STATE OF MAINE

Department of Environmental Protection

John Elias Baldacci
GOVERNOR

Beth Nagusky
ACTING COMMISSIONER

October 14, 2010

Mr. Mark Thibodeau
Plant Manager
Covanta Maine, LLC
P.O. Box 317, Route #2
West Enfield, Maine 04493

RE: Maine Waste Discharge License (WDL) Application #W006116-5S-H-R
Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0023213
Final Permit/License

Dear Mr. Thibodeau:

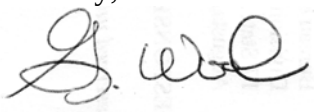
Enclosed please find a copy of your **final** Maine MEPDES/WDL which was approved by the Department of Environmental Protection. Please read the permit and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate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

We would like to bring to your attention a footnote on page 7 of the permit that makes reference to the possibility of re-opening this permit in the future, after notice and opportunity for comment by Covanta Maine, LLC, to incorporate less stringent storm water monitoring requirements.

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 the matter, please feel free to call me at 287-7693.

Sincerely,



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

Enc.
cc: Tanya Hovell, DEP/EMRO
Sandy Mojica, USEPA

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

DEPARTMENT ORDER

IN THE MATTER OF

COVANTA MAINE, LLC.	)	MAINE POLLUTANT DISCHARGE
ENFIELD, PENOBSCOT COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
ELECTRICAL GENERATING STATION	)	AND
W006116-5S-H-R	)	WASTE DISCHARGE LICENSE
ME0023213 **APPROVAL**	)	**RENEWAL**

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 all applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of the CONVANTA MAINE, LLC (Covanta/permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

Covanta has filed a timely and complete application with the Department for the renwal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023213/Maine Waste Discharge License (WDL) #W006116-5S-G-M (permit hereinafter) which was issued by the Department on July 26, 2005, and is due to expire on July 26, 2010. The 7/26/05 permit authorized the discharge of up to a daily maximum flow of 150,000 gallons per day (gpd) of cooling tower blowdown, up to a daily maximum of 1,000 gpd of miscellaneous equipment drain water and up to a daily maximum flow of 36,000 gpd of cooling tower sandfilter back wash waters to the Penobscot River, Class B, in Enfield, Maine. Collectively, the flow from the three outfalls was limited to 187,000 gpd. The 7/26/05 permit also incorporated limitations and monitoring requirements for the discharge of storm water runoff associated with industrial activities from five outfalls.

PERMIT SUMMARY

This permitiing action is similar to the 7/26/05 permitting action in that it is carrying forward all limitations and monitoring requirement except that this permit expands the requirements on the discharge of storm water runoff.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated July 28, 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

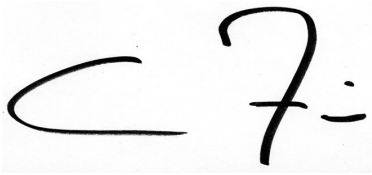
THEREFORE, the Department APPROVES the application of COVANTA MAINE LLC, to discharge up to a daily maximum flow of 150,000 gallons per day (gpd) of cooling tower blowdown, up to a daily maximum of 1,000 gpd of miscellaneous equipment drain water, up to a daily maximum flow of 36,000 gpd of cooling tower sandfilter back wash waters and storm water runoff from five outfalls to the Penobscot River, Class B, in Enfield, Maine. Collectively, the flow from the three non-storm water runoff outfalls is limited to 187,000 gpd. The discharges shall be 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 2, 2001, copy attached.

2. The attached Special Conditions, including any effluent limitations and monitoring requirements.

3. This permit becomes effective upon the date of signature and expires at midnight five (5) years thereafter.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES



This permit has been digitally signed by Andrew C. Fisk on behalf of Acting Commissioner Beth Nagusky. It is digitally signed pursuant to authority under 10 M.R.S.A. § 9418. It has been filed with the Board of Environmental Protection as of the signature da
2010.10.14 14:44:48 -04'00'

Date of initial receipt of application April 22, 2010.
Date of application acceptance April 22, 2010.

