



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DAVID P. LITTELL
COMMISSIONER

September 2, 2010

VIA ELECTRONIC MAIL

Ms. Lisa Joy
NAVFAC PWD-ME Environmental
BLDG 59
Portsmouth Naval Shipyard
Portsmouth, NH 03804-5000
lisa.joy@navy.mil

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit # ME0002097
Maine Waste Discharge License (WDL) Application # W003318-5R-E-R
**Final Permit –Naval Computer And Telecommunications Area Master Station Atlantic
Detachment Cutler**

Dear Ms. Joy:

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

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

If you have any questions regarding this matter, please feel free to contact me at (207) 287-7658 or at phyllis.a.rand@maine.gov.

Sincerely,

Phyllis Arnold Rand
Division of Water Quality Management
Bureau of Land and Water Quality

Enclosure

Cc: Tanya Hovell, DEP/EMRO David Webster, USEPA Sandy Mojica, USEPA Lori Mitchell, DMU

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
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) 764-0477 FAX: (207) 760-3143



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

DEPARTMENT ORDER

IN THE MATTER OF

NAVAL COMPUTER AND	)	MAINE POLLUTANT DISCHARGE
TELECOMMUNICATIONS AREA MASTER	)	ELIMINATION SYSTEM PERMIT
STATION ATLANTIC DETACHMENT CUTLER	)	
CUTLER, WASHINGTON COUNTY, MAINE	)	AND
COOLING WATER/NON-PROCESS WATERS	)	
ME0002097	)	WASTE DISCHARGE LICENSE
W003318-5R-E-R	)	RENEWAL

APPROVAL

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection ("Department," hereinafter) has considered the application of the NAVAL COMPUTER AND TELECOMMUNICATIONS AREA MASTER STATION ATLANTIC DETACHMENT CUTLER ("permittee," hereinafter) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has applied to the Department for renewal of WDL #W003318-5R-C-R, that was issued on December 29, 2005, and is due to expire on December 25, 2010. The WDL approved the discharge of a daily maximum of 1.584 million gallons per day (MGD) of contact and non-contact cooling water, boiler blowdown, waste from a reverse osmosis unit, storm water and ground water from an electrical generating facility to Machias Bay, in Cutler, Maine.

MODIFICATIONS REQUESTED

1. The permittee has requested the Department eliminate Outfall #004 as the backup diesel generator is no longer in operation.
2. The permittee has requested the inclusion of air compressor waters as a component of discharge from Outfall #001.

MODIFICATIONS GRANTED

1. The Department is eliminating the limitations and monitoring requirements for Outfall #004.
2. The Department is adding air compressor waters as a component of discharge from Outfall #001.

PERMIT SUMMARY

Terms and Conditions: This permitting action is carrying forward the following terms and conditions of the previous licensing action with the following exception:

- 1) Eliminating the limitations and monitoring requirements for Outfall #004.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated August 26, 2010, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 MRSA Section 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - (c) 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 quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.

ACTION

THEREFORE, the Department APPROVES the above noted application of NAVAL COMPUTER AND TELECOMMUNICATIONS AREA MASTER STATION ATLANTIC DETACHMENT CUTLER to discharge up to 1.584 MGD of contact and non-contact cooling water, boiler blowdown, air compressor waters, waste from a reverse osmosis unit, miscellaneous non-process waste waters, storm water and ground water to Machias Bay, Class SB, in Cutler, 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 expires five (5) years from the date of signature below.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application June 30, 2010
Date of application acceptance July 9, 2010

This Order prepared by PHYLLIS A. RAND, BUREAU OF LAND & WATER QUALITY
ME0002097 2010

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- During the period beginning with the effective date of this permit, the permittee is authorized to discharge treated **contact cooling waters, non-contact cooling waters, air compressor waters, miscellaneous non-process waste waters, ground water and storm water run-off⁽¹⁾** from **Outfall #001** to the tide waters of Machias Bay. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #001 – Cooling Waters, Air Compressor Waters & Non-Process Waste Waters

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
Flow [50050]	---	---	---	1.584 MGD [07]	1/Month [01/30]	Calculate [CA]
Total Suspended Solids [00530]	---	660 lbs/day [26]	---	50 mg/L [19]	1/Month [01/30]	Grab [GR]
Oil & Grease [01051]	---	---	---	15 mg/L [19]	1/Month [01/30]	Grab [GR]
pH [00400]	---	---	---	6.0 – 8.5 SU [12]	---	Grab [GR]

Footnote:

- The discharge from the transit tank oil/water separator, to the cooling water pond, shall consist only of stormwater runoff which is collected and discharged through a properly maintained and efficiently operated oil/water separator. The direct or indirect discharge of liquids drawn from petroleum product pipelines, transport tanks, vessels, or storage tanks is not authorized by this permit. No dispersants, detergents, chemicals or emulsifiers shall be added to the wastewater discharge stream contributing flow to the separator and/or the collection and treatment system. There shall be no discharge of tank bottom water alone or in combination with storm water discharge or other waste waters through this outfall.

SPECIAL CONDITIONS

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

2. During the period beginning with the effective date of this permit, the permittee is authorized to discharge **non-contact cooling waters** from **Outfall #003** to the tide waters of Machias Bay. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #003 – Non-contact cooling waters – 52 HP Emergency Generator

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly <u>Average</u> as specified	Daily <u>Maximum</u> as specified	Monthly <u>Average</u> as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Flow [50050]	---	---	---	10 gpm [78]	1/Discharge Day [01/DD]	Calculate [CA]
Temperature [00011]	---	---	---	Report °F[15]	1/Discharge Day [01/DD]	Grab [GR]

SPECIAL CONDITIONS

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

Footnotes:

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

B. NARRATIVE EFFLUENT LIMITATIONS

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

C. OIL/WATER SEPARATOR MAINTENANCE

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

SPECIAL CONDITIONS

C. OIL/WATER SEPARATOR MAINTENANCE (cont'd)

For the purposes of minimizing suspended solids in the storm water directed to the separator, the permittee shall implement best management practices (BMPs) for erosion and sedimentation control. See Department publication entitled, Maine Erosion And Sedimentation Control BMPs for guidance. Section B, *Stormdrain Inlet Protection*, is included as Fact Sheet **Attachment B**. The complete list of BMPs can be found on Department website: <http://www.maine.gov/dep/blwq/docstand/escbmeps/index.htm>. The permittee shall periodically inspect, maintain and repair erosion and sedimentation control structures as necessary.

D. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with: 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on July 9, 2010; 2) the terms and conditions of this permit; and 3) only from Outfalls #001 and #003. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypass*, of this permit.

E. NOTIFICATION REQUIREMENT

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

1. Any substantial change in the volume or character of pollutants being introduced into the waste water treatment system(s) and or discharged.
2. For the purposes of this section, adequate notice shall include information on:
 - (a) the quality and quantity of waste water introduced to the waste water treatment system; and
 - (b) any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

F. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period.

SPECIAL CONDITIONS

F. MONITORING AND REPORTING (cont'd)

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

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

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

G. REOPENING OF PERMIT FOR MODIFICATIONS

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

H. SEVERABILITY

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

August 26, 2010

PERMIT NUMBER: **ME0002097**
LICENSE NUMBER: **W003318-5R-E-R**

NAME AND ADDRESS OF APPLICANT:

**NAVFAC PWD-ME Environmental
Bldg 59
Portsmouth Naval Shipyard
Portsmouth, ME 03804-5000**

COUNTY: **Washington**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Naval Computer And Telecommunications Area Master Station
Atlantic Detachment Cutler (NCTAMSLANT DET)
175 Ridge Road
Cutler, ME 04626**

RECEIVING WATER/CLASSIFICATION: **Tidewaters of Machias Bay/ Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Lisa Joy**
(207) 837-2728
lisa.joy@navy.mil

FACILITY CONTACT: **Commander Rodney M. Moore**
(207) 438-5534
rodney.m.moore@navy.mil

1. APPLICATION SUMMARY

NAVAL COMPUTER AND TELECOMMUNICATIONS AREA MASTER STATION ATLANTIC DETACHMENT CUTLER ("permittee," hereinafter) has applied to the Department for renewal of WDL #W003318-5R-C-R, that was issued on December 29, 2005, and is due to expire on December 25, 2010. The WDL approved the discharge of a daily maximum of 1.584 million gallons per day (MGD) of contact and non-contact cooling water, boiler blowdown, waste from a reverse osmosis unit, storm water and ground water from an electrical generating facility to Machias Bay, in Cutler, Maine.

2. MODIFICATIONS REQUESTED

1. The permittee has requested the Department eliminate Outfall #004 as the backup diesel generator is no longer in operation.
2. The permittee has requested the inclusion of air compressor waters as a component of discharge from Outfall #001.

3. MODIFICATIONS GRANTED

1. The Department is eliminating the limitations and monitoring requirements for Outfall #004.
2. The Department is adding air compressor waters as a component of discharge from Outfall #001.

4. PERMIT SUMMARY

- a. Terms and Conditions: This permitting action is carrying forward the following terms and conditions of the previous licensing action with the following exception:

- 1) Eliminating the limitations and monitoring requirements for Outfall #004.

- b. History – Relevant regulatory actions for the discharge from the permittee include the following:

October 8, 1974 – The USEPA issued NPDES permit #ME0002097 for a five-year term.

April 15, 1986 – The Department issued WDL #W003318-45-A-R for a five-year term.

December 22, 2000 - The Department issued WDL #W003318-5R-B-R for a five-year term.

December 29, 2005 – The Department issued MEPDES Permit #ME0002097/WDL #W003318-5R-C-R for a five-year term.

August 4, 2008 – The Department issued a minor modification and assigned WDL #W003318-5R-D-M.

- c. Source Description: The permittee's primary function is radio communication for the military. Power for the VHF transmitter is provided by an onside power plant via five diesel powered generators. An air-cooled radiator system was installed on four generators in 2004, eliminating the use of non-contact cooling water from Machias Bay. One generator continues to use salt water as a coolant. Salt water is pumped from Machias Bay into a reservoir from which it is pumped to the heat exchangers via a 550 gallon per minute (GPM) pump. All five generators maintain a closed loop cooling system

4. PERMIT SUMMARY (cont'd)

("contact" cooling water) containing fresh water as well as an intermediate cooling system consisting of non-contact fresh cooling water. The closed loop cooling system is cooled by the intermediate cooling system via a heat exchanger. The intermediate cooling system is cooled by either the air-cooled radiator system on four of the generators or by seawater pumped to the storage reservoir from Machias Bay on Generator #1. Since Generator #1 is only used as a backup, the seawater cooling discharge to Outfall #001 occurs only sporadically.

The fresh cooling water in the closed loop and intermediate cooling systems is discharged during maintenance which is conducted every 5 to 10 years. When this occurs, up to 3,400 gallons of contact cooling water from the closed loop system and up to 18,000 gallons of intermediate non-contact cooling water is discharged. A chemical additive, N-101, manufactured by Barclay Chemical, is added to both the closed loop contact cooling water and the intermediate non-contact cooling water at a level of 1,500 to 2,000 ppm for corrosion protection. Sodium hypochlorite (AL-15) or Biocide-BM may also be added when bacteria are detected. These discharges (open and closed loop) from the power plant are directed to Outfall #001 via an oil/water separator (OWS).

The saltwater reservoir that supplies the non-contact cooling water to Generator #1 at the power plant has a discharge pipe that directs overflow to a separate pipe south of what was formerly Outfall #002. This has been acknowledged by the Department as a *de minimis* discharge.

