

AUTHORIZATION TO DISCHARGE UNDER THE  
RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of Chapter 46-12 of the Rhode Island General Laws, as amended,

**American Mussel Harvesters, Inc.**  
165 Tidal Drive  
North Kingstown, RI 02852

is authorized to discharge from a facility located at

165 Tidal Drive  
North Kingstown, RI

to receiving waters named

Narragansett Bay

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

This permit shall become effective on \_\_\_\_\_.

This permit and the authorization to discharge expire at midnight, five (5) years from the effective date.

This permit supercedes the permit issued on April 22, 2009 and the modification dated January 13, 2012.

This permit consists of seven (7) pages in Part I including effluent limitations and monitoring requirements and 10 pages in Part II including General Conditions.

Signed this            day of                                   , 2015.

**DRAFT**

---

Angelo S. Liberti, P.E., Chief of Surface Water Protection  
Office of Water Resources  
Rhode Island Department of Environmental Management  
Providence, Rhode Island

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. During the period beginning on the effective date and lasting through permit expiration, the permittee is authorized to discharge from outfall serial number(s) 001A. Such discharges shall be limited and monitored by the permittee as specified below:

<u>Effluent Characteristic</u>	<u>Discharge Limitations</u>					<u>Monitoring Requirement</u>	
	<u>Quantity - lbs./day</u>		<u>Concentration - specify units</u>			<u>Measurement Frequency</u>	<u>Sample Type</u>
	<u>Average Monthly</u>	<u>Maximum Daily</u>	<u>Average Monthly</u>	<u>Average Weekly</u>	<u>Maximum Daily</u>		
Flow		300 gpm				1/Quarter	Estimate
Turbidity (Influent and Effluent)			--- NTU		--- NTU	1/Quarter	Grab
Fecal Coliform			--- MPN/100ml		---MPN/100ml	1/Quarter	Grab

--- Signifies a parameter which must be monitored and data must be reported; no limit has been established at this time.

Sampling for Fecal Coliform shall be performed Monday – Friday. The Geometric Mean shall be used to calculate the “monthly average”.

Sampling for Turbidity shall be performed Monday-Friday on the influent (sea water prior to being added to the flow through tanks) and effluent (final discharge from the facility).

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: Outfall 001A (final discharge from the facility).

2.
  - a. The pH of the effluent shall not be less than 6.5 nor greater than 8.5 standard units at any time, unless these values are exceeded due to natural causes or as a result of the approved treatment processes.
  - b. The discharge shall not cause visible discoloration of the receiving waters.
  - c. The effluent shall contain neither a visible oil sheen, foam, nor floating solids at any time.
  - d. All accumulated solids shall be periodically removed and disposed of off-site.
  - e. This permit authorizes the discharge of water from the flow through shellfish holding tanks only. However, water from the shellfish holding tanks may be passed through the proposed shellfish grow-out tanks, providing no chemicals or feed are added. All other discharges are prohibited.
3. All existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Director 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":
    - (1) One hundred micrograms per liter (100 ug/l);
    - (2) 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-dinitro-phenol; and one milligram per liter (1 mg/l) for antimony;
    - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21 (g)(7); or
    - (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and Rhode Island Regulations.
  - b. That any activity has occurred or will occur which would result in the discharge, on a non-routine or infrequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
    - (1) Five hundred micrograms per liter (500 ug/l);
    - (2) One milligram per liter (1 mg/l) for antimony;
    - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 C.F.R. s122.21(g)(7);or

- (4) Any other notification level established by the Director in accordance with 40 C.F.R. s122.44(f) and Rhode Island Regulations.
- c. That they have begun or expect to begin to use or manufacture as an intermediate or final product or by-product any toxic pollutant which was not reported in the permit application.
4. This permit serves as the State's Water Quality Certificate for the discharges described herein.

## B. DETECTION LIMITS

The permittee shall assure that all wastewater testing required by this permit, is performed in conformance with the method detection limits listed below. In accordance with 40 CFR Part 136, EPA approved analysis techniques, quality assurance procedures and quality control procedures shall be followed for all reports required to be submitted under the RIPDES program. These procedures are described in "Methods for the Determination of Metals in Environmental Samples" (EPA/600/4-91/010) and "Methods for Chemical Analysis of Water and Wastes" (EPA/600/4-79/020).

