by EPA or the State or an authorized representative. Conversely, it also could mean the Regional Administrator or the State Director as the context requires.

Discharge Monitoring Report Form (DMR) means the EPA standard 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.

Discharge of a pollutant means:

- (a) Any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source”, or
- (b) Any addition of any pollutant or combination of pollutants to the waters of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation (See “Point Source” definition).

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead

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to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

This term does not include an addition of pollutants by any “indirect discharger.”

Effluent limitation means any restriction imposed by the Regional Administrator on quantities, discharge rates, and concentrations of “pollutants” which are “discharged” from “point sources” into “waters of the United States”, the waters of the “contiguous zone”, or the ocean.

Effluent limitation guidelines means a regulation published by the Administrator under Section 304(b) of CWA to adopt or revise “effluent limitations”.

EPA means the United States “Environmental Protection Agency”.

Flow-weighted composite sample means a composite sample consisting of a mixture of aliquots where the volume of each aliquot is proportional to the flow rate of the discharge.

Grab Sample – An individual sample collected in a period of less than 15 minutes.

Hazardous Substance means any substance designated under 40 CFR Part 116 pursuant to Section 311 of the CWA.

Indirect Discharger means a non-domestic discharger introducing pollutants to a publicly owned treatment works.

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

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (b) 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 (CWA), the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resources Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SDWA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

Land application unit means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

Large and Medium municipal separate storm sewer system means all municipal separate storm sewers that are either: (i) located in an incorporated place (city) with a population of 100,000 or more as determined by the latest Decennial Census by the Bureau of Census (these cities are listed in Appendices F and 40 CFR Part 122); or (ii) located in the counties with unincorporated urbanized

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populations of 100,000 or more, except municipal separate storm sewers that are located in the incorporated places, townships, or towns within such counties (these counties are listed in Appendices H and I of 40 CFR 122); or (iii) owned or operated by a municipality other than those described in Paragraph (i) or (ii) and that are designated by the Regional Administrator as part of the large or medium municipal separate storm sewer system.

Maximum daily discharge limitation means the highest allowable “daily discharge” concentration that occurs only during a normal day (24-hour duration).

Maximum daily discharge limitation (as defined for the Steam Electric Power Plants only) when applied to Total Residual Chlorine (TRC) or Total Residual Oxidant (TRO) is defined as “maximum concentration” or “Instantaneous Maximum Concentration” during the two hours of a chlorination cycle (or fraction thereof) prescribed in the Steam Electric Guidelines, 40 CFR Part 423. These three synonymous terms all mean “a value that shall not be exceeded” during the two-hour chlorination cycle. This interpretation differs from the specified NPDES Permit requirement, 40 CFR § 122.2, where the two terms of “Maximum Daily Discharge” and “Average Daily Discharge” concentrations are specifically limited to the daily (24-hour duration) values.

Municipality means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under Section 208 of the CWA.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the CWA. The term includes an “approved program”.

New Discharger means any building, structure, facility, or installation:

- (a) From which there is or may be a “discharge of pollutants”;
- (b) That did not commence the “discharge of pollutants” at a particular “site” prior to August 13, 1979;
- (c) Which is not a “new source”; and
- (d) Which has never received a finally effective NPDES permit for discharges at that “site”.

This definition includes an “indirect discharger” which commences discharging into “waters of the United States” after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a “site” for which it does not have a permit; and any offshore rig or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a “site” under EPA’s permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be in an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR §§125.122 (a) (1) through (10).

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An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a “new discharger” only for the duration of its discharge in an area of biological concern.

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.

NPDES means “National Pollutant Discharge Elimination System”.

Owner or operator means the owner or operator of any “facility or activity” subject to regulation under the NPDES programs.

Pass through means a Discharge which exits the POTW into waters of the United States 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.

Person means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

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, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff (see 40 CFR §122.2).

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (a) Sewage from vessels; or
- (b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes is approved by the authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

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Primary industry category means any industry category listed in the NRDC settlement agreement (Natural Resources Defense Council et al. v. Train, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D. D.C. 1979)); also listed in Appendix A of 40 CFR Part 122.

Privately owned treatment works means any device or system which is (a) used to treat wastes from any facility whose operation is not the operator of the treatment works or (b) not a "POTW".

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 or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality".

This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Regional Administrator means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

Secondary Industry Category means any industry which is not a "primary industry category".

Section 313 water priority chemical means a chemical or chemical category which:

- (1) is listed at 40 CFR §372.65 pursuant to Section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986);
- (2) is present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and
- (3) satisfies at least one of the following criteria:
 - (i) are listed in Appendix D of 40 CFR Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols), or Table V (certain toxic pollutants and hazardous substances);
 - (ii) are listed as a hazardous substance pursuant to Section 311(b)(2)(A) of the CWA at 40 CFR §116.4; or
 - (iii) are pollutants for which EPA has published acute or chronic water quality criteria.

Septage means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained.

Sewage Sludge means any solid, semisolid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, Type III Marine Sanitation Device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge.

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Sewage sludge use or disposal practice means the collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge.

Significant materials includes, but is not limited to: raw materials, fuels, materials such as solvents, detergents, and plastic pellets, raw materials used in food processing or production, hazardous substance designated under section 101(14) of CERCLA, any chemical the facility is required to report pursuant to EPCRA Section 313, fertilizers, pesticides, and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

Significant spills includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA (see 40 CFR §110.10 and §117.21) or Section 102 of CERCLA (see 40 CFR § 302.4).

Sludge-only facility means any “treatment works treating domestic sewage” whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to Section 405(d) of the CWA, and is required to obtain a permit under 40 CFR §122.1(b)(3).

State means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

Storm Water means storm water runoff, snow melt runoff, and surface runoff and drainage.

Storm water discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. (See 40 CFR §122.26 (b)(14) for specifics of this definition.

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

Toxic pollutants means 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.

Treatment works treating domestic sewage means a POTW or any other sewage sludge or wastewater treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices.

For purposes of this definition, “domestic sewage” includes waste and wastewater from humans or household operations that are discharged to or otherwise enter a treatment works. In States where there is no approved State sludge management program under Section 405(f) of the CWA, the Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal in 40 CFR Part 503 as a “treatment works treating domestic sewage”, where he or she finds that there is a potential for adverse effects on public health and the environment from poor sludge quality or poor sludge handling, use or disposal practices, or where he or she finds that such designation is necessary to ensure that such person is in compliance with 40 CFR Part 503.

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Waste Pile means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.

Waters of the United States means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of tide;
- (b) All interstate waters, including interstate “wetlands”;
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, “wetlands”, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purpose;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in Paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in Paragraphs (a) through (f) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA (other than cooling ponds as defined in 40 CFR §423.11(m) which also meet the criteria of this definition) are not waters of the United States.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration 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 (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test. (See Abbreviations Section, following, for additional information.)

2. Definitions for NPDES Permit Sludge Use and Disposal Requirements.

Active sewage sludge unit is a sewage sludge unit that has not closed.

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Aerobic Digestion is the biochemical decomposition of organic matter in sewage sludge into carbon dioxide and water by microorganisms in the presence of air.