A boiler is utilized in the power plant for heating purposes during cold weather months. Impurities in boiler feedwater can accumulate inside the boiler and damage piping and other equipment. Normal maintenance of the boiler requires annual discharge of boiler blowdown during the non-heating season. Boiler blowdown is feedwater mixed with boiler residue and treatment chemicals added to the feedwater. The chemical, N-101, manufactured by Barclay Chemical, is added to boiler feedwater at a level of 1,500 to 2,000 ppm for corrosion protection. Sodium hypochlorite (AL-15) or Biocide-BM may also be added when bacteria are detected. The total annual discharge of boiler blowdown amounts to an estimated 2,600 gallons and is discharged to Outfall #001.

Blowdown from large, compressed air storage tanks results in an oily water discharge. This discharge is directed to an OWS and eventually to Outfall #001. This discharge is estimated to be 45 GPM.

There are four 15,000 gallon fuel transit tanks west of the power plant that are located in a bermed area. Stormwater from this bermed area drains via an OWS to former Outfall #002. This discharge was classified as nonregulated when the permit was modified in 2008 as the Department has historically only regulated storm water discharges from loading racks and bermed areas at tank farms at facilities that offload fuel from ships or barges.

4. PERMIT SUMMARY (cont'd)

The fuel farm consists of two 315,000 gallon aboveground tanks and one 210,000 gallon aboveground tank. The fuel farm is located in a plastic-lined, bermed containment area. Stormwater from the bermed containment area is hard-piped to an OWS. Discharge from the OWS is controlled by a hand valve and is visually inspected for oil or oil sheen prior to release to Outfall #004 via a drainage ditch. The oil and grease monitoring requirement was replaced with a temperature monitoring requirement when the permit was modified in 2008 as the Department has historically only regulated storm water discharges from loading racks and bermed areas at tank farms at facilities that offload fuel from ships or barges.

An OWS is installed as a part of the fuel truck off-loading facility and approximately 232,000 gallons of stormwater are collected annually within the bermed area of the facility. The OWS discharges to the bermed area of the fuel farm and then passes through the fuel farm OWS. Eventually, this stormwater discharge is directed to Outfall #004 via the drainage ditch. The oil and grease monitoring requirement was replaced with a temperature monitoring requirement when the permit was modified in 2008 as the Department has historically only regulated storm water discharges from loading racks and bermed areas at tank farms at facilities that offload fuel from ships or barges.

Building #122 on the permittee's pier has a 52-horsepower backup diesel generator that is cooled using seawater. The non-contact cooling water is directly discharged to tidal waters via Outfall #003. The generator is not currently operational. When or if it is repaired, it will only be operated under emergency conditions. A 120-kW backup diesel generator at Building #123 was cooled using non-contact seawater and discharged via Outfall #004. Since this generator is no longer operational, associated cooling water no longer discharges to Outfall #004 and the permittee is requesting removal of Outfall #004 from the permit.

The Department acknowledges that adjacent to Outfall #001 is a pipe that discharges overflow waters from a saltwater reservoir. The flow and pollutant loadings associated with the discharge are considered *de minimus* by the Department. Therefore, no limitations or monitoring requirements are being established for this discharge.

The permittee wishes to retain the ability to use tidal waters for non-contact cooling water at the present rate of 1,584,000 gallons per day to meet reliability objectives. The permittee acknowledges that the utilization of seawater continues to be a critical element for the remaining engine without connectivity to the radiation system and that seawater still provides the primary source of water for fire fighting purposes within the power plant complex. Concerns associated with the potential discharge of ethylene glycol have been addressed by the construction of internal and external containment berms. By monitoring the replenishment rate of ethylene glycol within the system and by implementing a regular schedule of inspections, the permittee uses this information to determine when on-site analytical quantification of ethylene glycol concentrations will be performed to supplement visual observations before releasing the contents of the containment berms into the detention pond and directly to the environment. The presence

4. PERMIT SUMMARY (cont'd)

of ethylene glycol will result in the disposal of the mixture off-site in accordance with Maine DEP regulations. An established protocol will be followed by Base personnel to properly respond to any indicators for the release of ethylene glycol. Experience with the system to-date has indicated an extremely tight circulation loop with an ability to quickly detect spot leaks.

- d. Wastewater Treatment: All cooling water is discharged to a pond approximately 8 feet wide by 40 feet long and 18 to 24 inches deep. The pond contains two granite blocks, and six untreated poles at the pond surface, at approximately five foot intervals and perpendicular to the water flow, to diffuse the velocity profile of the discharge water. The pond effluent is treated in an oil-water separator prior to discharge via Outfall #001.

Non-contact cooling water discharged via Outfall #003 is not treated prior to discharge to tidal waters.

All sanitary waste water generated by employees at the facility is disposed of in an on-site sub-surface waste water disposal system.

5. CONDITIONS OF PERMITS

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

6. RECEIVING WATER QUALITY STANDARDS

Maine Law, 38 M.R.S.A., Section 469, classifies the tidal waters of Machias Bay at the point of discharge as a Class SB waters. Maine Law, 38 M.R.S.A., Section 465-B(2) describes the classification standards for Class SB waters.

7. RECEIVING WATER CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists the marine waters in the vicinity of the permittee's outfall, (Assessment Unit ID# ME0105000209_513R) as, "Category 2: Estuarine and Marine Waters Attaining Some

7. RECEIVING WATER CONDITIONS (cont'd)

Designated Uses – Insufficient Information for Other Uses.” Attainment in this context is in regard to the designated use of the harvesting of shellfish. Currently, portions of the Maine Department of Marine Resources’ Shellfish Harvesting Area #55 are closed in the vicinity of the permittee’s discharge (Northeast Holmes Bay). The shellfish closure areas are identified on the map included as **Attachment A** of this Fact Sheet.

8. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall #001—Cooling/non-contact cooling water, non- process waste waters, air compressor waters and storm water runoff.

- a. Flow – This permitting action is carrying forward a daily maximum flow limitation of 1.584 MGD which the permittee has requested to be carried forward in this permitting action.