The report entitled "Methods for the Determination of Metals in Environmental Samples" includes a test which must be performed in order to determine if matrix interferences are present, and a series of tests to enable reporting of sample results when interferences are identified. Each step of the series of tests becomes increasingly complex, concluding with the complete Method of Standard Additions analysis. The analysis need not continue once a result which meets the applicable quality control requirements has been obtained. Documentation of all steps conducted to identify and account for matrix interferences shall be documented and maintained onsite.

If, after conducting the complete Method of Standard Additions analysis, the laboratory is unable to determine a valid result, the laboratory shall report "could not be analyzed". Documentation supporting this claim shall be maintained onsite. If valid analytical results are repeatedly unobtainable, DEM may require that the permittee determine a method detection limit (MDL) for their effluent or sludge as outlined in 40 CFR Part 136, Appendix B.

When calculating sample averages for reporting on discharge monitoring reports (DMRs):

1. "could not be analyzed" data shall be excluded, and shall not be considered as failure to comply with the permit sampling requirements;
2. results reported as less than the MDL shall be reported as zero in accordance with the DEM's DMR Instructions, provided that all appropriate EPA approved methods were followed.

Therefore, all sample results shall be reported as: an actual value, "could not be analyzed", or zero. The effluent or sludge specific MDL must be calculated using the methods outlined in 40 CFR Part 136, Appendix B. Samples which have been diluted to ensure that the sample concentration will be within the linear dynamic range shall not be diluted to the extent that the analyte is not detected. If this should occur the analysis shall be repeated using a lower degree of dilution.

**LIST OF TOXIC POLLUTANTS**

The following list of toxic pollutants has been designated pursuant to Section 307(a)(1) of the Clean Water Act. The Method Detection Limits (MDLs) represent the required Rhode Island MDLs.

Volatiles - EPA Method 624		MDL ug/l (ppb)	Pesticides - EPA Method 608		MDL ug/l (ppb)
1V	acrolein	10.0	18P	PCB-1242	0.289
2V	acrylonitrile	5.0	19P	PCB-1254	0.298
3V	benzene	1.0	20P	PCB-1221	0.723
5V	bromoform	1.0	21P	PCB-1232	0.387
6V	carbon tetrachloride	1.0	22P	PCB-1248	0.283
7V	chlorobenzene	1.0	23P	PCB-1260	0.222
8V	chlorodibromomethane	1.0	24P	PCB-1016	0.494
9V	chloroethane	1.0	25P	toxaphene	1.670
10V	2-chloroethylvinyl ether	5.0			
11V	chloroform	1.0	Base/Neutral - EPA Method 625		MDL ug/l (ppb)
12V	dichlorobromomethane	1.0	1B	acenaphthene *	1.0
14V	1,1-dichloroethane	1.0	2B	acenaphthylene *	1.0
15V	1,2-dichloroethane	1.0	3B	anthracene *	1.0
16V	1,1-dichloroethylene	1.0	4B	benzidine	4.0
17V	1,2-dichloropropane	1.0	5B	benzo(a)anthracene *	2.0
18V	1,3-dichloropropylene	1.0	6B	benzo(a)pyrene *	2.0
19V	ethylbenzene	1.0	7B	3,4-benzofluoranthene *	1.0
20V	methyl bromide	1.0	8B	benzo(ghi)perylene *	2.0
21V	methyl chloride	1.0	9B	benzo(k)fluoranthene *	2.0
22V	methylene chloride	1.0	10B	bis(2-chloroethoxy)methane	2.0
23V	1,1,2,2-tetrachloroethane	1.0	11B	bis(2-chloroethyl)ether	1.0
24V	tetrachloroethylene	1.0	12B	bis(2-chloroisopropyl)ether	1.0
25V	toluene	1.0	13B	bis(2-ethylhexyl)phthalate	1.0
26V	1,2-trans-dichloroethylene	1.0	14B	4-bromophenyl phenyl ether	1.0
27V	1,1,1-trichloroethane	1.0	15B	butylbenzyl phthalate	1.0
28V	1,1,2-trichloroethane	1.0	16B	2-chloronaphthalene	1.0
29V	trichloroethylene	1.0	17B	4-chlorophenyl phenyl ether	1.0
31V	vinyl chloride	1.0	18B	chrysene *	1.0
Acid Compounds - EPA Method 625		MDL ug/l (ppb)	19B	dibenzo (a, h)anthracene *	2.0
1A	2-chlorophenol	1.0	20B	1,2-dichlorobenzene	1.0
2A	2,4-dichlorophenol	1.0	21B	1,3-dichlorobenzene	1.0
3A	2,4-dimethylphenol	1.0	22B	1,4-dichlorobenzene	1.0
4A	4,6-dinitro-o-cresol	1.0	23B	3,3'-dichlorobenzidine	2.0
5A	2,4-dinitrophenol	2.0	24B	diethyl phthalate	1.0
6A	2-nitrophenol	1.0	25B	dimethyl phthalate	1.0
7A	4-nitrophenol	1.0	26B	di-n-butyl phthalate	1.0
8A	p-chloro-m-cresol	2.0	27B	2,4-dinitrotoluene	2.0
9A	pentachlorophenol	1.0	28B	2,6-dinitrotoluene	2.0
10A	phenol	1.0	29B	di-n-octyl phthalate	1.0
11A	2,4,6-trichlorophenol	1.0	30B	1,2-diphenylhydrazine (as azobenzene)	1.0
Pesticides - EPA Method 608		MDL ug/l (ppb)	31B	fluoranthene *	1.0
1P	aldrin	0.059	32B	fluorene *	1.0
2P	alpha-BHC	0.058	33B	hexachlorobenzene	1.0
3P	beta-BHC	0.043	34B	hexachlorobutadiene	1.0
4P	gamma-BHC	0.048	35B	hexachlorocyclopentadiene	2.0
5P	delta-BHC	0.034	36B	hexachloroethane	1.0
6P	chlordane	0.211	37B	indeno(1,2,3-cd)pyrene *	2.0
7P	4,4'-DDT	0.251	38B	isophorone	1.0
8P	4,4'-DDE	0.049	39B	naphthalene *	1.0
9P	4,4'-DDD	0.139	40B	nitrobenzene	1.0
10P	dieldrin	0.082	41B	N-nitrosodimethylamine	1.0
11P	alpha-endosulfan	0.031	42B	N-nitrosodi-n-propylamine	1.0
12P	beta-endosulfan	0.036	43B	N-nitrosodiphenylamine	1.0
13P	endosulfan sulfate	0.109	44B	phenanthrene *	1.0
14P	endrin	0.050	45B	pyrene *	1.0
15P	endrin aldehyde	0.062	46B	1,2,4-trichlorobenzene	1.0
16P	heptachlor	0.029			
17P	heptachlor epoxide	0.040			