Agricultural Land is land on which a food crop, a feed crop, or a fiber crop is grown. This includes range land and land used as pasture.

Agronomic rate is the whole sludge application rate (dry weight basis) designed:

- (1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and
- (2) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the ground water.

Air pollution control device is one or more processes used to treat the exit gas from a sewage sludge incinerator stack.

Anaerobic digestion is the biochemical decomposition of organic matter in sewage sludge into methane gas and carbon dioxide by microorganisms in the absence of air.

Annual pollutant loading rate is the maximum amount of a pollutant that can be applied to a unit area of land during a 365 day period.

Annual whole sludge application rate is the maximum amount of sewage sludge (dry weight basis) that can be applied to a unit area of land during a 365 day period.

Apply sewage sludge or sewage sludge applied to the land means land application of sewage sludge.

Aquifer is a geologic formation, group of geologic formations, or a portion of a geologic formation capable of yielding ground water to wells or springs.

Auxiliary fuel is fuel used to augment the fuel value of sewage sludge. This includes, but is not limited to, natural gas, fuel oil, coal, gas generated during anaerobic digestion of sewage sludge, and municipal solid waste (not to exceed 30 percent of the dry weight of the sewage sludge and auxiliary fuel together). Hazardous wastes are not auxiliary fuel.

Base flood is a flood that has a one percent chance of occurring in any given year (i.e. a flood with a magnitude equaled once in 100 years).

Bulk sewage sludge is sewage sludge that is not sold or given away in a bag or other container for application to the land.

Contaminate an aquifer means to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR §141.11 to be exceeded in ground water or that causes the existing concentration of nitrate in the ground water to increase when the existing concentration of nitrate in the ground water exceeds the maximum contaminant level for nitrate in 40 CFR §141.11.

Class I sludge management facility is any publicly owned treatment works (POTW), as defined in 40 CFR §501.2, required to have an approved pretreatment program under 40 CFR §403.8 (a) (including any POTW located in a state that has elected to assume local program responsibilities pursuant to 40 CFR §403.10 (e) and any treatment works treating domestic sewage, as defined in 40 CFR § 122.2,

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classified as a Class I sludge management facility by the EPA Regional Administrator, or, in the case of approved state programs, the Regional Administrator in conjunction with the State Director, because of the potential for sewage sludge use or disposal practice to affect public health and the environment adversely.

Control efficiency is the mass of a pollutant in the sewage sludge fed to an incinerator minus the mass of that pollutant in the exit gas from the incinerator stack divided by the mass of the pollutant in the sewage sludge fed to the incinerator.

Cover is soil or other material used to cover sewage sludge placed on an active sewage sludge unit.

Cover crop is a small grain crop, such as oats, wheat, or barley, not grown for harvest.

Cumulative pollutant loading rate is the maximum amount of inorganic pollutant that can be applied to an area of land.

Density of microorganisms is the number of microorganisms per unit mass of total solids (dry weight) in the sewage sludge.

Dispersion factor is the ratio of the increase in the ground level ambient air concentration for a pollutant at or beyond the property line of the site where the sewage sludge incinerator is located to the mass emission rate for the pollutant from the incinerator stack.

Displacement is the relative movement of any two sides of a fault measured in any direction.

Domestic septage is either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

Domestic sewage is waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

Dry weight basis means calculated on the basis of having been dried at 105 degrees Celsius (°C) until reaching a constant mass (i.e. essentially 100 percent solids content).

Fault is a fracture or zone of fractures in any materials along which strata on one side are displaced with respect to the strata on the other side.

Feed crops are crops produced primarily for consumption by animals.

Fiber crops are crops such as flax and cotton.

Final cover is the last layer of soil or other material placed on a sewage sludge unit at closure.

Fluidized bed incinerator is an enclosed device in which organic matter and inorganic matter in sewage sludge are combusted in a bed of particles suspended in the combustion chamber gas.

Food crops are crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.

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Forest is a tract of land thick with trees and underbrush.

Ground water is water below the land surface in the saturated zone.

Holocene time is the most recent epoch of the Quaternary period, extending from the end of the Pleistocene epoch to the present.

Hourly average is the arithmetic mean of all the measurements taken during an hour. At least two measurements must be taken during the hour.

Incineration is the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

Industrial wastewater is wastewater generated in a commercial or industrial process.

Land application is the spraying or spreading of sewage sludge onto the land surface; the injection of sewage sludge below the land surface; or the incorporation of sewage sludge into the soil so that the sewage sludge can either condition the soil or fertilize crops or vegetation grown in the soil.

Land with a high potential for public exposure is land that the public uses frequently. This includes, but is not limited to, a public contact site and reclamation site located in a populated area (e.g., a construction site located in a city).

Land with low potential for public exposure is land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest and a reclamation site located in an unpopulated area (e.g., a strip mine located in a rural area).

Leachate collection system is a system or device installed immediately above a liner that is designed, constructed, maintained, and operated to collect and remove leachate from a sewage sludge unit.

Liner is soil or synthetic material that has a hydraulic conductivity of 1×10^{-7} centimeters per second or less.

Lower explosive limit for methane gas is the lowest percentage of methane gas in air, by volume, that propagates a flame at 25 degrees Celsius and atmospheric pressure.

Monthly average (Incineration) is the arithmetic mean of the hourly averages for the hours a sewage sludge incinerator operates during the month.

Monthly average (Land Application) is the arithmetic mean of all measurements taken during the month.

Municipality means a city, town, borough, county, parish, district, association, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created by or under State law; an Indian tribe or an authorized Indian tribal organization having jurisdiction over sewage sludge management; or a designated and approved management agency under section 208 of the CWA, as amended. The definition includes a special district created under state law, such as a water district, sewer district, sanitary district, utility district, drainage district, or similar entity, or an integrated waste management facility as defined in section 201 (e) of the CWA, as amended, that has as one of its principal responsibilities the treatment, transport, use or disposal of sewage sludge.

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Other container is either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric ton or less.

Pasture is land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.

Pathogenic organisms are disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

Permitting authority is either EPA or a State with an EPA-approved sludge management program.

Person is an individual, association, partnership, corporation, municipality, State or Federal Agency, or an agent or employee thereof.

Person who prepares sewage sludge is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.

pH means the logarithm of the reciprocal of the hydrogen ion concentration; a measure of the acidity or alkalinity of a liquid or solid material.

Place sewage sludge or sewage sludge placed means disposal of sewage sludge on a surface disposal site.

Pollutant (as defined in sludge disposal requirements) is an organic substance, an inorganic substance, a combination of organic and inorganic substances, or pathogenic organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could on the basis on information available to the Administrator of EPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction) or physical deformations in either organisms or offspring of the organisms.

Pollutant limit (for sludge disposal requirements) is a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilogram of total solids); the amount of pollutant that can be applied to a unit of land (e.g., kilograms per hectare); or the volume of the material that can be applied to the land (e.g., gallons per acre).

Public contact site is a land with a high potential for contact by the public. This includes, but is not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

Qualified ground water scientist is an individual with a baccalaureate or post-graduate degree in the natural sciences or engineering who has sufficient training and experience in ground water hydrology and related fields, as may be demonstrated by State registration, professional certification, or completion of accredited university programs, to make sound professional judgments regarding ground water monitoring, pollutant fate and transport, and corrective action.