A review of the Discharge Monitoring Report (DMR) data for period of July 2005 through July 2010 indicates the following:

Flow

Value	Limit (MGD)	Range (MGD)	Average (MGD)	Number of DMRs	Compliance
Daily Maximum	1.584	0.019 – <1.584	1.129	38	100%

For calculation purposes, results reported as “less than” were considered present at the detection limit.

- b. Total Suspended Solids (TSS) – This permitting action is carrying forward daily maximum TSS concentration limit of 50 mg/L. The basis of the concentration limit is unknown.

The daily maximum mass limitation for TSS is being carried forward in this permitting action and is based on a daily maximum flow of 1.584 MGD.

The mass limit was derived as follows:

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs/day})(1.584 \text{ MGD}) = 660 \text{ lbs/day}$

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

A review of the DMR data for the period July 2005 – July 2010 indicates the daily maximum mass and concentration values have been reported as follows:

TSS

Value	Limit	Range	Average	Number of DMRs	Compliance
Daily Max, mg/L	50	<0.02 – 144	16	38	89%
Daily Max, lbs/day	660	0.24 – 1902	280	30	87%

For calculation purposes, results reported as “less than” were considered present at the detection limit.

- c. Oil & grease – This permitting action is carrying forward the daily maximum oil and grease concentration limitation of 15 mg/L. The limit is consistent with the daily maximum oil & grease limits established for other like dischargers and is the threshold at which said discharges will cause a visible oil sheen in the receiving water.

A review of the Discharge Monitoring Report (DMR) data for period of July 2005 through July 2010 indicates the following:

Oil and Grease

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Daily Maximum	15	<1.0 – 7.7	2.0	38	100%

For calculation purposes, results reported as “less than” were considered present at the detection limit.

Outfall #003 & Outfall #004 – Non-contact cooling water

- j. Flow – This permitting action is carrying forward a daily maximum flow limitation of 10 gpm for Outfall #003 and is eliminating flow monitoring requirements for Outfall #004.

A review of the Discharge Monitoring Report (DMR) data for period of July 2005 through July 2010 indicates the permittee did not discharge from either Outfall #003 or Outfall #004.

- k. Temperature – This permitting action is carrying forward a “Report Only” daily maximum temperature monitoring requirement for Outfall #003 and is eliminating temperature monitoring requirements for Outfall #004.

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

A review of the Discharge Monitoring Report (DMR) data for period of July 2005 through July 2010 indicates the permittee did not discharge from either Outfall #003 or Outfall #004.

9. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

10. PUBLIC COMMENTS

Public notice of this application was made in the *Bangor Daily News* newspaper on or about June 9, 2010. The Department receives public comments on an application until the date a final agency action is taken on that application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

11. DEPARTMENT CONTACTS:

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

Phyllis A. Rand
Division of Water Quality Management
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12. RESPONSE TO COMMENTS

During the period of July 16, 2010, through the issuance date of the permit/license, the Department solicited comments on the proposed draft permit/license to be issued for the discharge(s) from the permittee. Two significant comments from Department staff were received, resulting in the following changes:

1. The pH daily maximum limitation from the 2008 Minor Permit Modification is being carried forward in Special Condition A.1;
2. The 1/Discharge Day flow measurement frequency from the 2008 Minor Permit Modification is being carried forward in Special Condition A.2.