This Order prepared by GREGG WOOD, BUREAU OF LAND & WATER QUALITY
ME0023213 2010 10/13/10

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of the permit, the permittee is authorized to discharge cooling tower blowdown from internal **OUTFALL #001** to the Penobscot River. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #001 – Cooling Tower Blowdown

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	**Daily Maximum** as specified	**Monthly Average** as specified	**Daily Maximum** as specified	**Measurement Frequency** as specified	**Sample Type** as specified
Flow *[50050]*	---	150,000 gpd *[03]*	---	---	Continuous *[99/99]*	Meter *[MT]*
Temperature *[00011]*	---	---	---	85°F *[15]*	2/Month *[02/30]*	Grab *[GR]*
Free Available Chlorine(1) *[50060]*	---	---	0.2 mg/L *[19]*	0.5 mg/L *[19]*	1/Week(2) *[01/07]*	Grab *[GR]*
pH *[00400]*	---	---	---	6.0-9.0 SU *[12]*	1/Month *[01/30]*	Grab *[GR]*

Footnotes:

(1) Neither free available chlorine or total residual chlorine may be discharged from any unit for more than two hours in any one day pursuant to 40 CFR, §423.12(b)(8).

(2) Monitoring for Free Available Chlorine (FAC) is only required when elemental chlorine or chlorine based compounds are utilized as a biocide. The permittee shall enter *NODI-9* on the line for FAC on the monthly DMR when discharging but not utilizing elemental chlorine or chlorine based compounds.

SPECIAL CONDITIONS

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

2. Beginning the effective date of the permit, the permittee is authorized to discharge low volume waste waters from building and equipment drain waters and storm water from internal **OUTFALL #002** to the Penobscot River. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #002 – Low Volume Waste Waters

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	**Daily Maximum** as specified	**Monthly Average** as specified	**Daily Maximum** as specified	**Measurement Frequency** as specified	**Sample Type** as specified
Flow *[50050]*	---	1,000 gpd *[03]*	---	---	Continuous *[99/99]*	Meter *[MT]*
Total Suspended Solids *[00530]*	---	---	30 mg/L *[19]*	100 mg/L *[19]*	2/Month *[02/30]*	Grab *[GR]*
Oil & Grease *[00552]*	---	---	---	15 mg/L *[19]*	2/Month *[02/30]*	Grab *[GR]*
Temperature *[00011]*	---	---	---	80°F *[15]*	2/Month *[02/30]*	Grab *[GR]*
pH *[00400]*	---	---	---	6.0-9.0 SU *[12]*	1/Month *[01/30]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

3. Beginning the effective date, the permittee is authorized to discharge sandfilter backwash waters from internal **OUTFALL #003** to the Penobscot River. Such discharges shall be limited and monitored by the permittee as specified below:

OUTFALL #003 – Sandfilter Backwash Waters

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average as specified	**Daily Maximum** as specified	**Monthly Average** as specified	**Daily Maximum** as specified	**Measurement Frequency** as specified	**Sample Type** as specified
Flow *[50050]*	Report gpd *[03]*	36,000 gpd *[03]*	---	---	Continuous *[99/99]*	Meter *[MT]*
Total Suspended Solids *[00530]*	---	---	30 mg/L *[19]*	100 mg/L *[19]*	2/Month *[02/30]*	Grab **(1)** *[GR]*
pH *[00400]*	---	---	---	6.0-9.0 SU	1/Month *[01/30]*	Grab *[GR]*

Footnotes:

(1) The grab sample for total suspended solids shall be collected within the first four minutes of the commencement of the cycle.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

4. The permittee is authorized to discharge storm water runoff from **OUTFALLS #004, #005, #006, #007, #008**.
   a. Authorized storm water discharge points.

OUTFALL #004 – Easterly of the cooling towers.
OUTFALL #005 – South of the ash silo.
OUTFALL #008 - Northeasterly of the chip pile.
OUTFALL #006 – Northeasterly of the chip pile.
OUTFALL #007 – Northeasterly of the chip pile.

   b. Storm Water Pollution Prevention Plan (SWPPP)

With respect to areas of the facility contributing storm water flow subject to this permit, the permittee shall develop, implement, maintain and annually update a Storm Water Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in Part IV Sections A-O of the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated October 11, 2005. The permittee shall maintain a copy of the SWPPP on-site for Department or USEPA staff inspection.**Within 60 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in storm water, the permittee shall amend the SWPPP and note all changes.

   c. Monitoring Requirements **(1)**

At a minimum frequency of once per calendar quarter, the permittee shall perform and document a visual examination of a storm water discharge at the end of the storm water conduit for each outfall (Outfalls #004, #005, #006, #007 and #008) in accordance with Department guidance document #DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities*, including associated **Attachments A** (*Instructions for Completing the Visual Monitoring Form)* and (*Visual Monitoring Form*) (all included as Attachment A of this permit).The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the observation date.

Footnotes: (1) Should less stringent monitoring requirements be adopted by the Department during the term of this permit, the permittee may a request a modification of the permit to incorporate the new monitoring requirements or the Department may initiate a modification of the permit pursuant to Special Condition E of this permit, after notice and opportunity for comment by Covanta Maine, LLC, to incorporate less stringent storm water monitoring requirements.