Range land is open land with indigenous vegetation.

Reclamation site is drastically disturbed land that is reclaimed using sewage sludge. This includes, but is not limited to, strip mines and construction sites.

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Risk specific concentration is the allowable increase in the average daily ground level ambient air concentration for a pollutant from the incineration of sewage sludge at or beyond the property line of a site where the sewage sludge incinerator is located.

Runoff is rainwater, leachate, or other liquid that drains overland on any part of a land surface and runs off the land surface.

Seismic impact zone is an area that has 10 percent or greater probability that the horizontal ground level acceleration to the rock in the area exceeds 0.10 gravity once in 250 years.

Sewage sludge is a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to: domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screening generated during preliminary treatment of domestic sewage in treatment works.

Sewage sludge feed rate is either the average daily amount of sewage sludge fired in all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located for the number of days in a 365 day period that each sewage sludge incinerator operates, or the average daily design capacity for all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located.

Sewage sludge incinerator is an enclosed device in which only sewage sludge and auxiliary fuel are fired.

Sewage sludge unit is land on which only sewage sludge is placed for final disposal. This does not include land on which sewage sludge is either stored or treated. Land does not include waters of the United States, as defined in 40 CFR §122.2.

Sewage sludge unit boundary is the outermost perimeter of an active sewage sludge unit.

Specific oxygen uptake rate (SOUR) is the mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in sewage sludge.

Stack height is the difference between the elevation of the top of a sewage sludge incinerator stack and the elevation of the ground at the base of the stack when the difference is equal to or less than 65 meters. When the difference is greater than 65 meters, stack height is the creditable stack height determined in accordance with 40 CFR §51.100 (ii).

State is one of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and an Indian tribe eligible for treatment as a State pursuant to regulations promulgated under the authority of section 518(e) of the CWA.

Store or storage of sewage sludge is the placement of sewage sludge on land on which the sewage sludge remains for two years or less. This does not include the placement of sewage sludge on land for treatment.

Surface disposal site is an area of land that contains one or more active sewage sludge units.

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Total hydrocarbons means the organic compounds in the exit gas from a sewage sludge incinerator stack measured using a flame ionization detection instrument referenced to propane.

Total solids are the materials in sewage sludge that remain as residue when the sewage sludge is dried at 103 to 105 degrees Celsius.

Treat or treatment of sewage sludge is the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge. This does not include storage of sewage sludge.

Treatment works is either a federally owned, publicly owned, or privately owned device or system used to treat (including recycle and reclaim) either domestic sewage or a combination of domestic sewage and industrial waste of a liquid nature.

Unstable area is land subject to natural or human-induced forces that may damage the structural components of an active sewage sludge unit. This includes, but is not limited to, land on which the soils are subject to mass movement.

Unstabilized solids are organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.

Vector attraction is the characteristic of sewage sludge that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

Volatile solids is the amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 550 degrees Celsius in the presence of excess air.

Wet electrostatic precipitator is an air pollution control device that uses both electrical forces and water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

Wet scrubber is an air pollution control device that uses water to remove pollutants in the exit gas from a sewage sludge incinerator stack.

3. Commonly Used Abbreviations

BOD	Five-day biochemical oxygen demand unless otherwise specified
CBOD	Carbonaceous BOD
CFS	Cubic feet per second
COD	Chemical oxygen demand
Chlorine	
Cl ₂	Total residual chlorine
TRC	Total residual chlorine which is a combination of free available chlorine (FAC, see below) and combined chlorine (chloramines, etc.)

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TRO	Total residual chlorine in marine waters where halogen compounds are present
FAC	Free available chlorine (aqueous molecular chlorine, hypochlorous acid, and hypochlorite ion)
Coliform	
Coliform, Fecal	Total fecal coliform bacteria
Coliform, Total	Total coliform bacteria
Cont. (Continuous)	Continuous recording of the parameter being monitored, i.e. flow, temperature, pH, etc.
Cu. M/day or M ³ /day	Cubic meters per day
DO	Dissolved oxygen
kg/day	Kilograms per day
lbs/day	Pounds per day
mg/l	Milligram(s) per liter
ml/l	Milliliters per liter
MGD	Million gallons per day
Nitrogen	
Total N	Total nitrogen
NH ₃ -N	Ammonia nitrogen as nitrogen
NO ₃ -N	Nitrate as nitrogen
NO ₂ -N	Nitrite as nitrogen
NO ₃ -NO ₂	Combined nitrate and nitrite nitrogen as nitrogen
TKN	Total Kjeldahl nitrogen as nitrogen
Oil & Grease	Freon extractable material
PCB	Polychlorinated biphenyl
pH	A measure of the hydrogen ion concentration. A measure of the acidity or alkalinity of a liquid or material
Surfactant	Surface-active agent

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Temp. °C	Temperature in degrees Centigrade
Temp. °F	Temperature in degrees Fahrenheit
TOC	Total organic carbon
Total P	Total phosphorus
TSS or NFR	Total suspended solids or total nonfilterable residue
Turb. or Turbidity	Turbidity measured by the Nephelometric Method (NTU)
ug/l	Microgram(s) per liter
WET	“Whole effluent toxicity” is the total effect of an effluent measured directly with a toxicity test.
C-NOEC	“Chronic (Long-term Exposure Test) – No Observed Effect Concentration”. The highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specified time of observation.
A-NOEC	“Acute (Short-term Exposure Test) – No Observed Effect Concentration” (see C-NOEC definition).
LC ₅₀	LC ₅₀ is the concentration of a sample that causes mortality of 50% of the test population at a specific time of observation. The LC ₅₀ = 100% is defined as a sample of undiluted effluent.
ZID	Zone of Initial Dilution means the region of initial mixing surrounding or adjacent to the end of the outfall pipe or diffuser ports.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE
FACT SHEET

**Prepared Jointly by the Maine Department of Environmental Protection and
the U.S. Environmental Protection Agency – New England Office**

December 12, 2013

COMMENT PERIOD: December 23, 2013 – January 21, 2014

PERMIT NUMBER: **ME0101907**

LICENSE NUMBER: **W001671-6B-F-R**

NAME AND ADDRESS OF APPLICANT:

TOWN OF NORTH HAVEN
Publicly Owned Treatment Works
P.O. Box 400
North Haven, ME. 04853

COUNTY: **Knox County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Waste Water Treatment Facility
Waterman's Lane
North Haven, Maine 04853

RECEIVING WATER **Fox Island Thorofare**
CLASSIFICATION: **Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

Mr. Joseph Stone
Town Administrator
(207) 867 – 4433
e-mail: nhadmin@midcoast.com

