



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

July 28, 2014

Mr. Ricky Sirois  
Town of Van Buren  
Wastewater Department  
133 Jackson Street  
Van Buren, ME 04785  
VBwastewater@live.com

*Transmitted via electronic mail  
Delivery confirmation requested*

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100684  
Maine Waste Discharge License (WDL) Application #W002675-6CS-H-R  
**Preliminary Draft Permit**

Dear Mr. Sirois:

Enclosed is a **preliminary draft** MEPDES permit and Maine WDL (permit hereinafter) which the Department proposes to issue as a final document after opportunity for your review and comment. By transmittal of this letter you are provided with an opportunity to comment on the preliminary draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the preliminary draft permit from various state and federal agencies, as required by our new regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Monday, August 18, 2014**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection  
Bureau of Land & Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME. 04333

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

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

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

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

If you have any questions regarding the matter, please feel free to call me at 215-1579.

Sincerely,



Yvette M. Meunier  
Division of Water Quality Management  
Bureau of Land and Water Quality

Enc.

cc: Sean Bernard, DEP/NMRO  
Pam Parker, DEP/CMRO  
Barry Mower, DEP/CMRO  
Susanne Meidel, DEP/CMRO  
David Webster, EPA  
Alex Rosenberg, EPA  
David Pincumbe, EPA  
Olga Vergara, EPA

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DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF VAN BUREN	)	MAINE POLLUTANT DISCHARGE
VAN BUREN, AROOSTOOK COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
#ME0100684	)	WASTE DISCHARGE LICENSE
#W002675-6C-H-R	)	<b>RENEWAL</b>
<b>APPROVAL</b>	)	

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S.A. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S.A. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, and applicable rules of the Department of Environmental Protection (Department), the Department has considered the application of the TOWN OF VAN BUREN (TOWN), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On April 8, 2014, the Department accepted as complete for processing from the Town a renewal application for Maine Pollutant Discharge Elimination System (MEPDES) #ME0100684 /Waste Discharge License (WDL) #W002675-6C-F-R, which was issued on September 14, 2009 for a five-year term. The 9/14/09 MEPDES permit authorized the monthly average discharge of 0.56 million gallons per day (MGD) of secondary treated municipal wastewater from a publicly owned treatment works (POTW) to the St. John River, Class C, in Van Buren, Maine.

**PERMIT SUMMARY**

This permitting action is carrying forward all the terms and conditions of the previous permitting action except it is:

1. Revising the minimum monitoring frequency requirements for BOD<sub>5</sub>, TSS, settleable solids, pH and total chlorine residual, based on the results of facility testing;
2. Incorporating the interim mercury limits established by the Department for this facility pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001);
3. Eliminating the waiver from the requirement to achieve 85 percent removal for BOD<sub>5</sub> and TSS;
4. Establishing monitoring and reporting requirements for phosphorous and stream flow; and
5. Revising the dilution factors based on new information.

## CONCLUSIONS

Based on the findings summarized in the attached **PRELIMINARY DRAFT** Fact Sheet dated **July 28, 2014**, and subject to the special and standard conditions that follow, the Department makes the following CONCLUSIONS:

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

**ACTION**

Based on the findings and conclusions as stated above, the Department APPROVES the above noted application of the TOWN OF VAN BUREN to discharge a monthly average of 0.56 MGD of secondary treated municipal wastewater to the St. John River in Van Buren, 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, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (amended August 25, 2013)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2014.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
PATRICIA W. AHO, Commissioner

Date filed with Board of Environmental Protection \_\_\_\_\_

Date of initial receipt of application: April 7, 2014

Date of application acceptance: April 8, 2014

This Order prepared by Yvette Meunier, BUREAU OF LAND & WATER QUALITY

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge **secondary treated municipal sanitary wastewater from Outfall #001A** to the St. John River at Van Buren. Such discharges are limited and must be monitored by the permittee as specified below<sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Average	Weekly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow <i>[50050]</i>	0.56 MGD <i>[03]</i>	---	Report MGD <i>[03]</i>	---	---	---	Continuous <i>[99/99]</i>	Recorder <i>[RC]</i>
Biochemical Oxygen Demand (BOD <sub>5</sub> ) <i>[00310]</i>	140 lbs/day <i>[26]</i>	210 lbs/day <i>[26]</i>	234 lbs/day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Composite <i>[24]</i>
BOD <sub>5</sub> % Removal <sup>(2)</sup> <i>[81010]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
Total Suspended Solids (TSS) <i>[00530]</i>	140 lbs/day <i>[26]</i>	210 lbs/day <i>[26]</i>	234 lbs/day <i>[26]</i>	30 mg/L <i>[19]</i>	45 mg/L <i>[19]</i>	50 mg/L <i>[19]</i>	2/Month <i>[02/30]</i>	Composite <i>[24]</i>
TSS % Removal <sup>(2)</sup> <i>[81011]</i>	---	---	---	85% <i>[23]</i>	---	---	1/Month <i>[01/30]</i>	Calculate <i>[CA]</i>
Monthly Solids <i>[00545]</i>	---	---	---	---	---	0.3 ml/L <i>[25]</i>	3/Week <i>[03/07]</i>	Grab <i>[GR]</i>
Total Residual Chlorine <sup>(3)</sup> <i>[50060]</i>	---	---	---	---	---	1.0 mg/L <i>[19]</i>	3/Week <i>[03/07]</i>	Grab <i>[GR]</i>
<i>E. coli</i> Bacteria <sup>(4)</sup> <i>[31633]</i> May 15 – September 30	---	---	---	126 col/100 ml <sup>(5)</sup> <i>[13]</i>	---	949 col/100 ml <i>[13]</i>	1/Week <i>[01/07]</i>	Grab <i>[GR]</i>
pH (Std. Unit) <i>[00400]</i>	---	---	---	---	---	6.0 – 9.0 SU <i>[12]</i>	5/Week <i>[05/07]</i>	Grab <i>[GR]</i>
Mercury (Total) <sup>(6)</sup> <i>[71900]</i>	---	---	---	---	16 ng/L <i>[3M]</i>	24 ng/L <i>[3M]</i>	1/Year <i>[01/YR]</i>	Grab <i>[GR]</i>
Phosphorus (Total) <sup>(8)</sup> <i>[00665]</i> June 1 – September 30, 2015	---	---	---	Report µg/L <i>[28]</i>	---	Report µg/L <i>[28]</i>	2/Month <i>[02/30]</i>	Grab <i>[GR]</i>