ATTACHMENT A

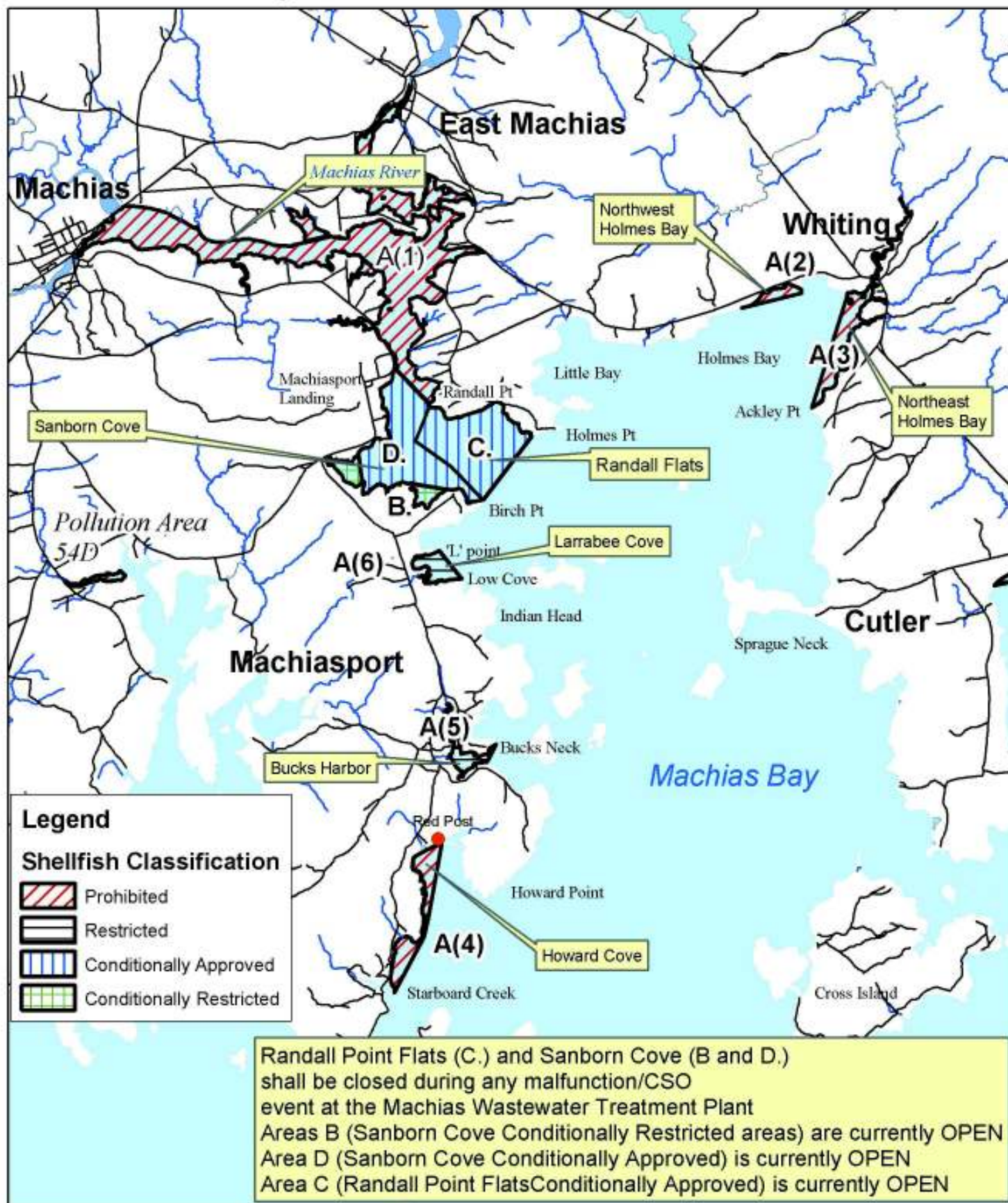


Maine Department of Marine Resources

Pollution Area No. 55



Machias and East Machias Rivers and Machias Bay
(Machias, East Machias, Machiasport, Whiting, Cutler) July 1, 2010
All existing bacterial and red tide/PSP closures in this area remain in effect.



ATTACHMENT B

B-3 STORMDRAIN INLET PROTECTION**PURPOSE & APPLICATIONS**

A storm drain inlet protection is a sediment filter installed around a storm drain drop inlet or curb inlet to reduce sediment discharge. The purpose of storm drain inlet protection is to prevent sediment from entering a storm drainage system prior to permanent stabilization of the disturbed area. Stormdrains made operational before their drainage area is stabilized can convey large amounts of sediment to storm sewer systems or natural drainage ways and in extreme cases, the storm sewer itself may clog and lose a major portion of its capacity. To avoid these problems, it is necessary to prevent sediment from entering the system at the inlets.

CONSIDERATIONS

- This practice applies mainly to enclosed drainage systems.
- If these systems outlet to a stream, water quality must be protected.
- This practice contains several types of inlet filters and traps which have different applications dependent upon site conditions and the type of inlet. Other innovative techniques for accomplishing the same purpose are encouraged, but they should be installed only after careful study of their effectiveness.
- Note that these various inlet protection devices are for drainage areas of **less than one acre**. Runoff from large disturbed areas should be routed through a sediment trap or sediment basin.
- The best way to prevent sediment from entering the storm sewer system is to stabilize the site as quickly as possible, preventing erosion and stopping sediment at its source.

SPECIFICATIONS**Design Criteria**

- The drainage area shall be no greater than 1 acre.
- The inlet protection device shall be constructed in a manner that will facilitate clean-out and disposal of trapped sediments and minimize interference with construction activities.
- Any resultant ponding of stormwater must not cause excessive inconvenience or damage to adjacent areas or structures.

Hay Bale Drop Inlet Structure

See the detail drawing located at the back of this section for the proper installation of hay bale sediment barrier.

- Hay Bales shall be as specified in the SEDIMENT BARRIER BMP
- Bales shall be string-tied with the bindings oriented around the sides rather than over and under the bales.
- Bales shall be placed lengthwise in a single row surrounding the inlet, with the ends of adjacent bales pressed together.
- The filter barrier shall be entrenched and backfilled. A trench shall be excavated around the inlet the width of a bale to a minimum depth of 4 inches. After the bales are staked, the excavated soil shall be backfilled and compacted against the filter barrier.
- Each bale shall be securely anchored and held in place by at least two stakes or rebars driven through the bale.
- Loose straw shall be wedged between bales to prevent water from entering between bales.

Silt Fence Drop Inlet Sediment Filter

See the detail drawing located at the back of this section for the proper installation of silt fence sediment barrier.

- Silt fence shall be as specified in the SEDIMENT BARRIER BMP and shall be cut from a continuous roll to avoid joints.
- Stakes shall be spaced around the perimeter of the inlet a maximum of 3 feet apart and securely driven into the ground (minimum of 8 inches).
- A trench shall be excavated approximately 4 inches wide and 4 inches deep around the outside perimeter of the stakes and 8 inches of the fabric shall be extended into the trench.
- The height of the filter barrier shall be a minimum of 15 inches and shall not exceed 18 inches.
- The trench shall be backfilled and the soil compacted over the fabric.

Gravel and Wire Mesh Drop Inlet Sediment Filter

This filtering device has no overflow mechanism; therefore, ponding is likely especially if sediment is not removed regularly. This type of device must never be used where overflow may endanger an exposed fill slope. Consideration should also be given to the possible effects of ponding on traffic movement, nearby structures, working areas, adjacent property, etc. See the detail drawing located at the back of this section for the proper installation of block and gravel sediment barrier.

With Gravel

- Wire mesh shall be laid over the drop inlet so that the wire extends a minimum of 1 foot beyond each side of the inlet structure. Hardware cloth or comparable wire mesh with 1/2-inch openings shall be used. If more than one strip of mesh is necessary, the strips shall be overlapped.
- Stone for French drains shall be placed over the wire mesh as indicated on Figure 16.3. The depth of stone shall be at least 12 inches over the entire inlet opening. The stone shall extend beyond the inlet opening at least 18 inches on all sides. Stone gradation shall be well graded with the maximum stone size of 6 inches and a minimum stone size of 1 inch.
- If the stone filter becomes clogged with sediment so that it no longer adequately performs its function, the stones must be pulled away from the inlet, cleaned and replaced.