1. APPLICATION SUMMARY

- a. Application - The Town of North Haven has applied for renewal of a combined National Pollutant Discharge Elimination System (NPDES) permit #ME0101907 and Maine Waste Discharge License (WDL) #W001671-5L-D-R, that was issued on November 21, 2003 and expired on November 21, 2008. The current permit/license (permit hereinafter) is based on a Section 301(h) variance of secondary treatment and authorized the discharge of up to a monthly average flow of 0.040 million gallons per day (MGD) of primary treated sanitary waste water to the Fox Island Thorofare, a Class SB water, in North Haven, Maine. See **Attachment A** of this Fact Sheet for a location map. A previous draft permit, fact sheet, and decision document were public noticed in 2008. All aspects of this redrafted permit/license, fact sheet, and decision document will be open for comment during this public notice comment period.
- b. Source Description: The Town of North Haven separate sanitary waste water collection system has 189 sewer connections. The facility does not receive any flows from industrial sources or septage from individual septic systems. Septage and primary clarifier sludge are applied to a Department-approved land spreading site on the island.
- c. Waste Water Treatment: The facility provides primary treatment. Flow enters the plant through a storm water bypass structure and passes through a comminuter to a flow splitter. The flow enters two separate 16,000 gallon underground settling tanks. From the settling tanks, flow enters a chlorine contact chamber for disinfection by sodium hypochlorite. At the end of the chlorine contact chamber, sodium bisulfate is added for dechlorination. The discharge from the chlorine contact chamber is measured and discharged to the Fox Island Thorofare. See **Attachment C** of this Fact Sheet for a schematic of the treatment process.
- d. The treated effluent is discharged to the Fox Island Thorofare via an eight inch (8") diameter polyethylene pipe with a two port diffuser outfall. The outfall extends into the receiving waters approximately 600 feet and is at 40 feet below mean sea level.
- e. The wet weather bypass has not been activated in recent years. The bypass pipe runs from the influent line, before the headworks, directly to the head of the chlorine contact chamber. Bypasses of any portion of the treatment process are prohibited, in accordance with 40 CFR §122.41(m)(4). If a bypass does occur, it shall be reported in accordance with the 24 hour reporting requirements found at 40 CFR §122.41(l)((6). See Section D.1.e.(1) of the General Requirements of this permit.

2. PERMIT SUMMARY

- a. Regulatory - Section 301(h) of the Clean Water Act (CWA) provides a vehicle by which a permittee may request a variance from secondary treatment requirements. Although the State of Maine received authorization from the U. S. Environmental Protection Agency (EPA) to administer the NPDES permit program in Maine on January 12, 2001, the Clean Water Act does not allow delegation of the 301(h) waiver process to States.

Therefore, issuance of a permit granting such a variance may only be issued by the EPA. See section 2(c) of this Fact Sheet.

Also, pursuant to Maine law, anyone discharging pollutants to waters of the State must obtain a license to do so from the State of Maine. Therefore, this document serves as a combination NPDES permit and a Maine WDL, to satisfy both federal and State requirements. The EPA has authorized the Maine Department of Environmental Protection (Department) to take the lead role in drafting the permit/license.

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

January 2, 1986 – The EPA issued a conditional NPDES permit that authorized untreated sanitary waste water discharge until construction of a primary waste water treatment facility was completed (scheduled for October 30, 1986).

July 9, 1986 – The Department issued waste discharge license (WDL)#W001671-45-A-R with conditions similar to those specified in the January 1986 EPA NPDES permit.

September 1988 – Operation of the primary waste water treatment facility commenced.

February 13, 1995 – The Department issued WDL #W001671-58-C-R for a five (5) year term.

December 6, 1995 – The Department issued WDL #W001671-58-D-M, which modified the fecal coliform bacteria daily maximum limit to 50 colonies/100 ml to be consistent with water quality criteria.

January 12, 2001– The Department received authorization from the EPA to administer the NPDES program in Maine. Authority to issue 301(h) variances under the Clean Water Act not delegated.

November 21, 2003 – The EPA and Department issued combination Section 301(h)-Modified NPDES permit #ME0101907 and Maine WDL #W001671-5L-D-R for a five-year term.

April 10, 2006 – The Department modified the 7/3/03 WDL by incorporating the testing requirements of the newly promulgated (10/12/05) Department rule, Chapter 530, *Surface Water Ambient Toxics Program*.

September 26, 2008 - The Town of North Haven submitted a complete application to the EPA and the Department for the renewal of combination NPDES permit #ME0101907 and WDL W001671-5L-D-R.

January 5, 2011 - the Department and the EPA solicited comments a proposed draft permit/license for the facility. The permittee provided EPA and the Department with comments concerning the 2011 draft.

Based on those comments, EPA and the Department have prepared this revised draft for comment during a new public noticed comment period. Comments received previously from the permittee shall be addressed at the end of the new comment period.

3. CONDITIONS OF PERMITS

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

Similarly, 40 CFR 122.44(d) (iii), “Establishing limitations, standards, and other permit conditions NPDES programs” reads as follows: When the permitting authority determines, using the procedures in paragraph (d)(1)(ii) of this section, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

All application data and discharge monitoring data were reviewed in consideration of possible new permit limits. No additional pollutants exceeded the threshold(s) for inclusion in the permit, as required in 40 CFR § 122.44.

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A., Section 469 classifies the receiving water at the point of discharge as Class SB water. Maine law, 38 M.R.S.A., Section 465-B(2) contains the classification standards for Class SB waters. Federal regulation 40 CFR, Part 125, Subpart G, more specifically Part 125.57(a)(2), states that discharge of pollutants in accordance with such modified requirements [301(h)] will not interfere, alone or in combination with pollutants from other sources, with the attainment or maintenance of that water quality which assures protection of public water supplies and protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife, and allows recreational activities in and on the water.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the receiving water as a Category 2 water, “Estuarine and Marine Waters Attaining Some Designated Uses- Insufficient Information for Other Uses.” The waters listed in Category 2 appear to include marine waters closed for shellfishing by the Maine Department of Marine Resources (DMR), but with insufficient data to make an impairment determination under Section 303(d) of the Clean Water Act. The table indicates that the causes for the Maine Department of Marine Resources (DMR) shellfish closures at North Haven Island are due to overboard discharges and boats (See page 105 of the 2010 Integrated Water Quality Monitoring and Assessment Report Appendices). DMR first issued the closure notice on December 22, 2007, based on ambient water quality sampling indicating elevated levels of bacteria. The most recent closure notice is quoted below:

*[As amended February 13, 2012] DMR Chapter 95.05(LL) Area No. 30-I, North Haven Island:
A. Effective immediately, because of pollution, it shall be unlawful to dig, take or possess any clams, quahogs, oysters or mussels taken from the shores, flats and waters of the following areas:*

Vinalhaven and North Haven: north of a line beginning at the southern tip of the un-named point southwest of Hopkins Point, Vinalhaven, extending northeast to the south tip of Hopkins Point, Vinalhaven, then northeast to the north tip of Zeke Point extending north to the south tip of Fish Point, North Haven; AND east of a line beginning at the south tip of Ames Point, North Haven, extending southwest to the south point on the Sugar Loaves, then to the south tip of Browns Head on Vinalhaven.

See **Attachment B** of this Fact Sheet for the delineation of Area 30-I and Sub-Area G

EPA also notes that the Maine DMR traditionally closes shellfish harvesting areas in the vicinity of outfall pipes when field data on bacteria counts in the immediate area is insufficient, inconclusive or exceeds standards set in the National Shellfish Sanitation Program of the U.S. Department of Health and Human Services. As discussed in Section C.1.(a), compliance with the monthly average and daily maximum limitations for fecal coliform bacteria will ensure the North Haven facility will not cause or contribute to the closure of the shellfish harvesting area.