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

**FOOTNOTES:** See Pages 6 and 7 of this permit for applicable footnotes.

**SPECIAL CONDITIONS**

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

2. The permittee is required to conduct Ambient Water Quality Monitoring in the St. John River as specified below, designated as **Outfall #002A** for the purpose of Permit Compliance System tracking as specified below<sup>(1)(7)</sup>:

Monitoring Parameter	Reporting Requirements			Minimum Monitoring Requirements	
	Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Phosphorus (Total) <sup>(9)</sup> [00665] June 15 – September 15, 2015	---	---	Report µg/L [28]	3/Year [03/YR]	Grab [GR]
Stream Flow (Daily Mean) <sup>(10)</sup> [00061]	---	---	Report (cfs) [08]	3/Year [03/YR]	Measure <sup>(9)</sup> [MS]

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

**FOOTNOTES:** See Pages 6 and 7 of this permit for applicable footnotes.

**Monthly**

## SPECIAL CONDITIONS

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

#### FOOTNOTES

1. **Sampling** – Influent sampling must be conducted at the headworks building influent channel. Effluent sampling must be sampled at the end of the chlorine contact chamber but prior to the discharge pipe. Any change in sampling location must be approved by the Department in writing. The permittee must conduct sampling and analysis in accordance with; a) methods approved by 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 must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services for wastewater. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (effective April 1, 2010). 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

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

2. **Percent Removal** - The permittee must achieve a minimum of 85 percent removal of both total suspended solids and biochemical oxygen demand for all flows receiving secondary treatment. The percent removal is calculated based on influent and effluent concentration values.
3. **TRC Monitoring** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine-based compounds are utilized to disinfect the discharge(s). The permittee must utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action. Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility must report "NODI-9" for this parameter on the monthly DMR or "N9" if the submittal is an electronic DMR.
4. **Bacteria Limits** – *E. coli* bacteria limits and monitoring requirements are seasonal and apply between May 15 and September 30 of each year. The Department reserves the right to require year-round bacteria limits to protect the health, safety and welfare of the public.

## SPECIAL CONDITIONS

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

5. **Bacteria Reporting** - The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results must be reported as such.
6. **Mercury** – The permittee must conduct all mercury sampling required by this permit or required to determine compliance with interim limitations established pursuant to 06-096 CMR 519 in accordance with the USEPA’s “clean sampling techniques” found in USEPA Method 1669, *Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels*. All mercury analysis must be conducted in accordance with USEPA Method 1631, *Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry*. See **Attachment B** for a Department report form for mercury test results. Compliance with the monthly average limitation established in Special Condition A.1 of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Methods 1669 and analysis Method 1631E on file with the Department for this facility.
7. **Ambient Data Collection** – Ambient phosphorous and stream flow sampling is to be collected during calendar year 2015, unless the permittee has submitted and the Department has approved equivalent data from calendar year 2014. If the Department has approved 2014 data, the ambient phosphorous and stream flow monitoring requirements are satisfied. If 2015 ambient monitoring is not required because 2014 data were used to satisfy this condition, the permittee must report “NODI-9” for both parameters on the monthly DMR or “N9” if the submittal is an electronic DMR.
8. **Phosphorus (Total)** – Effluent total phosphorous sampling must be done in accordance with **Attachment C**.
9. **Phosphorus (Total)** – Receiving water samples must be collected upstream of the discharge on the St. John River. See page 12 of fact sheet for guidance on selecting a sampling location. Samples should be collected several days and preferably a week apart. If possible try to obtain a sample during the same week effluent sampling occurs. Samples should be collected when flows at the USGS Gauge #01014000 referred to as “St. John River below Fish River, near Ft. Kent” are below daily median flow.
10. **Stream flow** – Stream flow measurements must be recorded on the same day as background total phosphorus samples are collected. Flows must be obtained from USGS Gauge #01014000, unless another method of obtaining stream flow data is approved by the Department.

### B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the usages designated for the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated for the classification of the receiving waters.

## **SPECIAL CONDITIONS**

### **B. NARRATIVE EFFLUENT LIMITATIONS (cont'd)**

3. The permittee must not discharge wastewater that causes visible discoloration or turbidity in the receiving waters that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification, or lowers the existing quality of any body of water if the existing quality is higher than the classification.

### **C. TREATMENT PLANT OPERATOR**

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

### **D. LIMITATIONS FOR INDUSTRIAL USERS**

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

### **E. AUTHORIZED DISCHARGES**

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on April 8, 2014; 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source(s) are not authorized under this permit, and must be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

### **F. NOTIFICATION REQUIREMENT**

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

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and

## SPECIAL CONDITIONS

### F. NOTIFICATION REQUIREMENT (cont'd)

2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants to the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change must include information on:
  - a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.
3. For the purposes of this section, notice regarding substantial change must include information on:
  - a. the quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - b. any anticipated impact caused by the change in the quantity or quality of the wastewater to be discharged from the treatment system.

### G. WET WEATHER MANAGEMENT PLAN

The permittee must maintain an approved Wet Weather Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges 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. A specific objective of the plan must be to maximize the volume of wastewater receiving secondary treatment under all operating conditions. The revised plan must 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 must review their plan at least annually and record any necessary changes to keep the plan up to date.** The Department may require review and update of the plan as it is determined to be necessary.

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

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

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

## SPECIAL CONDITIONS

### H. OPERATIONS AND MAINTENANCE (O&M) PLAN (cont'd)

**Within 90 days of completion of new and or substantial upgrades of the wastewater treatment facility**, the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

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

**By December 31 of each calendar year**, the permittee must provide the Department with a certification describing any of the following that have occurred since the effective date of this permit *[ICIS Code 96299]*. See **Attachment D** of the permit for an acceptable certification form to satisfy this Special Condition.