With Concrete Blocks and Gravel

- Place concrete blocks lengthwise on their side in a single row around the perimeter of the inlet, with the ends of adjacent blocks abutting. The height of the barrier can be varied, depending on design needs, by stacking combinations of 4-inch, 8-inch and 12-inch wide blocks. The barrier of blocks shall be at least 12 inches high and no greater than 24 inches high.
- Wire mesh shall be placed over the outside vertical face (webbing) of the concrete blocks to prevent stone from being washed through the holes in the blocks. Hardware cloth or comparable wire mesh with 1/2-inch openings shall be used.
- Stone shall be piled against the wire to the top of the block barrier. Stone gradation shall be well graded with the maximum stone size of 6 inches and minimum stone size of 1 inch.
- If the stone filter becomes clogged with sediment so that it no longer adequately performs its function, the stone must be pulled away from the blocks, cleaned and replaced.

Curb Inlet Sediment Filter

With Gravel

- Hardware cloth or comparable wire mesh with 1/2-inch openings shall be placed over the curb inlet opening so that at least 12 inches of wire extends across the inlet cover and at least 12 inches of wire extends across the concrete gutter from the inlet opening.
- Stone shall be piled against the wire so as to anchor it against the gutter and inlet cover and to cover the inlet opening completely. Maine Department of Transportation stone for French drains shall be used.
- If the stone filter becomes clogged with sediment so that it no longer adequately performs its function, the stone must be pulled away from the block, cleaned and replaced.

With Concrete Blocks and Gravel

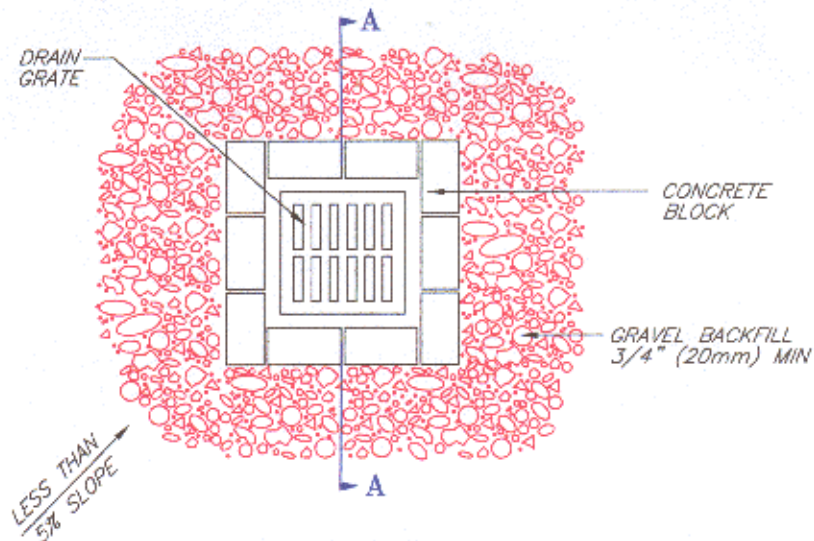
- Two concrete blocks shall be placed on their sides abutting the curb at either side of the inlet opening.
- A 2-inch by 4-inch stud shall be cut and placed through the outer holes of each spacer block to help keep the front blocks in place.
- Concrete blocks shall be placed on their sides across the front of the inlet and abutting the spacer blocks.
- Wire mesh shall be placed over the outside vertical face (webbing) of the concrete blocks to prevent stone from being washed through the holes in the blocks. Chicken wire or hardware cloth with 1/2-inch openings shall be used.
- Maine Department of Transportation stone for French drains shall be piled against the wire to the top of the barrier.
- If the stone filter becomes clogged with sediment so that it no longer adequately performs its function, the stone must be pulled away from the blocks, cleaned and replaced.

Manufactured Sediment barriers and filters

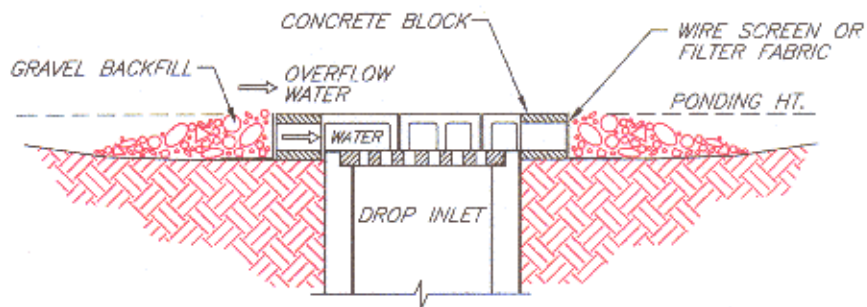
There are now various types of off-the-shelf systems with the function to detain stormwater and collect sediments such as the silt sock or other manufactured materials. These measures are acceptable as long as they are installed, used and maintained as specified by the vendor or manufacturer.

MAINTENANCE

- The structure shall be inspected before and after each rain event and repaired as needed.
- Sediment shall be removed and the stormdrain sediment barrier restored to its original dimensions when the sediment has accumulated to 1/2 the design depth of the trap. Removed sediment shall be deposited in a suitable area and in such a manner that it will not erode.
- Structures shall be removed and the area stabilized when the remaining drainage area has been properly stabilized.
- All catchbasins and stormdrain inlet must be cleaned at the end of construction and after the site has been fully stabilized.