## OTHER TOXIC POLLUTANTS

	MDL ug/l (ppb)
Antimony, Total	3.0
Arsenic, Total	1.0
Beryllium, Total	0.2
Cadmium, Total	0.1
Chromium, Total	1.0
Chromium, Hexavalent	20.0
Copper, Total	1.0
Lead, Total	1.0
Mercury, Total	0.2
Nickel, Total	1.0
Selenium, Total	2.0
Silver, Total	0.5
Thallium, Total	1.0
Zinc, Total	5.0
Asbestos	**
Cyanide, Total	10.0
Phenols, Total	50.0
TCDD	**
MTBE (Methyl Tertiary Butyl Ether)	1.0
Turbidity	0.2 NTU
Fecal Coliform	2.0 MPN/100 ml

\*\* No Rhode Island Department of Environmental Management (RIDEM) MDL

### NOTE:

The MDL for a given analyte may vary with the type of sample. MDLs which are determined in reagent water may be lower than those determined in wastewater due to fewer matrix interferences. Wastewater is variable in composition and may therefore contain substances (interferents) that could affect MDLs for some analytes of interest. Variability in instrument performance can also lead to inconsistencies in determinations of MDLs.

To help verify the absence of matrix or chemical interference the analyst is required to complete specific quality control procedures. For the metals analyses listed above the analyst must withdraw from the sample two equal aliquots; to one aliquot add a known amount of analyte, and then dilute both to the same volume and analyze. The unspiked aliquot multiplied by the dilution factor should be compared to the original. Agreement of the results within 10% indicates the absence of interference. Comparison of the actual signal from the spiked aliquot to the expected response from the analyte in an aqueous standard should help confirm the finding from the dilution analysis. (Methods for Chemical Analysis of Water and Wastes EPA-600/4-79/020).

For Methods 624 and 625 the laboratory must on an ongoing basis, spike at least 5% of the samples from each sample site being monitored. For laboratories analyzing 1 to 20 samples per month, at least one spiked sample per month is required. The spike should be at the discharge permit limit or 1 to 5 times higher than the background concentration determined in Section 8.3.2, whichever concentration would be larger. (40 CFR Part 136 Appendix B Method 624 and 625 subparts 8.3.1 and 8.3.11).