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

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

- d. Changes in stormwater collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and
- e. Increases in the type or volume of transported (hailed) wastes accepted by the facility.

The Department may require that annual testing be re-instated if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

### J. MONITORING AND REPORTING

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

Department of Environmental Protection  
Northern Maine Regional Office  
Bureau of Land and Water Quality  
Division of Water Quality Management  
1235 Skyway Park  
Presque Isle, Maine 04769

## **SPECIAL CONDITIONS**

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

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

### **K. SEVERABILITY**

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

### **L. REOPENING OF PERMIT FOR MODIFICATION**

In accordance with 38 M.R.S.A. § 414-A(5) and upon evaluation of the tests results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded, (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

# ATTACHMENT A

Maine Department of Environmental Protection

WET and Chemical Specific Data Report Form

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

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

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

Flow for Day (MGD)<sup>(1)</sup>  Flow Avg. for Month (MGD)<sup>(2)</sup>   
 Date Sample Collected  Date Sample Analyzed

Last Revision - February 4, 2014

Laboratory \_\_\_\_\_ Telephone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Lab Contact \_\_\_\_\_ Lab ID # \_\_\_\_\_

**ERROR WARNING !** Essential facility information is missing. Please check required entries in bold above. **FRESH WATER VERSION**  
 Please see the footnotes on the last page.

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

WET and Chemical Specific Data Report Form

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

PRIORITY POLLUTANTS <sup>(4)</sup>		Effluent Limits			Reporting Limit Check	Possible Exceedence <sup>(7)</sup>		
	Reporting Limit	Acute <sup>(6)</sup>	Chronic <sup>(6)</sup>	Health <sup>(6)</sup>		Acute	Chronic	Health
M	ANTIMONY	5						
M	BERYLLIUM	2						
M	MERCURY (5)	0.2						
M	SELENIUM	5						
M	THALLIUM	4						
A	2,4,6-TRICHLOROPHENOL	5						
A	2,4-DICHLOROPHENOL	5						
A	2,4-DIMETHYLPHENOL	5						
A	2,4-DINITROPHENOL	45						
A	2-CHLOROPHENOL	5						
A	2-NITROPHENOL	5						
A	4,6 DINITRO-O-CRESOL (2-Methyl-4,6-dinitrophenol)	25						
A	4-NITROPHENOL	20						
A	P-CHLORO-M-CRESOL (3-methyl-4-chlorophenol)+B80	5						
A	PENTACHLOROPHENOL	20						
A	PHENOL	5						
BN	1,2,4-TRICHLOROENZENE	5						
BN	1,2-(O)DICHLOROENZENE	5						
BN	1,2-DIPHENYLHYDRAZINE	20						
BN	1,3-(M)DICHLOROENZENE	5						
BN	1,4-(P)DICHLOROENZENE	5						
BN	2,4-DINITROTOLUENE	6						
BN	2,6-DINITROTOLUENE	5						
BN	2-CHLORONAPHTHALENE	5						
BN	3,3'-DICHLOROENZIDINE	16.5						
BN	3,4-BENZO(B)FLUORANTHENE	5						
BN	4-BROMOPHENYLPHENYL ETHER	5						
BN	4-CHLOROPHENYL PHENYL ETHER	5						
BN	ACENAPHTHENE	5						
BN	ACENAPHTHYLENE	5						
BN	ANTHRACENE	5						
BN	BENZIDINE	45						
BN	BENZO(A)ANTHRACENE	8						
BN	BENZO(A)PYRENE	5						
BN	BENZO(G,H,I)PERYLENE	5						
BN	BENZO(K)FLUORANTHENE	5						
BN	BIS(2-CHLOROETHOXY)METHANE	5						
BN	BIS(2-CHLOROETHYL)ETHER	6						
BN	BIS(2-CHLOROISOPROPYL)ETHER	6						
BN	BIS(2-ETHYLHEXYL)PHTHALATE	10						
BN	BUTYLBENZYL PHTHALATE	5						
BN	CHRYSENE	5						
BN	DI-N-BUTYL PHTHALATE	5						
BN	DI-N-OCTYL PHTHALATE	5						
BN	DIBENZO(A,H)ANTHRACENE	5						
BN	DIETHYL PHTHALATE	5						
BN	DIMETHYL PHTHALATE	5						



Maine Department of Environmental Protection

WET and Chemical Specific Data Report Form

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

V	ACROLEIN	NA								
V	ACRYLONITRILE	NA								
V	BENZENE	5								
V	BROMOFORM	5								
V	CARBON TETRACHLORIDE	5								
V	CHLOROBENZENE	6								
V	CHLORODIBROMOMETHANE	3								
V	CHLOROETHANE	5								
V	CHLOROFORM	5								
V	DICHLOROBROMOMETHANE	3								
V	ETHYLBENZENE	10								
V	METHYL BROMIDE (Bromomethane)	5								
V	METHYL CHLORIDE (Chloromethane)	5								
V	METHYLENE CHLORIDE	5								
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5								
V	TOLUENE	5								
V	TRICHLOROETHYLENE (Trichloroethene)	3								
V	VINYL CHLORIDE	5								

Notes:

- (1) Flow average for day pertains to WET/PP composite sample day.
- (2) Flow average for month is for month in which WET/PP sample was taken.
- (3) Analytical chemistry parameters must be done as part of the WET test chemistry.
- (3a) Cyanide, Available (Cyanide Amenable to Chlorination) is not an analytical chemistry parameter, but may be required by certain discharge permits .
- (4) Priority Pollutants should be reported in micrograms per liter (ug/L).
- (5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.
- (6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).
- (7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.
- (8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.
- (9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

# ATTACHMENT B

### Effluent Mercury Test Report

Name of Facility: \_\_\_\_\_ Federal Permit # ME \_\_\_\_\_  
Pipe # \_\_\_\_\_

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

#### SAMPLE COLLECTION INFORMATION

Sampling Date:	<table border="1"><tr><td> </td><td> </td><td> </td></tr><tr><td>mm</td><td>dd</td><td>yy</td></tr></table>				mm	dd	yy	Sampling time:	_____ AM/PM
mm	dd	yy							
Sampling Location:									
Weather Conditions: _____									
Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:									
Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:									
Suspended Solids	_____ mg/L	Sample type:	_____ Grab (recommended) or _____ Composite						