MRSA §465-B(B) states that “the dissolved oxygen content of Class SB waters must be not less than 85% of saturation”. There is limited data in the vicinity of the discharge for average daily DO concentrations. EPA is confident however, that average daily concentrations are greater than the 85% saturation standard found in Maine law. This is based on monitoring conducted in the summer of 1995 by MDEP divers at a number of 301(h) facility outfalls (including North Haven) that indicated that receiving water biological and water quality conditions were consistent with water quality standards.

The MDEP and EPA have since agreed that SCUBA inspections of 301(h) outfalls is too dangerous due to the swift currents generally found in these receiving waters.

EPA and the Department have made the determination that based on the sampling to date and past effluent monitoring data, the discharge complies with 40 CFR, §125.57(a)(2). According to a document entitled “301(h) Facilities in Maine, Report of 1995 Monitoring Activities,” prepared by the Department, dated July 1996 and submitted to EPA, “Water quality, sediment, and photographic information indicates that North Haven and these [301(h)-type] discharges are not causing any significant impact to the receiving waters”. That document concluded that no further ambient monitoring be conducted, and recommended that effluent monitoring be continued. By letter dated February 17, 1995 from the EPA Regional Administrator, the EPA found there would be little risk of adverse impacts to the receiving waters from these discharges provided that the permittee performed effluent monitoring as part of the regular permit conditions.

6. WAIVER OF SECONDARY TREATMENT REQUIREMENTS

Under Section 301(b)(1)(B) of the Clean Water Act (CWA), publicly owned treatment works (POTWs) in existence on July 1, 1977 were required to meet effluent limitations based on secondary treatment, which is defined in terms of the parameters BOD, TSS and pH. National effluent limitations for these pollutants were promulgated and are included in POTW permits issued under Section 402 of the CWA. Congress subsequently amended the CWA, adding Section 301(h), which authorizes the EPA Administrator, with State concurrence, to issue NPDES permits modifying the secondary treatment requirements with respect to the discharge of pollutants from a POTW into marine waters, provided that the applicant meet several conditions.

EPA issued a 301(h) waiver to the Town of North Haven on May 9, 1985, based upon the following findings:

- That the discharge will comply with the State of Maine water quality standards for dissolved oxygen and suspended solids.
- That the proposed discharge will not adversely impact public water supplies or interfere with the protection and propagation of a balanced indigenous population of marine life and will allow for recreational activities.
- That no industrial wastes are discharged into the collection system.
- That the discharge will not result in additional treatment requirements on other point and non-point sources.
- That the State of Maine concurs with the approval of the 301(h) waiver.

Federal regulation 40 CFR Part 125.57(a)(3), states that the applicant must establish a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable, and the scope of such monitoring is limited to include only those scientific investigations which are necessary to study the effects of the proposed discharge.

EPA has made a determination that the scope of effluent limitations and monitoring requirements in Special Condition B(1) of this permit are sufficient to provide the necessary information to study the effects of the discharge on the receiving waters.

Because all of the prior 301(h) conditions have been maintained and because there has been no new or substantially increased discharge from the permittee's facility, EPA proposes, through the re-issuance of the Town of North Haven's permit, to carry forward the original 301(h) waiver decision.

7. ENDANGERED SPECIES ACT

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) requires federal agencies to ensure, in consultation with the Services, that actions an agency authorizes, funds or carries out are not likely to jeopardize the continued existence of federally listed endangered and threatened species, or result in the destruction or adverse modification of listed species' designated critical habitat. EPA believes that Section 7(a)(2) of the Endangered Species Act applies when EPA carries out actions approving State or Tribal water quality standards and NPDES permitting programs under the CWA. The United States Fish and Wildlife Service (USFWS) typically has regulatory authority for freshwater species, and the National Marine Fisheries Service (NMFS) has authority for marine species. USFWS and NMFS share federal regulatory authority for the protection of anadromous Atlantic salmon (*Salmo salar*) in Maine waters.

The North Haven wastewater treatment plant discharge is through an 8 inch pipe with a 2 port diffuser to receiving waters located within a narrow passage between the islands of North Haven and Vinalhaven, in Penobscot Bay. The outfall, located at N 44° 7.5', W 68° 53.0', is approximately 600 feet from mean high water, at a depth of 10 feet, mean low water. The area has a high tidal range (approximately 15 feet) and strong tidal currents. While the potential exists for federally-listed marine species to be present, the likelihood of whale species to inhabit or even transit this narrow passage appears remote. Similarly, it appears unlikely that other federally-listed species would routinely inhabit this area, although their presence is possible. A shortnose sturgeon (*Acipenser brevirostrum*), which is listed as endangered, was captured on June 30, 1978, at Northport. Northport is located about 18 miles northwest of North Haven. The North Haven discharge is not located within designated shortnose sturgeon habitat, nor is it an area where shortnose sturgeons are expected to routinely inhabit. Atlantic salmon, also listed as endangered, may transit this general area as smolts or adults, but the habitat within the Fox Island Thorofare, or the discharge itself, is not likely to attract Atlantic salmon, or delay their migration.

NMFS has identified Atlantic salmon (*Salmo salar*), a "Gulf of Maine Distinct Population Segment" (GOM DPS), and short nosed sturgeon (*Asipenser brevirostrurn*) as both likely to traverse the Fox Island Thorofare. The Department and EPA consulted with NMFS concerning these two species.

The Regional Administrator for NMFS, Patricia A. Kurkul, issued a letter dated March 1, 2011 to both EPA and the Department. NMFS determined that "... the discharges authorized by this permit will not have more than a minor detrimental effect on Atlantic salmon or shortnose sturgeon in this action area." EPA and the Department will continue consultation with NMFS if new information pertaining to the facility arises.

8. EFH (ESSENTIAL FISH HABITAT)

Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq. (1998)), EPA is required to consult with the National Marine Fisheries Services (NMFS) if EPA’s action or proposed actions that it funds, permits, or undertakes, “may adversely impact any essential fish habitat.” 16 U.S.C. § 1855(b). The Amendments broadly define “essential fish habitat” as: “waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. 16 U.S.C. § 1802 (10). Adversely impact means any impact which reduces the quality and/or quantity of EFH. 50 C.F.R. § 600.910 (a). Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species’ fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions. Essential fish habitat is only designated for species for which federal fisheries management plans exist. 16 U.S.C. § 1855(b) (1) (A). EFH designations for New England were approved by the U.S. Department of Commerce on March 3, 1999.

a. Description of Proposed Action

This proposed action is the reissuance of an existing NPDES permit authorizing the discharge of primary treated waste water to the marine waters located between the islands of North Haven and Vinalhaven. Please see the description of outfall location in Section 7 of this document (ESA). The maximum discharge (monthly average) is 40,000 gallons per day. Dechlorination of the effluent is required prior to discharge. Please review earlier sections of this Fact Sheet for additional information related to the discharge.