**B. MONITORING AND REPORTING**

1. Monitoring

All monitoring required by this permit shall be done in accordance with sampling and analytical testing procedures specified in Federal Regulations (40 CFR Part 136).

2. Reporting

Monitoring results obtained during the previous quarter shall be summarized and reported on Discharge Monitoring Report (DMR) Forms, postmarked no later than the 15th day of the month following the completed quarter as follows:

<u>Quarter Testing to be Performed</u>	<u>Report Due No Later Than</u>	<u>Results Submitted on DMR for</u>
January 1 - March 31	April 15	March
April 1 - June 30	July 15	June
July 1 - September 30	October 15	September
October 1 - December 31	January 15	December

A signed copy of these, and all other reports required herein, shall be submitted to:

RIPDES Program  
Rhode Island Department of Environmental Management  
235 Promenade Street  
Providence, Rhode Island 02908

PART II  
TABLE OF CONTENTS

GENERAL REQUIREMENTS

- (a) Duty to Comply
- (b) Duty to Reapply
- (c) Need to Halt or Reduce Not a Defense
- (d) Duty to Mitigate
- (e) Proper Operation and Maintenance
- (f) Permit Actions
- (g) Property Rights
- (h) Duty to Provide Information
- (i) Inspection and Entry
- (j) Monitoring and Records
- (k) Signatory Requirements
- (l) Reporting Requirements
- (m) Bypass
- (n) Upset
- (o) Change in Discharge
- (p) Removed Substances
- (q) Power Failures
- (r) Availability of Reports
- (s) State Laws
- (t) Other Laws
- (u) Severability
- (v) Reopener Clause
- (w) Confidentiality of Information
- (x) Best Management Practices
- (y) Right of Appeal

DEFINITIONS



## GENERAL REQUIREMENTS

### (a) Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Chapter 46-12 of the Rhode Island General Laws and the Clean Water Act (CWA) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

- (1) The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA 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.
- (2) The CWA provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing Sections 301, 302, 306, 307 or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than 1 year, or both.
- (3) Chapter 46-12 of the Rhode Island General Laws provides that any person who violates a permit condition is subject to a civil penalty of not more than \$5,000 per day of such violation. Any person who willfully or negligently violates a permit condition is subject to a criminal penalty of not more than \$10,000 per day of such violation and imprisonment for not more than 30 days, or both. Any person who knowingly makes any false statement in connection with the permit is subject to a criminal penalty of not more than \$5,000 for each instance of violation or by imprisonment for not more than 30 days, or both.

### (b) 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. The permittee shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

### (c) Need to Halt or Reduce Not a Defense

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

### (d) Duty to Mitigate

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

(e) 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, and, where applicable, compliance with DEM "Rules and Regulations Pertaining to the Operation and Maintenance of Wastewater Treatment Facilities" and "Rules and Regulations Pertaining to the Disposal and Utilization of Wastewater Treatment Facility Sludge." This provision requires the operation of back-up or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

(f) Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause, including but not limited to: (1) Violation of any terms or conditions of this permit; (2) Obtaining this permit by misrepresentation or failure to disclose all relevant facts; or (3) A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge. 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.

(g) Property Rights

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

(h) Duty to Provide Information

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

(i) Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- (1) 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;
- (2) Have access to and copy, at reasonable times any records that must be kept under the conditions of this permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and

- (4) Sample or monitor any substances or parameters at any location, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA or Rhode Island law.

(j) Monitoring and Records

- (1) Samples and measurements taken for the purpose of monitoring shall be representative of the volume and nature of the discharge over the sampling and reporting period.
- (2) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings from 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 5 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.
- (3) 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.
- (4) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 and applicable Rhode Island regulations, unless other test procedures have been specified in this permit.
- (5) The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall upon conviction, be punished by a fine of not more than \$10,000 per violation or by imprisonment for not more than 6 months per violation or by both. Chapter 46-12 of the Rhode Island General Laws also provides that such acts are subject to a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.
- (6) Monitoring results must be reported on a Discharge Monitoring Report (DMR).
- (7) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136, applicable State regulations, 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.

(k) Signatory Requirement

All applications, reports, or information submitted to the Director shall be signed and certified in accordance with Rule 12 of the Rhode Island Pollutant Discharge Elimination System (RIPDES) Regulations. Rhode Island General Laws, Chapter 46-12 provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$5,000 per violation, or by imprisonment for not more than 30 days per violation, or by both.

(l) Reporting Requirements

- (1) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.
- (2) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with the permit requirements.
- (3) Transfers. This permit is not transferable to any person except after written notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under State and Federal law.
- (4) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- (5) Twenty-four hour reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment by calling DEM at (401) 222-4700 or (401) 222-3070 at night.