#### ANALYTICAL RESULT FOR EFFLUENT MERCURY

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

#### CERTIFICATION

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

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

# ATTACHMENT C

## Attachment C

### Protocol for Total Phosphorus Sample Collection and Analysis for Waste Water Effluent

**Approved Analytical Methods:** EPA 200.7 (Rev. 44), 365.1 (Rev. 2.0), (Lachat), 365.3, 365.4; SM 3120 B, 4500-P B.5, 4500-P E, 4500-P F, 4500-P G, 4500-P H; ASTM D515-88(A), D515-88(B); USGS I-4471-97, I-4600-85, I-4610-91; OMAAOAC 973.55, 973.56 (laboratory must be certified for any method performed)

**Sample Collection:** The Maine DEP is requesting that total phosphorus analysis be conducted on composite effluent samples, unless a facility's Permit specifically designates grab sampling for this parameter. Facilities can use individual collection bottles or a single jug made out of glass or polyethylene. Bottles and/or jugs should be cleaned prior to each use with dilute HCL. This cleaning should be followed by several rinses with distilled water. Commercially purchased, pre-cleaned sample containers are an acceptable alternative. The sampler hoses should be cleaned, as needed.

**Sample Preservation:** During compositing the sample must be at 0-6 degrees C (without freezing). If the sample is being sent to a commercial laboratory or analysis cannot be performed the day of collection then the sample must be preserved using H<sub>2</sub>SO<sub>4</sub> to obtain a sample pH of <2 su and refrigerated at 0-6 degrees C (without freezing). The holding time for a preserved sample is 28 days.

**Note:** Ideally, Total P samples are preserved as described above. However, if a facility is using a commercial laboratory then that laboratory may choose to add acid to the sample once it arrives at the laboratory. The Maine DEP will accept results that use either of these preservation methods.

**Laboratory QA/QC:** Laboratories must follow the appropriate QA/QC procedures that are described in each of the approved methods.

**Sampling QA/QC:** If a composite sample is being collected using an automated sampler, then once per month run a blank on the composite sampler. Automatically, draw distilled water into the sample jug using the sample collection line. Let this water set in the jug for 24 hours and then analyze for total phosphorus. Preserve this sample as described above.

# ATTACHMENT D



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CHAPTER 530.2(D)(4) CERTIFICATION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
Commissioner

MEPDES# \_\_\_\_\_ Facility Name \_\_\_\_\_

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

COMMENTS:

Name (printed): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

**Scheduled Toxicity Testing for the next calendar year**

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

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

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

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

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

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

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

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

**PRELIMINARY DRAFT**  
**FACT SHEET**

DATE: **JULY 28, 2014**

PERMIT NUMBER: **#ME0100684**

WASTE DISCHARGE LICENSE: **#W002675-6C-H-R**

NAME AND ADDRESS OF APPLICANT:  
**TOWN OF VAN BUREN  
133 JACKSON STREET  
VAN BUREN, MAINE 04785**

COUNTY: **AROOSTOOK**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):  
**VAN BUREN WASTEWATER TREATMENT FACILITY  
CITY OF BIDDEFORD  
133 JACKSON STREET  
VAN BUREN, MAINE 04785**

RECEIVING WATER CLASSIFICATION: **ST. JOHN RIVER/CLASS C**

COGNIZANT OFFICIAL CONTACT INFORMATION:  
**MR. RICKY SIROIS  
(207) 868-3975  
vbwastewater@live.com**

**1. APPLICATION SUMMARY**

Application: On April 8, 2014, the Department of Environmental Protection (Department) accepted as complete for processing from the Town of Van Buren (Town), a renewal application for Maine Pollutant Discharge Elimination System (MEPDES) #ME0100684 /Waste Discharge License (WDL) W002675-6C-F--R, which was issued on September 14, 2009 for a five-year term. The 9/14/09 MEPDES permit authorized the monthly average discharge of 0.56 million gallons per day (MGD) of secondary treated municipal wastewater from a publicly owned treatment works (POTW) to the St. John River, Class C, in Van Buren, Maine.

## 2. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward all the terms and conditions of the previous permitting action except it is:
1. Revising the minimum monitoring frequency requirements for BOD<sub>5</sub>, TSS, settleable solids, pH and total chlorine residual, based on the results of facility testing;
  2. Incorporating the interim mercury limits established by the Department for this facility pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001);
  3. Eliminating the waiver from the requirement to achieve 85 percent removal for BOD<sub>5</sub> and TSS;
  4. Establishing monitoring and reporting requirements for phosphorous and stream flow; and
  5. Revising the dilution factors based on new information.
- b. History: The most current relevant regulatory actions include:

March 30, 1995 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0100684 to the Town, which superseded the previous permit issued on August 11, 1989.

July 10, 2000 – The Department administratively modified WDL #W002675-5L-C-R by establishing interim average and maximum concentration limits for the discharge of mercury.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0100684 has been utilized for this facility.

September 2, 2004 – The Department issued WDL #W002675-5L-E-R / MEPDES Permit #ME0100684 to the Town for a five-year term. The 9/2/04 permit superseded previous WDL #W002675-5L-C-R issued on November 1, 1999, WDL #W002675-46-B-R issued on October 7, 1994, and WDL #W002675-46-A-R issued on June 23, 1988.

September 14, 2009 – The Department issued combination MEPDES permit #ME0100684/WDL #W002675-6C-F-R for a five-year term.

February 6, 2012 – The Department issued permit modification #ME0100684/WDL#W002675-6C-G-M to incorporate the average and maximum concentration limits for total mercury.

April 7, 2014 – The Town submitted a timely and complete General Application to the Department for renewal of the September 14, 2009 MEPDES permit. The application was accepted for processing on February 2, 2014, and was assigned WDL #W002675-6C-H-R / MEPDES #ME0100684.