b. EFH Species

The discharge location (N 44° 8’, W 68° 52’) falls within the EFH designation for the following 10 minute square:

10’ x 10’ Square Ordinates:

Boundary	North	East	South	West
Ordinate	44° 10.0’ N	68° 50.0’ W	44° 00.0’ N	69° 00.0’ W

Species and Life Stage Designation

Species	Eggs	Larvae	Juveniles	Adults
Atlantic Salmon (<i>Salmo salar</i>)			X	X
Atlantic cod (<i>Gadus morhua</i>)		X	X	X
haddock (<i>Melanogrammus aeglefinus</i>)				X
pollock (<i>Pollachius virens</i>)			X	
whiting (<i>Merluccius bilinearis</i>)			X	X
offshore hake (<i>Merluccius albidus</i>)				
Red hake (<i>Urophycis chuss</i>)			X	X
white hake (<i>Urophycis tenuis</i>)			X	X
redfish (<i>Sebastes fasciatus</i>)	n/a			
witch flounder (<i>Glyptocephalus cynoglossus</i>)				
winter flounder (<i>Pleuronectes americanus</i>)	X	X	X	X
yellowtail flounder (<i>Pleuronectes ferruginea</i>)	X	X		
windowpane flounder (<i>Scophthalmus aquosus</i>)	X	X	X	X
American plaice (<i>Hippoglossoides platessoides</i>)	X	X	X	X
ocean pout (<i>Macrozoarces americanus</i>)	X	X	X	X
Atlantic halibut (<i>Hippoglossus hippoglossus</i>)	X	X	X	X
Atlantic sea scallop (<i>Placopecten magellanicus</i>)	X	X	X	X
Atlantic sea herring (<i>Clupea harengus</i>)		X	X	X
monkfish (<i>Lophius americanus</i>)				
bluefish (<i>Pomatomus saltatrix</i>)			X	X
long finned squid (<i>Loligo pealei</i>)	n/a	n/a		
short finned squid (<i>Illex illecebrosus</i>)	n/a	n/a		
Atlantic butterfish (<i>Peprillus triacanthus</i>)				
Atlantic mackerel (<i>Scomber scombrus</i>)			X	X
summer flounder (<i>Paralichthys dentatus</i>)				
scup (<i>Stenotomus chrysops</i>)	n/a	n/a		
Black sea bass (<i>Centropristus striata</i>)	n/a			
surf clam (<i>Spisula solidissima</i>)	n/a	n/a		
ocean quahog (<i>Artica islandica</i>)	n/a	n/a		
spiny dogfish (<i>Squalus acanthias</i>)	n/a	n/a		
tilefish (<i>Lopholatilus chamaeleonticeps</i>)				
bluefin tuna (<i>Thunnus thynnus</i>)				X

c. EPA’s Analysis of Effects and Opinion on Probable Impacts

Due to the low flow of the discharge, the relatively high dilution and strong currents in the receiving waters, and the low toxicity potential of the waste water being discharged, EPA believes that impacts to EFH from this discharge are minimal, and that compensatory mitigation is not warranted. Should new information become available that changes the basis for this opinion, EPA will re-initiate consultation with NMFS.

9. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow – The current permit contains a monthly average flow limitation of 0.040 million gallons per day (MGD). The limitation is being carried forward in this permitting action but is being expressed as 40,000 gallons per day (gpd) rather than MGD. The limit was proposed by the permittee in 1982 when it submitted the application to the EPA for a variance from secondary treatment requirements. A review of the DMR data for the period January 2009 – December 2012 inclusively, indicates values have been reported as following:

Flow (DMRs=48)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Monthly Average	40,000	21,900-54,800	34,900

There were 15 average monthly flow exceedances during the 48 month recording period.

- b. Dilution Factors: Department Regulation Chapter 530 Surface Water Toxics Control Program, §4(a)(2) states:

- (1) *For estuaries where tidal flow is dominant and marine discharges, dilution factors are calculated as follows. These methods may be supplemented with additional information such as current studies or dye studies.*
 - (a) *For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.*
 - (b) *For discharges to estuaries, dilution must be calculated using a method such as MERGE, CORMIX or another predictive model determined by the Department to be appropriate for the site conditions.*
 - (c) *In the case of discharges to estuaries where tidal flow is dominant and marine waters, the human health criteria must be analyzed using a dilution equal to three times the chronic dilution factor.*

Based on the location and configuration of the outfall pipe, the Department determined by CORMIX model, in the March 3, 1995 licensing action that at the full permitted flow of 40,000 gpd, the discharge from the North Haven waste water treatment facility will be diluted by the following factors:

Acute = 56:1 Chronic = 340:1 Harmonic mean¹ = 1,020:1

c. Biochemical oxygen demand (BOD) and total suspended solids (TSS)

Federal regulations state that primary or equivalent treatment means treatment by screening, sedimentation, and skimming adequate to remove at least thirty percent (30%) of the BOD and 30% of the TSS material in the treatment works influent (40 CFR §125.58(r)). The Department considers a thirty percent (30%) removal of BOD and a fifty percent (50%) removal of TSS from the influent loading as a best professional judgment (BPJ) determination of best practicable treatment (BPT) for primary facilities. The percent removal requirements were established in the previous permitting action and are being carried forward in this permitting action. The current permit also established monthly average technology-based mass and concentration limits for BOD and TSS.

In the current permit, the effluent BOD and TSS concentration limits were based on an assumed influent concentration of 290 mg/L for each parameter and a 30% removal for BOD and a 50% removal for TSS. The assumed influent concentration value is based on the EPA Design Manual, Onsite Wastewater Treatment and Disposal Systems, dated October 1980, table 4-3 entitled "Characteristics of Typical Residential Wastewater" high range of values for BOD5 and TSS. The mass limits were based on the effluent concentration limits and the authorized flow of 40,000 gpd. Compliance with the percent removal limits was similarly based on an assumed influent concentration of 290 mg/l.

The assumed influent values used to determine percent removal values need not be applied to this system because it is possible to take influent samples. Some of the Maine facilities with 301(h) waivers consist of septic tanks followed by disinfection. For such systems, there is no practical way of measuring actual influent BOD or TSS, and in those cases, the 290 mg/L assumed influent values may be appropriate. The draft permit proposes influent sampling for BOD and TSS, and that compliance with the percent removal limits be calculated using these results, rather than an assumed influent concentration.

The concentration and mass limits in the draft permit are the same as in the current permit. The 301(h) regulations do not specify technology-based limits for BOD and TSS concentration or mass, and there is no information showing that more stringent limits are needed to attain water quality standards.

1 The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "*Technical Support Document for Water Quality-Based Toxics Control*" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.

A review of the DMR data for the period October 1, 2010 – September 30, 2012 inclusively, are shown in the values reported in the table below. The data shows that the facility complied with the BOD and TSS limits in the current permit.