A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following information must be reported immediately:

- (i) Any unanticipated bypass which causes a violation of any effluent limitation in the permit; or
- (ii) Any upset which causes a violation of any effluent limitation in the permit; or
- (iii) Any violation of a maximum daily discharge limitation for any of the pollutants specifically listed by the Director in the permit.

The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- (6) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1), (2), and (5), of this section, at the time monitoring reports are submitted. The reports shall contain the information required in paragraph (1)(5) of the section.
- (7) 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 Director, they shall promptly submit such facts or information.

(m) Bypass

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

- (1) 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 (2) and (3) of this section.
- (2) 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 (10) days before the date of the bypass.
  - (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Rule 14.18 of the RIPDES Regulations.
- (3) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Director 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, where "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) 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 backup 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 (2) of this section.

- (ii) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (3)(i) of this section.

(n) Upset

"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.

- (1) 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 (2) 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.
- (2) 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:
  - (a) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (b) The permitted facility was at the time being properly operated;
  - (c) The permittee submitted notice of the upset as required in Rule 14.18 of the RIPDES Regulations; and
  - (d) The permittee complied with any remedial measures required under Rule 14.05 of the RIPDES Regulations.
- (3) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(o) Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. Discharges which cause a violation of water quality standards are prohibited. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit. Any anticipated facility expansions, production increases, or process modifications which will result in new, different or increased discharges of pollutants must be reported by submission of a new NPDES application at least 180 days prior to commencement of such discharges, or if such changes will not violate the effluent limitations specified in this permit, by notice, in writing, to the Director of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(p) Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner consistent with applicable Federal and State laws and regulations including, but not limited to the CWA and the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq., Rhode Island General Laws, Chapters 46-12, 23-19.1 and regulations promulgated thereunder.

(q) Power Failures

In order to maintain compliance with the effluent limitation and prohibitions of this permit, the permittee shall either:

In accordance with the Schedule of Compliance contained in Part I, provide an alternative power source sufficient to operate the wastewater control facilities;

or if such alternative power source is not in existence, and no date for its implementation appears in Part I,

Halt reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(r) Availability of Reports

Except for data determined to be confidential under paragraph (w) below, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the DEM, 291 Promenade Street, Providence, Rhode Island. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA and under Section 46-12-14 of the Rhode Island General Laws.

(s) State Laws

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 established pursuant to any applicable State law.

(t) Other Laws

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

(u) Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

(v) Reopener Clause

The Director reserves the right to make appropriate revisions to this permit in order to incorporate any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA or State law. In accordance with Rules 15 and 23 of the RIPDES Regulations, if any effluent standard or prohibition, or water quality standard is promulgated under the CWA or under State law which is more stringent than any limitation on the pollutant in the permit, or controls a pollutant not limited in the permit, then the Director may promptly reopen the permit and modify or revoke and reissue the permit to conform to the applicable standard.

(w) Confidentiality of Information

(1) Any information submitted to DEM pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, DEM may make the information available to the public without further notice.

(2) Claims of confidentiality for the following information will be denied:

- (i) The name and address of any permit applicant or permittee;
- (ii) Permit applications, permits and any attachments thereto; and
- (iii) NPDES effluent data.

(x) Best Management Practices

The permittee shall adopt Best Management Practices (BMP) to control or abate the discharge of toxic pollutants and hazardous substances associated with or ancillary to the industrial manufacturing or treatment process and the Director may request the submission of a BMP plan where the Director determines that a permittee's practices may contribute significant amounts of such pollutants to waters of the State.

(y) Right of Appeal

Within thirty (30) days of receipt of notice of a final permit decision, the permittee or any interested person may submit a request to the Director for an adjudicatory hearing to reconsider or contest that decision. The request for a hearing must conform to the requirements of Rule 49 of the RIPDES Regulations.