## 2. PERMIT SUMMARY (cont'd)

- c. Source Description: Van Buren's Wastewater Treatment Facility receives sanitary wastewater flows from commercial and residential users in the Town of Van Buren. The population served by the facility is estimated to be approximately 2,500 users. The facility does not receive industrial flows and is not authorized to receive septage. The collection system is approximately 21 miles in length and has seven pump stations (with emergency backup power) conveying flows to the wastewater treatment facility. The collection system is completely separated and does not have any combined sewer overflows points. A map showing the location of the facility and receiving water is included as Fact Sheet **Attachment A**.
- d. Wastewater Treatment: The Van Buren Wastewater Treatment Facility commenced operations in 1972. The wastewater treatment facility provides a secondary level of treatment via an extended aeration activated sludge process via a bar screen, an aerated grit chamber, two aeration basins with fine bubble diffused aeration, two secondary clarifiers and a chlorine contact chamber for disinfection. The wastewater is discharged to the St. John River via a 24-inch diameter outfall pipe that extends out into the receiving water approximately 40 feet at a depth of 3 feet below the mean low water level of the river. During 2009/2010 the facility installed new pumps at the McBride pump station, and are planning upgrades at three additional pump stations. A process flow diagram submitted by the permittee is included as Fact Sheet **Attachment B**.

## 3. CONDITIONS OF PERMIT

*Conditions of licenses*, 38 M.R.S.A. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in Maine's Surface Water Classification System. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective March 21, 2012) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (last amended July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

## 4. RECEIVING WATER QUALITY STANDARDS

*Classification of major river basins*, 38 M.R.S.A. § 467(15)(A)(4) classifies the "St. John River, main stem, from the international bridge in Madawaska to where the international boundary leaves the river in Hamlin," which includes the river at the point of discharge, as Class C waters. *Standards for classification of fresh surface waters*, 38 M.R.S.A. § 465(4) describes the standards for Class C.

## 5. RECEIVING WATER QUALITY CONDITIONS

*The State of Maine 2012 Integrated Water Quality Monitoring and Assessment Report* (Report), prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 10.23-mile segment of the main stem of the St. John River from La Grande to Van Buren (ADB Assessment Unit ID ME0101000121\_118R) as, "Category 2: Rivers and Streams Attaining Some Designated Uses – Insufficient Information for Other Uses."

**5. RECEIVING WATER QUALITY CONDITIONS (cont'd)**

The Report lists all of Maine’s fresh waters as, “Category 4-A: Waters Impaired by Atmospheric Deposition of Mercury.” Impairment in this context refers to a statewide fish consumption advisory due to elevated levels of mercury in some fish tissues. The Report states, “All freshwaters are listed in Category 4-A (TMDL Completed) due to USEPA approval of a Regional Mercury TMDL. Maine has a fish consumption advisory for fish taken from all freshwaters due to mercury. Many waters, and many fish from any given water, do not exceed the action level for mercury. However, because it is impossible for someone consuming a fish to know whether the mercury level exceeds the action level, the Maine Department of Health and Human Services decided to establish a statewide advisory for all freshwater fish that recommends limits on consumption. Maine has already instituted statewide programs for removal and reduction of mercury sources.” Pursuant to 38 M.R.S.A. § 420(1-B)(B), “a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11.” The Department has established interim monthly average and daily maximum mercury concentration limits and reporting requirements for this facility pursuant to 06-096 CMR 519.

The Department has no information at this time that the discharge from the Town of Van Buren, as permitted, will cause or contribute to the failure of the receiving water to meet the designated uses of its ascribed classification.

**6. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- a. Flow: The previous permitting action established, and this permitting action is carrying forward, a monthly average discharge flow limit of 0.56 MGD based on the design capacity for the treatment facility, and a daily maximum discharge flow reporting requirement.

The Department reviewed 53 Discharge Monitoring Reports (DMRs) that were submitted for the period October 2009 – March 2014. It is noted that the facility exceeded the monthly average flow limit in March 2011 (0.74 MGD), May 2011 (0.58 MGD) and in April 2012 (0.63 MGD). A review of data indicates the following:

**Flow**

Value	Limit (MGD)	Range (MGD)	Mean (MGD)
Monthly Average	0.56	0.15 – 0.74	0.351
Daily Maximum	Report	0.19 – 1.80	0.861

- b. Dilution Factors:

Dilution factors associated with the permitted flow of 0.56 MGD and the location and configuration of the outfall structure. The previous permitting action carried forward the following dilution factors; Modified Acute (418:1), Acute (1,667:1), Chronic (1,720:1), and Harmonic Mean (6,317:1). Based on more recent flow data from the Fort Kent gage and utilizing Geographic Information Systems for a more accurate measurement of contributing drainage areas in both the US and Canada, the low flow determination have changed for all dischargers on the river. These flows are used to determine dilution factors, and therefore the Department has established new dilution factors in accordance with 06-096 CMR 530(4)(A) as follows:

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

$$\text{Mod. Acute: } \frac{1}{4} Q_{10} = 234 \text{ cfs} \quad \Rightarrow \frac{(234 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 271:1$$

$$\text{Acute: } 1Q_{10} = 934 \text{ cfs} \quad \Rightarrow \frac{(934 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 1,079:1$$

$$\text{Chronic: } 7Q_{10} = 951 \text{ cfs} \quad \Rightarrow \frac{(951 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 1,099:1$$

$$\text{Harmonic Mean} = 4,890 \text{ cfs} \quad \Rightarrow \frac{(4,890 \text{ cfs})(0.6464) + 0.56 \text{ MGD}}{0.56 \text{ MGD}} = 5,645:1$$

These revised dilution factors are being used in all water quality-based analyses associated with this permitting action.

- c. **Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS):** The previous permitting action established, and this permitting action is carrying forward, monthly average and weekly average technology-based concentration limits of 30 mg/L and 45 mg/L, respectively, for BOD<sub>5</sub> and TSS based on the secondary treatment requirements specified at *Effluent Guidelines and Standards*, 06-096 CMR 525(3)(III) (effective January 12, 2001), and a daily maximum concentration limit of 50 mg/L, which is based on a Department best professional judgment of best practicable treatment for secondary treated wastewater. The technology-based monthly average, weekly average and daily maximum mass limits of 140 lbs./day, 210 lbs./day and 234 lbs./day, respectively, established in the previous permitting action for BOD<sub>5</sub> and TSS are based on the monthly average flow limit of 0.56 MGD and the applicable concentration limits and are also being carried forward in this permitting action.