PLAN VIEW



SECTION A - A

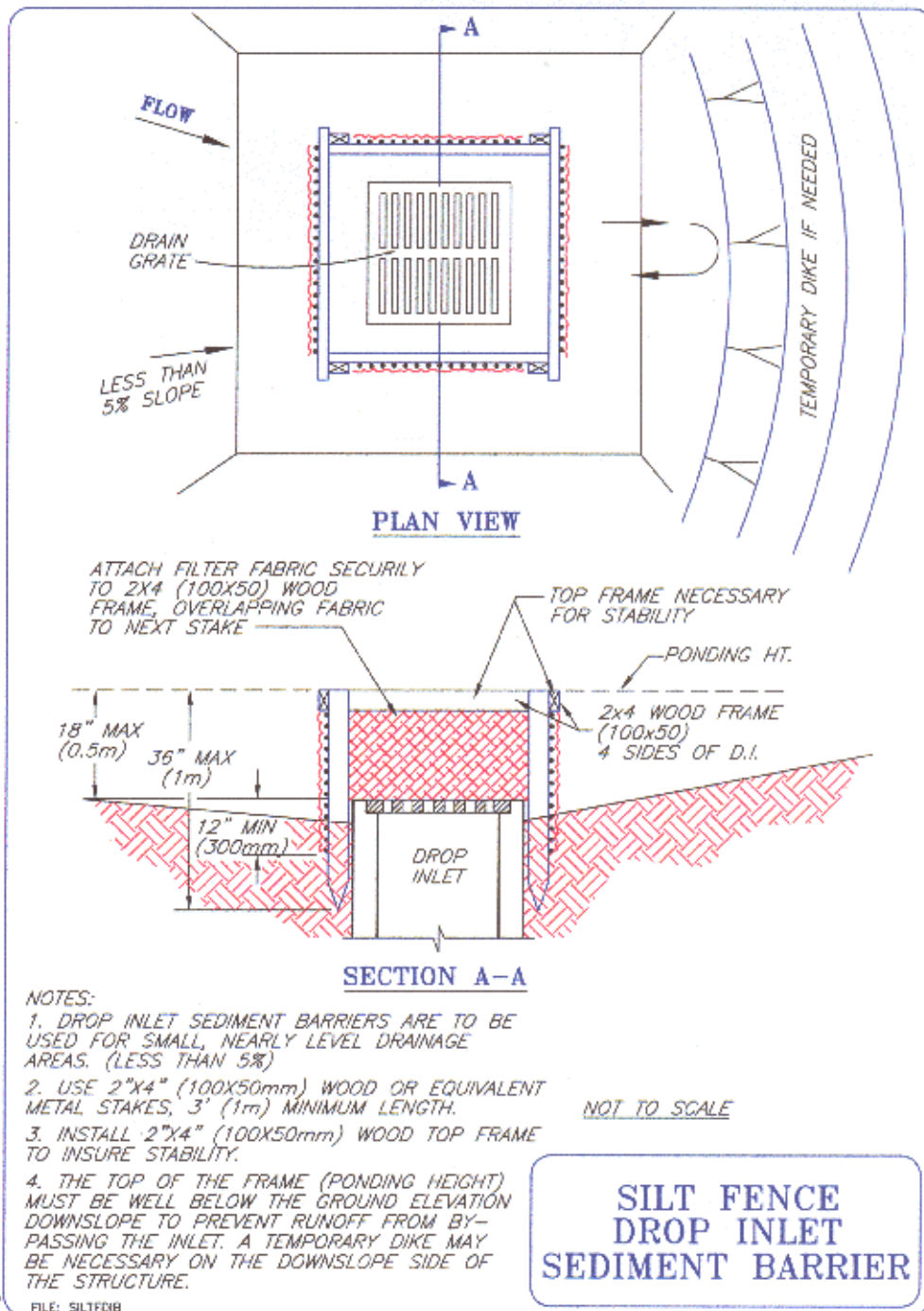
NOTES:

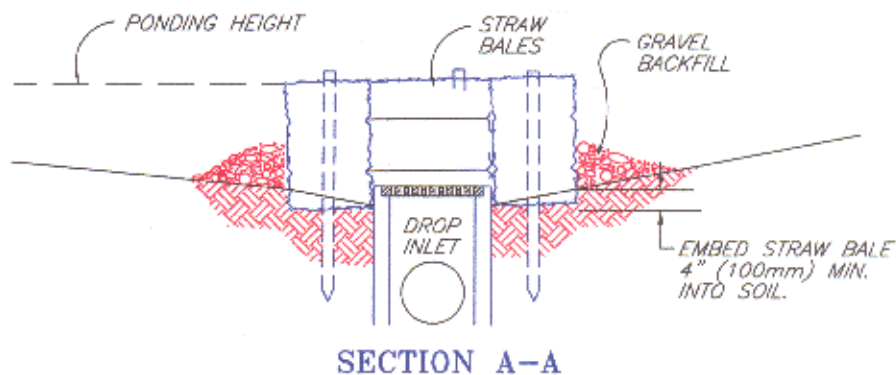
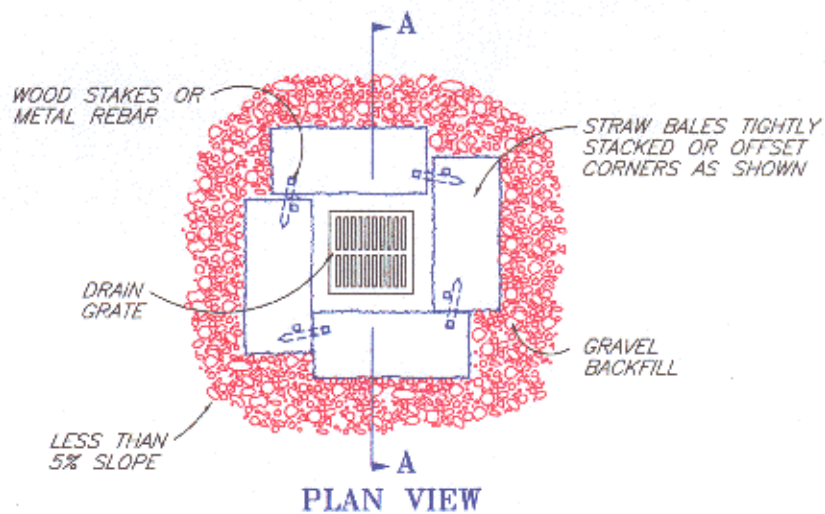
1. DROP INLET SEDIMENT BARRIERS ARE TO BE USED FOR SMALL, NEARLY LEVEL DRAINAGE AREAS. (LESS THAN 5%)
2. EXCAVATE A BASIN OF SUFFICIENT SIZE ADJACENT TO THE DROP INLET.
3. THE TOP OF THE STRUCTURE (PONDING HEIGHT) MUST BE WELL BELOW THE GROUND ELEVATION DOWNSLOPE TO PREVENT RUNOFF FROM BYPASSING THE INLET. A TEMPORARY DIKE MAY BE NECESSARY ON THE DOWNSLOPE SIDE OF THE STRUCTURE.