**DEFINITIONS**

1. For purposes of this permit, those definitions contained in the RIPDES Regulations and the Rhode Island Pretreatment Regulations shall apply.
2. The following abbreviations, when used, are defined below.

cu. M/day or M <sup>3</sup> /day	cubic meters per day
mg/l	milligrams per liter
ug/l	micrograms per liter
lbs/day	pounds per day
kg/day	kilograms per day
Temp. °C	temperature in degrees Centigrade
Temp. °F	temperature in degrees Fahrenheit
Turb.	turbidity measured by the Nephelometric Method (NTU)
TNFR or TSS	total nonfilterable residue or total suspended solids
DO	dissolved oxygen
BOD	five-day biochemical oxygen demand unless otherwise specified
TKN	total Kjeldahl nitrogen as nitrogen
Total N	total nitrogen
NH <sub>3</sub> -N	ammonia nitrogen as nitrogen
Total P	total phosphorus
COD	chemical oxygen demand
TOC	total organic carbon
Surfactant	surface-active agent
pH	a measure of the hydrogen ion concentration
PCB	polychlorinated biphenyl
CFS	cubic feet per second
MGD	million gallons per day
Oil & Grease	Freon extractable material
Total Coliform	total coliform bacteria
Fecal Coliform	total fecal coliform bacteria
ml/l	milliliter(s) per liter
NO <sub>3</sub> -N	nitrate nitrogen as nitrogen
NO <sub>2</sub> -N	nitrite nitrogen as nitrogen
NO <sub>3</sub> -NO <sub>2</sub>	combined nitrate and nitrite nitrogen as nitrogen
Cl <sub>2</sub>	total residual chlorine

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES  
235 PROMENADE STREET  
PROVIDENCE, RHODE ISLAND 02908

STATEMENT OF BASIS

RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM (RIPDES) PERMIT TO DISCHARGE TO WATERS OF THE STATE

RIPDES PERMIT NO. **RI0110094**

NAME AND ADDRESS OF APPLICANT:

American Mussel Harvesters, Inc.  
165 Tidal Drive  
North Kingstown, RI 02852

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

American Mussel Harvesters, Inc.  
165 Tidal Drive  
North Kingstown, RI

RECEIVING WATER:

Narragansett Bay – West Passage

CLASSIFICATION:

SA

**I. Proposed Action, Type of Facility, and Discharge Location**

The above named applicant has applied to the Rhode Island Department of Environmental Management (DEM) for reissuance of a RIPDES Permit to discharge into the designated receiving water.

*The Facility*

American Mussel Harvesters, Inc. (AMH) harvests, packs, markets, and ships live molluscan shellfish to major seafood markets across the United States and Canada. The facility is engaged in the wet storage of shellfish, e.g., mussels, quahogs, oysters, steamers, prior to shipment to market. The discharge will occur from flow through storage tanks. On April 22, 2009, AMH was granted a RIPDES permit for the discharge of water from a flow through system for wet storage of shellfish prior to shipment. For a variety of business related reasons, AMH did not begin discharging from the flow through system until April of 2011.

The flow through system is designed to maintain up to 16,000 pounds of quahogs, oysters, and steamers in approximately 15,000 gallons of seawater pumped from Narragansett Bay. The receiving water is sterilized using ultra violet lights to lower bacteria levels, and the storage tanks circulate water in a pattern that results in solids settling below the false bottoms of the tanks.

Accumulated solids are periodically removed and disposed of off-site. The flow-through system allows for complete turnover of water every few hours. The water is discharged from a submerged outfall located approximately 200 feet offshore.

#### *Discharge Location*

The discharge from this facility enters into the West Passage of Narragansett Bay which is designated in the RI Water Quality Regulations as Water Body ID No. RI0007027E-03A. This water body segment is located south of a line from the eastern extremity of Sandy point on Potowomut Neck, East Greenwich, to the flagpole located at the Warwick Country Club on Warwick Neck; south of a line from the southernmost extremity of Warwick Point on Warwick Neck, to the northernmost point on Prudence Island (Providence Point); west of a line from the southernmost point on Prudence Island to the northernmost point on Jamestown, and north of a line from Cormorant Point at the mouth of Pettaquamscutt River, Narragansett to Beavertail, Jamestown, excluding portions of the West Passage, Allen's Harbor and Wickford Harbor waters as described further in the RI Water Quality Regulations. This water body is classified as Class SA which according to the RI Water Quality Regulations are waters which are designated for shellfish harvesting for direct human consumption, primary and secondary contact recreational activities, and fish and wildlife habitat. They shall be suitable for aquacultural uses, navigation and industrial cooling and shall have good aesthetic value. Currently this water body is not impaired.

#### **II. Permit Limitations and Conditions**

The effluent limitations, monitoring requirements, and any implementation schedule (if required) may be found in the draft permit.