BOD Mass (DMRs=24)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	68	6-60	24
Daily Maximum	Report	6-73	31

BOD Concentration (DMRs=24)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	203	21-195	79
Daily Maximum	Report	22-210	97

BOD % removal (DMRs=18)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	30	58-98	86

TSS Mass (DMRs=24)

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)
Monthly Average	48	4-19	10
Daily Maximum	Report	4-23	12

TSS Concentration (DMRs=24)

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)
Monthly Average	145	10-49	29
Daily Maximum	Report	14-63	36

TSS % removal (DMRs=18)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	50	87-99	98

The twice per month monitoring for BOD and TSS is based on a BPJ determination by the Department and EPA given the size and type of treatment facility. This sampling frequency in the draft permit is 2/month.

- d. Settleable solids – The current permit requires both the daily maximum settleable solids concentration and average monthly concentration be reported 5/Week. EPA and the Department determined, based on recent performance that this permit action shall reduce the frequency of monitoring to 1/week. DMR data for the period, October 1, 2010 – September 30, 2012 are reported as follows:

SS Concentration (DMRs=24)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	Report	0.1 (for all values)	0.1

Total residual chlorine (DMRs=14)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	0.3	0.01-0.29	0.12

- f. pH – 40 C.F.R § 125.61 (a) *There must exist a water quality standard or standards applicable to the pollutant(s) [including] pH. Additionally, Maine Water Quality Standards State that: Discharge of pollutants to any water of the State that violates sections 465...or causes the "pH" of estuarine and marine waters to fall outside of the 7.0 to 8.5 range is not permissible.*

The previous permitting action recognizes there is dilution of the effluent and establishes a BPT pH range limit of 6.0 –9.0 standard units pursuant to Department rule, Chapter 525(3)(III)(c), along with a monitoring frequency of 1/Day. The pH limits in this draft permit are equal to the requirements found in 40 CFR §133.102(c).

Total residual chlorine (DMRs=56)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	6.0-9.0 SU	6.16-8.0 SU	7.4

A review of the DMR data for the period January 2009 –September 2013 indicates the pH range limitation has never been exceeded. This permitting action is carrying forward the monitoring frequency to 1/Week based on the historical data and compliance record.

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

Chapter 530 §2(A)(1) states in part;

The following dischargers are exempt from testing requirements of this rule unless the Department determines that there is a need for testing based on the nature, location or circumstances of an individual discharge.

- (1) *“Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;”*

The North Haven facility qualifies for the exemption from toxics testing.

The permittee must also comply with the provisions of 40 CFR § 122.44 which require notification to EPA of any new or increased discharge of potentially toxic pollutants by the permittee.

10. DISCHARGE IMPACT ON RECEIVING WATERS

EPA and the Department have determined that the permit limits and conditions are sufficiently to ensure that the existing water uses will be maintained and protected and the discharge will not cause or contribute to failure of the waterbody to meet standards for Class SB classification.

11. SLUDGE INFORMATION AND REQUIREMENTS

Septage and primary clarifier sludge from the North Haven WWTF are applied to a Department-approved land spreading site on the island. Section 405(d) of the Clean Water Act requires that sludge conditions be included in all permits for treatment works treating domestic sewage. Maine also regulates sludge under Department Regulations Chapter 400 et seq. If the ultimate sludge disposal method changes, the permittee must notify EPA and DEP and the requirements pertaining to sludge monitoring and other conditions would change accordingly (See Attached Sludge Guidance document).

12. OPERATIONS AND MAINTENANCE FOR THE TREATMENT PLANT

The permit standard conditions for "Proper Operation and Maintenance" are found at 40 CFR 122.41(e). These require proper operation and maintenance of permitted wastewater systems and related facilities to achieve permit conditions. Similarly, the permittee has a 'duty to mitigate' are stated in 40 CFR §122.41(d). This requires the permittee to take all reasonable steps to minimize or prevent any discharge in violation of the permit which has the reasonable likelihood of adversely affecting human health or the environment. EPA maintains that these programs are an integral component of ensuring permit compliance under both these provisions.

The draft permit includes requirements for the permittee to control infiltration and inflow (I/I). Infiltration is groundwater that enters the collection system through physical defects such as cracked pipes, or deteriorated joints. Inflow is extraneous flow entering the collection system through point sources such as roof leaders, yard and area drains, sump pumps, manhole covers, tide gates, and cross connections from storm water systems.

Significant I/I in a collection system may displace sanitary flow reducing the capacity and the efficiency of the treatment works and may cause bypasses to secondary treatment. It greatly increases the potential for sanitary sewer overflows (SSO) in separate systems.

EPA has incorporated Department Wet Weather Flow Management Plan requirements in the draft permit as they are necessary to proper operation of the WWTF.

13. PUBLIC COMMENTS PERIOD AND PROCEDURES FOR FINAL DECISION

Notice of the application being filed with the Department and EPA for renewal of the permit was placed in the Rockland Courier Gazette newspaper by the permittee on or about September 25, 2008.

The new public notice will be placed on the EPA Region I NPDES website at: <http://www.epa.gov/region1/npdes/me.html>. All recipients of the previous draft will receive notice of the availability of the new draft for comment. All aspects of the new draft are open to comment during the 30 day public notice comment period. In its final permit decision, EPA shall address the comments received in response to the previous public notice as well as those submitted in response to this new draft permit.

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by the close of the public comment period, to the U.S. EPA, Office of Ecosystem Protection, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912, to the contact named in Section 12 below, and to the Department at the address shown in Section 12 below. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to EPA and the State Agency. Such requests shall state the nature of the issues proposed to be raised in the hearing.

Public hearings may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates a significant public interest. In reaching a final decision on the draft permit, the Regional Administrator will respond to all significant comments and make these responses available to the public at EPA's Boston office.

Following the close of the comment period and after a public hearing, if such a hearing is held, the Regional Administrator will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice.