This permitting action is carrying forward a requirement for a minimum of 85% removal of BOD<sub>5</sub> & TSS pursuant to 06-096 CMR 525(3)(III)(a&b)(3). The permittee has not demonstrated that it qualifies for special considerations pursuant to 06-096 CMR 525(3)(IV) to maintain a waiver from the 85% removal requirement when influent concentration is less than 200 mg/L, which was established in the previous permit. Therefore, this permitting action is eliminating the waiver from the 85% removal requirement provided in the previous permitting action when influent concentration is less than 200 mg/L.

The Department reviewed 53 DMRs that were submitted for the period October 2009 – March 2014 for BOD. A review of data indicates the following:

**BOD<sub>5</sub> mass**

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	140	6.3 – 48	14.9
Weekly Average	210	7.9 – 122	25.7
Daily Maximum	234	7.9 – 122	25.7

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

**BOD<sub>5</sub> concentration**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	2.8 – 6.8	5.0
Weekly Average	45	4.0 – 11	6.8
Daily Maximum	50	4.0 - 11	6.8

The Department reviewed 53 DMRs that were submitted for the period October 2009 – March 2014 for TSS. A review of data indicates the following:

**TSS mass**

Value	Limit (lbs./day)	Range (lbs./day)	Mean (lbs./day)
Monthly Average	140	0 – 43	10
Weekly Average	210	2.1 – 70	19.1
Daily Maximum	234	2.1 – 70	19.1

**TSS concentration**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	1.3 – 6.6	3.3
Weekly Average	45	1.8 – 13	5.3
Daily Maximum	50	1.8 – 13	5.3

On April 19, 1996, the USEPA issued a guidance document entitled, “*Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies*” (USEPA 1996) as the basis for determining reduced monitoring frequencies. The guidance document was issued to reduce unnecessary reporting while at the same time maintaining a high level of environmental protection for facilities that have a good compliance record and pollutant discharges at levels below permit requirements.

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

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

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

The USEPA's 1996 guidance recommends evaluation of the most current two-years of effluent data for a parameter. A review of the monitoring data for BOD<sub>5</sub> and TSS indicate the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as follows:

### BOD<sub>5</sub>

Long term average = 14.9 lbs./day  
Monthly average limit = 140 lbs./day  
Current monitoring frequency = 1/Week

$$\text{Ratio} = \frac{14.9 \text{ lbs./day}}{140 \text{ lbs./day}} = 11\%$$

According to Table I of the USEPA guidance, a 1/Week monitoring requirement can be reduced to once every two months. However, the Department has determined based on results of facility testing a reduction to once every two months testing for BOD<sub>5</sub> is not consistent with our Department guidance on monitoring frequency reductions and best professional judgment. Therefore, this permitting action is establishing a twice per month monitoring frequency requirement.

### TSS

Long term average = 43 lbs./day  
Monthly average limit = 140 lbs./day  
Current monitoring frequency = 1/Week

$$\text{Ratio} = \frac{43 \text{ lbs./day}}{140 \text{ lbs./day}} = 31\%$$

According to Table I of the USEPA guidance, a 1/Week monitoring requirement can be reduced to twice a month. However, the Department has determined based on results of facility testing a reduction to twice a month testing for TSS is not consistent with our Department guidance on monitoring frequency reductions and best professional judgment. Therefore, this permitting action is establishing a twice per month monitoring frequency requirement.

- d. Settleable Solids: The previous permitting action established, and this permitting action is carrying forward, a technology-based daily maximum concentration limit of 0.3 ml/L for settleable solids, which is considered a best practicable treatment limitation for secondary treated wastewater.

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

The Department reviewed 53 DMRs that were submitted for the period October 2009 – March 2014. A review of data indicates the following:

**Settleable solids concentration**

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily Maximum	0.3	<0.1 – 0.1	0.1

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

Long term average = 0.1 ml/L  
 Daily maximum limit = 0.3 ml/L  
 Current monitoring frequency = 7/Week

$$\text{Ratio} = \frac{0.1 \text{ ml/L}}{0.3 \text{ ml/L}} = 33\%$$

According to Table I of the USEPA guidance, a 7/Week monitoring requirement can be reduced to 3/Week. Therefore, the monitoring frequency for settleable solids has been reduced to 3/Week in this permitting action.

- e. *Escherichia coli* Bacteria: – The previous permitting established, and this permitting action carrying forward, seasonal (May 15-September 30 of each year) monthly average and daily maximum *E. coli* bacteria concentration limits of 126 colonies/100 ml and 949 colonies/100 ml, respectively. The monthly average concentration limit is based on 38 M.R.S.A. § 465(4) which requires that the *E. coli* bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 colonies/100 ml or an instantaneous level of 236 colonies/100 ml. The Department has determined that end-of-pipe limitations for the instantaneous concentration standard of 236 colonies/100 ml will be achieved through available dilution of the effluent with the receiving waters and need not be revised in MEPDES permits for facilities with adequate dilution.

The Department reviewed 20 DMRs that were submitted for the period May 2010 – September 2013. A review of data indicates the following:

***E. coli* Bacteria**

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	126	14 – 76	32
Daily Maximum	949	20 – 170	67

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

A review of the monitoring data for *E. coli* bacteria indicates the ratios (expressed in percent) of the long term effluent average to the monthly average limits can be calculated as follows:

Long term average = 32 col/100 ml  
 Monthly average limit = 126 col/100 ml  
 Current monitoring frequency = 1/Week

$$\text{Ratio} = \frac{32 \text{ col/100 ml}}{126 \text{ col/100 ml}} = 25\%$$

According to Table I of the EPA Guidance, a 1/Week monitoring requirement can be reduced to once every two months. However, the Department has determined based on results of facility testing a reduction to once every two months testing for *E. coli* bacteria is not consistent with our analysis of the data and best professional judgment. Therefore, this permitting action is carrying forward the 1/Week monitoring frequency requirement.