#### **III. Permit Basis and Explanation of Effluent Limitation Derivation**

Based on the nature of the discharge and of the receiving water, the DEM determined when the permit was first issued that there is no reasonable potential for the discharge to cause or contribute to a violation of water quality criteria, and discharge limitations were not necessary. Given the fact that the flow-through system allows for complete turnover of water every few hours, and that no food or chemicals are added, the DEM determined that temperature, pH, salinity, and suspended solid content of the discharge will not vary significantly from that of the receiving water. The DEM also anticipated that turbidity and fecal coliform content of the discharge would remain within tolerable limits as specified for class SA waters in the RI Water Quality Regulations for Water Pollution Control. Based on a review of past Discharge Monitoring Report (DMR) data submitted to the DEM since system operation began in April 2011, the DEM has determined that there continues to be no reasonable potential for the discharge to cause or contribute to a violation of water quality criteria, and discharge limitations are not necessary. A summary of historical DMR data can be found in *Attachment A*. To date there have not been any reports of water quality impacts in Narragansett Bay associated with the flow-through storage system. Quarterly monitoring for Flow, Turbidity, and Fecal Coliform bacteria will remain in the permit in order to keep a record of the concentrations of the pollutants that could potentially be introduced to Narragansett Bay by AMH's current operation. This data will be used to develop site specific limitations should future evidence suggest that this discharge is negatively impacting the water quality in Narragansett Bay. The DEM has determined that all permit limitations are consistent with the Rhode Island Antidegradation policy.

This permit does not authorize the discharge of storm water from the facility. If it is determined that this facility is required to obtain storm water permit coverage, the permittee must modify this permit to include stormwater or seek coverage under the RIPDES Stormwater Multi-Sector Industrial General Permit or an alternative RIPDES permit.

#### **IV. Comment Period, Hearing Requests, and Procedures for Final Decisions**

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all issues and submit all available arguments and all supporting material for their arguments in full by close of the public comment period, to the Rhode Island Department of

Environmental Management, Office of Water Resources, 235 Promenade Street, Providence, Rhode Island, 02908-5767. Any person, prior to such date, may submit a request in writing for a public hearing to consider the draft permit to the Rhode Island Department of Environmental Management. Such requests shall state the nature of the issues proposed to be raised in the hearing. A public hearing may be held after at least thirty (30) days public notice whenever the Director finds that the response to this notice indicates significant public interest. In reaching a final decision on the draft permit the Director will respond to all significant comments and make these responses available to the public at DEM's Providence Office.

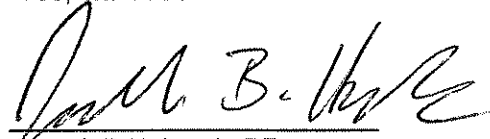
Following the close of the comment period, and after a public hearing, if such hearing is held, the Director will issue a final permit decision and forward a copy of the final decision to the applicant and each person who has submitted written comments or requested notice. Within thirty (30) days following the notice of the final permit decision any interested person may submit a request for a formal hearing to reconsider or contest the final decision. Requests for formal hearings must satisfy the requirements of Rule 49 of the Regulations for the Rhode Island Pollutant Discharge Elimination System.

V. **DEM Contact**

Additional information concerning the permit may be obtained between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding holidays, from:

Brian D. Lafaille, PE  
RIPDES Program  
Office of Water Resources  
Department of Environmental Management  
235 Promenade Street  
Providence, Rhode Island 02908  
Telephone: (401) 222-4700, ext. 7731

3/19/15  
Date

  
\_\_\_\_\_  
Joseph B Haberek, PE  
Principal Sanitary Engineer  
Office of Water Resources

**ATTACHMENT A**

**DESCRIPTION OF DISCHARGE:** Shellfish Flow Through Storage System  
**DISCHARGE:** 001A

**INFLUENT DATA:**

<u>PARAMETER</u>	<u>MONTHLY AVERAGE</u>	<u>DAILY MAXIMUM</u>
Turbidity	5.24 NTU	10.99 NTU

**EFFLUENT DATA:**

<u>PARAMETER</u>	<u>MONTHLY AVERAGE</u>	<u>DAILY MAXIMUM</u>
FLOW	---	300 gal/min.
Fecal Coliform	1.78 MPN/100mL	2.36 MPN/100mL
Turbidity	3.29 NTU	4.98 NTU

All data represents the mean of the monthly average and daily maximum data submitted by the permittee for the period beginning April 1, 2011 and ending December 31, 2014.

RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
OFFICE OF WATER RESOURCES  
PERMITS SECTION  
235 PROMENADE STREET  
PROVIDENCE, RHODE ISLAND 02908-5767

PUBLIC NOTICE OF PROPOSED PERMIT ACTIONS UNDER THE RHODE ISLAND POLLUTANT DISCHARGE ELIMINATION SYSTEM (RIPDES) PROGRAM WHICH REGULATES DISCHARGES INTO THE WATERS OF THE STATE UNDER CHAPTER 46-12 OF THE RHODE ISLAND GENERAL LAWS OF 1956, AS AMENDED.

DATE OF NOTICE: March 25, 2015

PUBLIC NOTICE NUMBER: PN-15-02

**DRAFT RIPDES PERMITS**

RIPDES PERMIT NUMBER: **RI0023868**

NAME AND MAILING ADDRESS OF APPLICANT:

**Rhodes Technologies**  
498 Washington Street  
Coventry, RI 02816

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**Rhodes Technologies**  
498, 500, and 500B Washington Street  
Coventry, RI 02816

RECEIVING WATER: **South Branch of the Pawtuxet River**

RECEIVING WATER CLASSIFICATION: **B1**

The above named applicant has applied to the DEM for reissuance of a RIPDES Permit to discharge into the designated receiving water. Rhodes Technologies manufactures active pharmaceutical ingredients for use in finished dosage of pharmaceutical formulations. The permitted discharge consists of stormwater and certain non-stormwater discharges. The permit requires Rhodes Technologies to develop and implement an effective SWPPP that will prevent the contamination of stormwater from industrial activity. This permit contains limitations and conditions to ensure that the discharge of stormwater is protective of water quality.

RIPDES PERMIT NUMBER: **RI0110094**

NAME AND MAILING ADDRESS OF APPLICANT:

**American Mussel Harvesters, Inc.**  
165 Tidal Drive  
North Kingstown, RI 02852

NAME AND ADDRESS OF FACILITY WHERE DISCHARGE OCCURS:

**American Mussel Harvesters, Inc.**  
165 Tidal Drive  
North Kingstown, RI 02852

RECEIVING WATER: **Narragansett Bay – West Passage**

RECEIVING WATER CLASSIFICATION: **SA**

The above named applicant has applied to the DEM for reissuance of a RIPDES Permit to discharge into the designated receiving water. The facility, which is the source of the discharge, is engaged in the wet storage of shellfish prior to shipment to market. The wet storage system withdraws Narragansett Bay water, disinfects it using UV light, and circulates it over the shellfish prior to discharge back into the receiving water. This permit contains limitations and conditions to ensure that the discharge is protective of water quality.

**PUBLIC COMMENT AND REQUEST FOR PUBLIC HEARING:**

Pursuant to Chapter 42-17.4 of the Rhode Island General Laws a public hearing has been scheduled to consider these permits if requested. Requests for a Public Hearing must be submitted in writing to the attention of Brian Lafaille, PE, Senior Sanitary Engineer at the address indicated above. Notice should be taken that if DEM receives a request from twenty-five (25) people, a governmental agency or subdivision, or an association having no less than twenty-five (25) members on or before 4:00 pm, April 23, 2015, a public hearing will be held at the following time and place:

April 28, 2015 at 5pm  
Room 280  
235 Promenade Street  
Providence, Rhode Island 02908

Interested persons should contact DEM to confirm if a hearing will be held at the time and location noted above.

235 Promenade Street is accessible to the handicapped. Individuals requesting communication assistance (assistive listening devices/readers/interpreters/captions) must notify the D.E.M. at the telephone number listed above or at 831-5508 (T.D.D.) 72 hours in advance of the hearing date.

Interested parties may submit comments on the permit actions and the administrative record to the address above no later than 4:00 pm on April 29, 2015.

If, during the public comment period, significant new questions are raised concerning the permit, DEM may require a new draft permit or statement of basis or may reopen the public comment period. A public notice will be issued for any of these actions.

Any person, including the permittee/applicant, who believes these permit actions are inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period under Rule 41. The public comment period is from March 25, 2015 to April 29, 2015. Commenters may request a longer comment period if necessary to provide a reasonable opportunity to comply with these requirements. Comments should be directed to DEM as noted above.

**FINAL DECISION AND APPEALS:**

Following the close of the comment period, and after a public hearing, if such hearing is held, the Director will issue a final decision and forward a copy of the final decision to the permittee and each person who has submitted written comments or requested notice. Within 30 days following the notice of the final decision, any interested person may submit a request for a formal hearing in accordance with the requirements of Rule 49.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joseph B. Haberek, PE  
Principal Sanitary Engineer  
RIPDES Permitting Program  
Office of Water Resources  
Department of Environmental Management