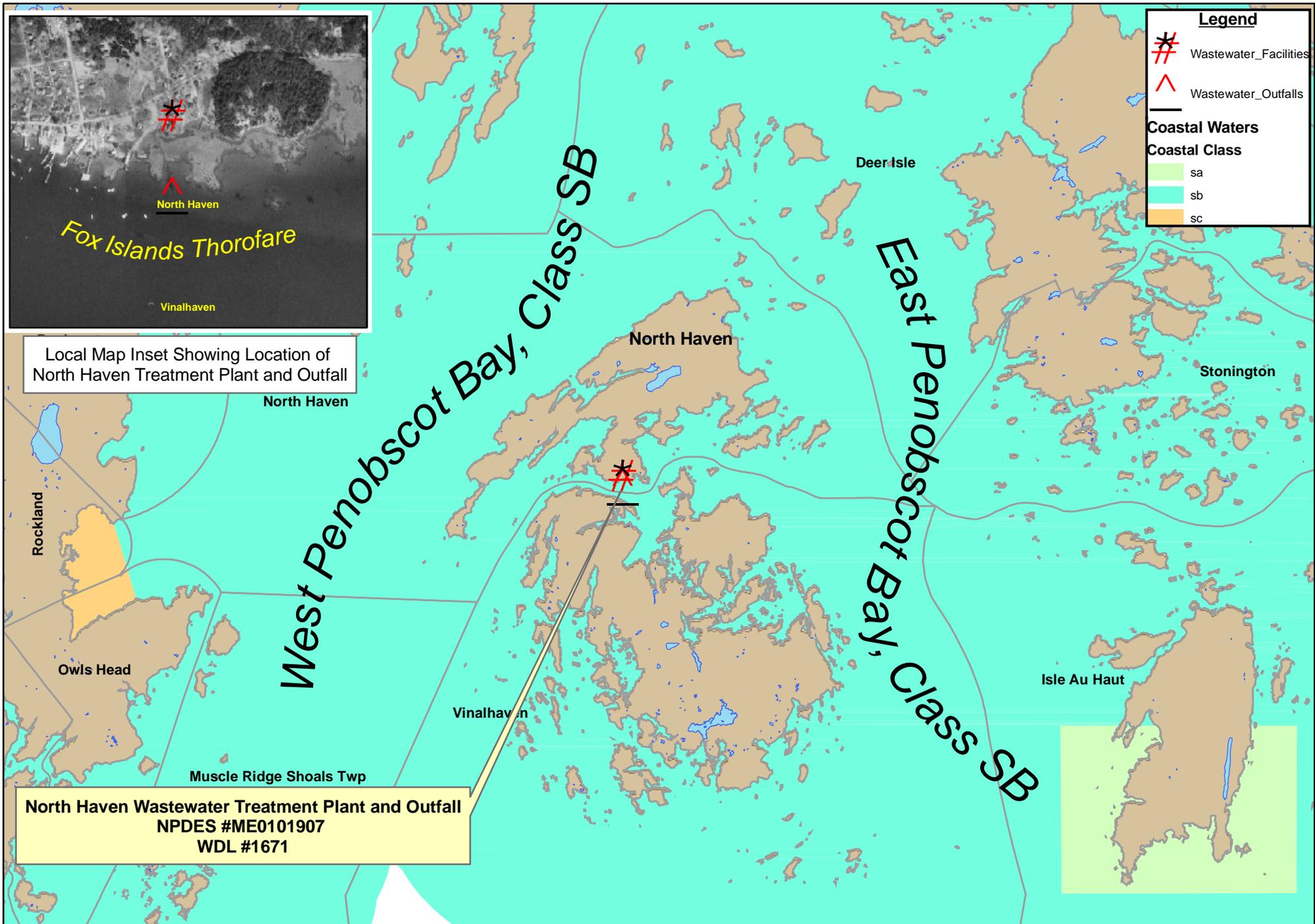
14. CONTACTS

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

Gregg Wood
Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
State House Station #17
Augusta, ME. 04333-0017
Phone: 207-287-7693

Email: gregg.wood@maine.gov

Doug Corb
U.S. Environmental Protection Agency
Mail Code – OEP06-4
5 Post Office Square – Suite 100
Boston, MA 02109-3912
Phone: 617-918-1565
Email: corb.doug@epa.gov



North Haven Wastewater Treatment Plant at North Haven, Maine

Map created by Maine DEP
 March 8, 2007



DEPARTMENT OF ENVIRONMENTAL
PROTECTION
BUREAU OF LAND & WATER
QUALITY
DIVISION OF WATER QUALITY
MANAGEMENT
STATE HOUSE STATION #17
AUGUSTA, ME. 04333-0017

UNITED STATE ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ECOSYSTEM
PROTECTION
MAIL CODE – OEP06-4
5 POST OFFICE SQUARE – SUITE 100
BOSTON, MA 02109-3912

JOINT PUBLIC NOTICE OF THE ISSUANCE OF A TENTATIVE CLEAN WATER ACT SECTION 301(H) WAIVER FROM SECONDARY TREATMENT DECISION DOCUMENT, DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE INTO WATERS OF THE UNITED STATES UNDER SECTIONS 301 AND 402 OF THE CLEAN WATER ACT, AS AMENDED, AND CODE OF MAINE RULES (CMR) 06, CHAPTERS 523 AND 524, AND REQUEST FOR STATE CERTIFICATION UNDER SECTION 401 OF THE CLEAN WATER ACT.

DATE OF NOTICE: December 23, 2013

PERMIT NUMBER: **ME0101907**

PUBLIC NOTICE NUMBER: ME-001-14

NAME AND MAILING ADDRESS OF APPLICANT:

Town of North Haven

NAME AND ADDRESS OF THE FACILITY WHERE DISCHARGE OCCURS:

**Waste Water Treatment Facility
Waterman's Lane
North Haven, Maine 04853**

RECEIVING WATER: **Fox Island Thorofare - Class SB**

The U.S. Environmental Protection Agency (EPA) and the Maine Department of Environmental Protection (MDEP) have cooperated in the development of a draft permit for the Waste Water Treatment Facility, which discharges primary treated domestic wastewater. Septage and primary clarifier sludge from the facility are applied to a land spreading site on the island. The effluent limits and permit conditions imposed have been drafted to assure compliance with the Clean Water Act, 33 U.S.C. sections 1251 et seq., the CMR 06, Chapters 523 and 524 and the Maine Revised Statutes, Title 38 Chapter 3 Protection and Improvement of Waters Subchapter 1 Article 4-A §464 (Maine Water Quality Standards).

EPA has requested that the State certify this draft permit with the waiver from secondary treatment, pursuant to Section 401 of the Clean Water Act and expects that the draft permit will be certified.

INFORMATION ABOUT THE DRAFT PERMIT:

The draft permit, Tentative Clean Water Act Section 301(h) Waiver From Secondary Treatment Decision Document, and explanatory fact sheet may be obtained at no cost at http://www.epa.gov/region1/npdes/draft_permits_listing_me.html or by contacting:

Doug Corb
U.S. Environmental Protection Agency – Region 1
5 Post Office Square, Suite 100 (OEP06-1)
Boston, MA 02109-3912
Telephone: (617) 918-1565
E-mail: corb.doug@epa.gov

The administrative record containing all documents relating to this draft permit and secondary treatment waiver decision including all data submitted by the applicant may be inspected at the EPA Boston office mentioned above between 9:00 a.m. and 5:00 p.m., Monday through Friday, except holidays.

PUBLIC COMMENT AND REQUEST FOR PUBLIC HEARING:

All persons, including applicants, who believe any condition of this draft permit and or secondary treatment waiver decision, are inappropriate, must raise all issues and submit all available arguments and all supporting material for their arguments in full by **January 21, 2014**, to the address listed above. Any person, prior to such date, may submit a request in writing to EPA and MDEP for a public hearing to consider this draft permit and/or the secondary treatment waiver decision. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty days public notice whenever the Regional Administrator finds that response to this notice indicates significant public interest. In reaching a final decision on this draft permit and secondary treatment waiver decision, the Regional Administrator will respond to all significant comments and make the responses available to the public at EPA's Boston office.

FINAL PERMIT DECISION:

Following the close of the comment period, and after a public hearing, if such hearing is held, the Regional Administrator will issue a final permit decision, including a final decision for the secondary treatment waiver and forward a copy of the final decisions to the applicant and each person who has submitted written comments or requested notice.

BRIAN KAVANAH, DIRECTOR
DIVISION OF WATER QUALITY
MANAGEMENT
BUREAU OF LAND AND WATER
QUALITY
MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION

KEN MORAFF, DIRECTOR
OFFICE OF ECOSYSTEM PROTECTION
EPA-REGION 1