- f. **Total Residual Chlorine (TRC):** The previous permitting action established a technology-based daily maximum concentration limit of 1.0mg/L for TRC. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or best practicable treatment-based limit. With modified acute (1/4 1Q10) and chronic dilution factors associated with the discharge water quality-based concentration thresholds the discharge may be calculated as follows:

Acute (A) Criterion	Chronic (C) Criterion	Modified A & C Dilution Factors	Calculated	
			Acute Threshold	Chronic Threshold
0.019 mg/L	0.0011 mg/L	271:1(A) 1,099:1 (C)	5 mg/L	12 mg/L

The Department has established a daily maximum best practicable treatment limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. The daily maximum technology-based standard of 1.0 mg/L is more stringent than the modified acute water quality-based threshold calculated above, and is therefore being carried forward in this permitting action.

The Department reviewed 53 DMRs that were submitted for the period October 2009 – March 2014. A review of data indicates the following:

**Total residual chlorine**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	1.0	0.01 - 0.40	0.29

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

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

Long term average = 0.29 mg/L  
 Monthly average limit = 1.0 mg/L  
 Current monitoring frequency = 1/Day

$$\text{Ratio} = \frac{0.29 \text{ mg/L}}{1.0 \text{ mg/L}} = 29\%$$

According to Table I of the EPA Guidance, a 1/Day monitoring requirement can be reduced to 3/Week. Therefore, the monitoring frequency for TRC has been reduced to 3/Week in this permitting action.

- g. **pH:** The previous permitting action established, and this permitting action is carrying forward, a technology-based pH limit of 6.0 – 9.0 standard units (SU), which is based on 06-096 CMR 525(3)(III), and a minimum monitoring frequency requirement of once per day.

The Department reviewed 53 DMRs that were submitted for the period October 2009 – March 2014. A review of data indicates the following:

**pH**

Value	Limit (SU)	Minimum (SU)	Maximum (SU)
Range	6.0 – 9.0	6.00	7.20

In consideration of the compliance history with pH, the monitoring frequency for pH has been reduced to 5/Week in this permitting action.

- h. **Mercury:** Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL W002675-5L-C-R by establishing interim monthly average and daily maximum effluent concentration limits of 16 parts per trillion (ppt) and 24 ppt, respectively, and a minimum monitoring frequency requirement of two (2) tests per year for mercury. It is noted the limitations have been incorporated into Special Condition A, *Effluent Limitations And Monitoring Requirements*, of this permit.

38 M.R.S.A. § 420(1-B)(B)(1) provides that a facility is not in violation of the AWQC for mercury if the facility is in compliance with an interim discharge limit established by the Department. A review of the Department’s data base for the period June 2009 through April 2013 indicates the permittee has been in compliance with the interim limits for mercury as results have been reported as follows:

**Mercury**

Value	Limit (ng/L)	Range (ng/L)	Mean (ng/L)
Average	16	1.00 – 2.20	1.60
Daily Maximum	24		

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

Pursuant to 38 M.R.S.A. § 420(1-B)(F), the Department issued a minor revision on February 6, 2012 to the September 14, 2009 permit thereby revising the minimum monitoring frequency requirement from twice per year to once per year given the permittee has maintained at least 5 years of mercury testing data. In fact, the permittee has been monitoring mercury at a frequency of 2/Year since June 2000 or 11 years.

Pursuant to 38 M.R.S.A. § 420(1-B)(F), this permitting action is carrying forward the 1/Year monitoring frequency established in the February 6, 2012 permit modification.

- i. Total Phosphorus: *Waste Discharge License Conditions*, 06-096 CMR 523 specifies that water quality based limits are necessary when it has been determined that a discharge has a reasonable potential to cause or contribute to an excursion above any State water quality standard including State narrative criteria.<sup>1</sup> In addition, 06-096 CMR 523 specifies that water quality based limits may be based upon criterion derived from a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include: EPA's Water Quality Standards Handbook, October 1983, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents.<sup>2</sup>

USEPA's Quality Criteria for Water 1986 (Gold Book) puts forth an in-stream phosphorus concentration recommendation of less than 100 µg/L (0.1 mg/L) in streams or other flowing waters not discharging directly to lakes or impoundments, to prevent nuisance algal growth. The use of the 0.1 mg/L Gold Book standard is consistent with the requirements of 06-096 CMR 523 noted above for use in a reasonable potential (RP) calculation.

Based on the above rationale, the Department has chosen to utilize the Gold Book standard of 100 ug/L. It is the Department's intent to continue to make determinations of actual attainment or impairment based upon environmental response indicators from specific water bodies. The use of the Gold Book standard of 100 ug/L for use in the RP calculation will enable the Department to establish water quality based limits in a manner that is reasonable and that appropriately establishes the potential for impairment, while providing an opportunity to acquire environmental response indicator data, numeric nutrient indicator data, and facility data as needed to refine the establishment of site-specific water quality-based limits for phosphorus. Therefore, this permit may be reopened during the term of the permit to modify any reasonable potential calculation, phosphorus limits, or monitoring requirements based on site-specific data.

The permittee has not been conducting total phosphorus testing; however, the Department has numerous total phosphorus data results for publicly owned treatment works throughout the State. Based on this data the Department is assuming a discharge concentration of 2.2 mg/L (2,200 µg/L) (typical from POTWs). For the background concentration in the St. John, the only information the Department has are three test results obtained by the Department between 2004 and 2009 at Biomonitoring Station 368 located in Madawaska, approximately 23 miles upstream of the facility, that indicate the average background total phosphorus concentration is 17 ug/L. Using the following

<sup>1</sup> *Waste Discharge License Conditions*, 06-096 CMR 523(5)(d)(1)(i) (effective date January 12, 2001)

<sup>2</sup> 06-096 CMR 523(5)(d)(1)(vi)(A)

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

calculation and criteria, the Town does not exhibit a reasonable potential to exceed the EPA’s Gold Book ambient water quality criteria of 0.1 mg/L (100 µg/L) for phosphorus or the Department’s 06-096 CMR 583 draft criteria of 33 ug/L.