**BLOCK AND GRAVEL
DROP INLET
SEDIMENT BARRIER**

1994 JOHN McCULLAN
HATTINGHAM INC. 1661

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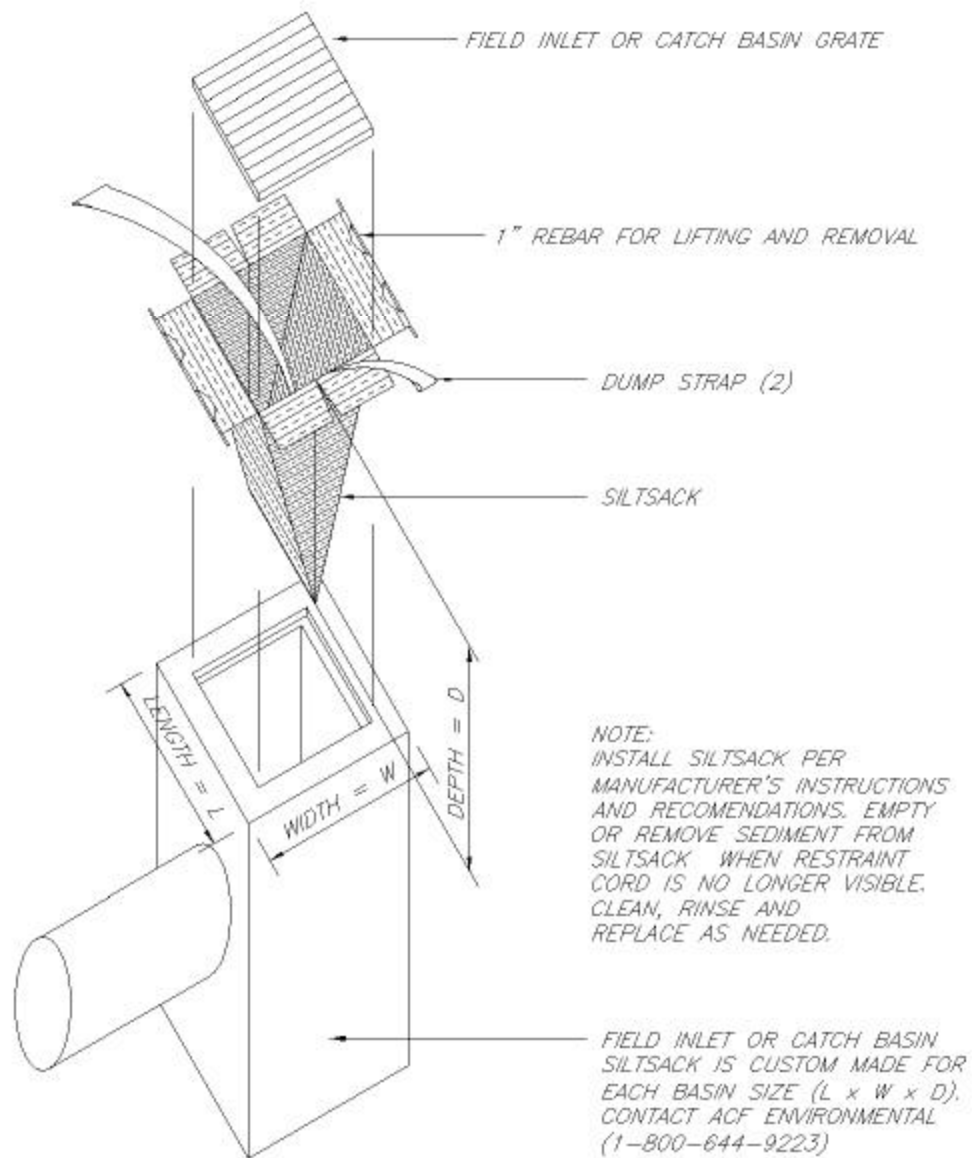
NOTES:

1. DROP INLET SEDIMENT BARRIERS ARE TO BE USED FOR SMALL, NEARLY LEVEL DRAINAGE AREAS. (LESS THAN 5%)
2. EMBED THE BALES 4" (100mm) INTO THE SOIL AND OFFSET CORNERS OR PLACE BALES WITH ENDS TIGHTLY ABUTTING. GRAVEL BACKFILL WILL PREVENT EROSION OR FLOW AROUND THE BALES.
3. THE TOP OF THE STRUCTURE (PONDING HEIGHT) MUST BE WELL BELOW THE GROUND ELEVATION DOWNSLOPE TO PREVENT RUNOFF FROM BYPASSING THE INLET. EXCAVATION OF A BASIN ADJACENT TO THE DROP INLET OR A TEMPORARY DIKE ON THE DOWNSLOPE OF THE STRUCTURE MAY BE NECESSARY.

**STRAW BALE/GRAVEL
DROP INLET
SEDIMENT BARRIER**

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FILE: STRWGRVB



SILTSACK INLET SEDIMENT CONTROL DEVISE

ME DEP 2003

©

FILE: SILTSACK

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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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

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

(c) Notice.

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

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
 - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The permittee submitted notices as required under paragraph (c) of this section.
 - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

6. Upsets.

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated; and
 - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).
 - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

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C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

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

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

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

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

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

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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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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STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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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 Commissioner's Licensing Decision

Dated: May 2004

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. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days 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 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 and the applicant a copy of the documents. All 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

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by 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 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 as part of an appeal only when 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 show 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, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information 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.* An applicant proceeding with a project pending the outcome of an appeal 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 initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final 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. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

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.