$$Cr = \frac{QeCe + QsCs}{Qr}$$

Qe = effluent flow i.e. facility design flow	=	0.56 MGD
Ce = effluent pollutant concentration	=	2.2 mg/L
Qs = 7Q10 flow of receiving water	=	615 MGD
Cs = upstream concentration	=	0.017 mg/L
Qr = receiving water flow	=	615 MGD
Cr = receiving water concentration		

$$Cr = \frac{(0.56 \text{ MGD} \times 2.2 \text{ mg/L}) + (615 \text{ MGD} \times 0.017 \text{ mg/L})}{615 \text{ MGD}} = 0.019 \text{ mg/L}$$

$$Cr = 0.019 \text{ mg/L} < 0.1 \text{ mg/L} \Rightarrow \text{No Reasonable Potential}$$

$$Cr = 0.019 \text{ mg/L} < 0.033 \text{ mg/L} \Rightarrow \text{No Reasonable Potential}$$

Therefore, no end-of-pipe limitations for total phosphorus are being established in this permitting action. However, due to the absence of total phosphorous effluent data from the facility this permitting action is establishing a reporting only requirement for effluent total phosphorous concentrations at a frequency of 2/Month to characterize their effluent. Given that the total phosphorus background concentration for the St. John River was last obtained between 2004 and 2009, this permit is also requiring the permittee to obtain background total phosphorus concentrations at a minimum of three samples spread out over the course of several days and preferably at least a week apart between June 15 – September 15 of calendar year 2015.

The upstream sampling location must be in the main flow of the receiving water, upstream of the facility outfall. A location immediately upstream is preferable, but there is no limit to the distance upstream from the facility as long as there are no factors that greatly influence the parameter concentration, such as other point discharges, dams, confluence with perennial streams, or significant nutrient sources (e.g. urban stormwater, agricultural runoff) between the upstream sample site and the facility discharge. The location should be safely accessible and collected in order of preference: by wading, by boat, from bridges in mid-flow, or from stream bank (only if flowing and representative).

- j. Stream Flow: Stream flow measurements must be recorded on the same day as background total phosphorus samples are collected. Flows must be obtained from USGS Gauge #01014000 referred to as “St. John River below Fish River, near Ft. Kent,” unless another method of obtaining stream flow data is approved by the Department. Stream gauge data for all Maine stations can be found on the USGS website at: [http://waterdata.usgs.gov/nwis/current/?type=dailydischarge&group\\_key=state\\_cd&search\\_site\\_no\\_station\\_nm=maine&site\\_no\\_name\\_select=station\\_nm](http://waterdata.usgs.gov/nwis/current/?type=dailydischarge&group_key=state_cd&search_site_no_station_nm=maine&site_no_name_select=station_nm) (last accessed on July 17, 2014).

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

### *Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing*

#### **Regulatory Background**

38 M.R.S.A. § 414-A and 38 M.R.S.A. § 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.

06-096 CMR 530(2)(A) specifies the dischargers subject to the rule as:

All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria.

06-096 CMR 530(2)(B) categorizes dischargers subject to the toxics rule into one of four levels (Levels I through IV). Level IV dischargers are “*those dischargers having a chronic dilution factor of at least 500 to 1 and a permitted flow of less than 1 million gallons per day.*” The chronic dilution factor associated with the discharge from the Town is 1,099 to 1, and the permitted flow is 0.560 MGD; therefore, the facility is considered a Level IV facility for purposes of toxics testing. 06-096 CMR 530(D)(1) states that “*routine testing requirements for Level IV are waived, except that the Department shall require an individual discharger to conduct testing under the following conditions:*

- (a) The discharger's permit application or information available to the Department indicate that toxic compounds may be present in toxic amounts; or,*
- (b) Previous testing conducted by the discharger or similar dischargers indicates that toxic compounds may be present in toxic amounts.”*

Therefore, this permitting action is carrying forward the toxics testing waiver pursuant to 06-096 CMR 530 and Department best professional judgment.

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

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

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

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

*(d) Changes in storm water collection or inflow/infiltration affecting the facility that may increase the toxicity of the discharge; and*

*(e) Increases in the type or volume of transported (hailed) wastes accepted by the facility.*

The Department may require that annual testing be instituted if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted. This permitting action carries forward Special Condition I 06-096 CMR 530(2)(D)(4) *Statement for Reduced/Waived Toxics Testing*, pursuant to 06-096 CMR 530(2)(D)(4).

## 7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

## 8. PUBLIC COMMENTS

Public notice of this application was made in the *St. John Valley Tribune* newspaper on or about March 26, 2014. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## 9. DEPARTMENT CONTACTS

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

Yvette Meunier  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207) 215-1579  
e-mail: [yvette.meunier@maine.gov](mailto:yvette.meunier@maine.gov)

## 10. RESPONSE TO COMMENTS

*Reserved until the end of the public comment period.*

# ATTACHMENT A



**Legend**

- Wastewater Facilities

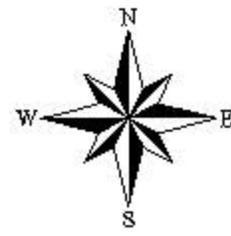
**River Class**

- AA
- A
- B
- C
- ca
- nh
- Lakes



**Van Buren, Van Buren POTW**

Map Created by Maine DEP  
April 22, 2013



# ATTACHMENT B



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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**A. GENERAL PROVISIONS**

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

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

- (a) They are not
  - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
  - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

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

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

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

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

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

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

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

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

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

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

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

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

**B. OPERATION AND MAINTENANCE OF FACILITIES**

**1. General facility requirements.**

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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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.



# DEP INFORMATION SHEET

## Appealing a Department Licensing Decision

**Dated: March 2012**

**Contact: (207) 287-2811**

### **SUMMARY**

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

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

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

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

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

#### **HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD**

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

#### **WHAT YOUR APPEAL PAPERWORK MUST CONTAIN**

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

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

#### **WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD**

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

## II. JUDICIAL APPEALS

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

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

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

### ADDITIONAL INFORMATION

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

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**Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.**

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