SPECIAL CONDITIONS

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

Footnotes:

Sampling Locations:

Outfall #001 – At the exit of the cooling tower.
Outfall #002 – After the oil/water separator.
Outfall #003 – Off of the pressure line of the back wash piping.

Any change in sampling location(s) must be reviewed and approved by the Department in writing.

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

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

SPECIAL CONDITIONS

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 usages designated by the classification of the receiving waters.

2. The effluent shall not contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the usages designated by the classification of the receiving waters.

3. The discharges 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 license the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. 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 April 22, 2010; And 2) the terms and conditions of this permit. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5)(*Bypass*) of this permit.

D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of the following of any substantial change in the volume or character of pollutants being discharged.

E. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at 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 effluent or ambient water quality monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

SPECIAL CONDITIONS

F. OPERATIONS AND MAINTENANCE (O & M) PLAN AND SITE PLAN

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

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

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

G. MONITORING AND REPORTING

Monitoring results shall be summarized for each calendar quarter and reported on separate Discharge Monitoring Report Forms provide by the Department and postmarked on or before the thirteenth (13^{th}) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15^{th}) day of the month following the completed reporting period. A signed copy of the Discharge Monitoring Report 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 Discharge Monitoring Report (eDMR), the completed eDMR must be electronically submitted to the Department by a facility authorized DMR Signatory not later than close of business on the 15^{th} day of the month following the completed reporting period. Hard Copy documentation submitted in support of the eDMR must be postmarked on or before the thirteenth (13^{th}) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15^{th}) day of the month following the completed reporting period. Electronic documentation in support of the eDMR must be submitted not later than close of business on the 15^{th} day of the month following the completed reporting period.

SPECIAL CONDITIONS

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 POLLUTANTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

Date: **July 28, 2010**

MEPDES PERMIT NUMBER: **ME0023213**
WDL NUMBER: **W006116-5S-H-R**

NAME AND ADDRESS OF APPLICANT:

COVANTA MAINE, LLC.
P.O. Box 317, Route #2
West Enfield, Maine 04493

COUNTY: **Penobscot County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Route #2
West Enfield, Maine 04493

RECEIVING WATER/CLASSIFICATION: **Penobscot River/Class B**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Mark Thibodeau,**
Plant Manager
(207) 732-4151
mthibodeau@covantaenergy.com

1. APPLICATION SUMMARY

a. Application - Covanta Maine LLC (Convanta/permittee hereinafter) has filed a timely and complete application with the Department for the renwal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0023213/Maine Waste Discharge License (WDL) #W006116-5S-G-M (permit hereinafter) which was issued by the Department on July 26, 2005, and is due to expire on July 26, 2010. The 7/26/05 permit authorized the discharge of up to a daily maximum flow of 150,000 gallons per day (gpd) of cooling tower blowdown, up to a daily maximum of 1,000 gpd of miscellaneous equipment drain water and up to a daily maximum flow of 36,000 gpd of cooling tower sandfilter back wash waters to the Penobscot River, Class B, in Enfield, Maine. Collectively, the flow from the three outfalls was limited to 187,000 gpd. The 7/26/05 permit also incorporated limitations and monitoring requirements for the discharge of storm water runoff associated with industrial activities from five outfalls. See **Attachment A** of this Fact Sheet for a location map.

1. APPLICATION SUMMARY (cont'd)

b. Source Description – The facility is engaged in the daily production of approximately 24.5 megawatts of electricity. The Covanta facility is a based-loaded biomass facility whereby wood chips are burned as fuel to produce steam to generate electricity. Waste waters generated at the facility include cooling tower blowdown, building and equipment drain water and minor quantities of storm water that is collected in a sump and sandfilter backwash waters associated with the filtering of river water for use in the cooling tower basin.

All three waste streams described above are independent waste streams that are conveyed to a common outfall prior to discharge to the Penobscot River. The outfall to the river is a pipe measuring 4 inches in diameter that extends out into the river approximately 100 feet, and is located just upstream of the West Enfield Dam. See **Attachment B** of this Fact Sheet for site plan of the facility. The end of the outfall pipe is fitted with a diffuser that is approximately 18 feet long with four (4) 2-inch diameter holes spaced five feet on center to enhance mixing of the discharge with the receiving waters.

In addition to the non-process wasters described above, has requested to maintain coverage under the combination MEPDES/WDL permit for the discharge of storm water associated with industrial activities from five outfalls at the site.

According to the facilities current storm water pollution prevention plan (SWPPP), five drainage areas (drainage areas 1 - 5) at the site have been identified. Each drainage area is associated with one outfall. With the exception of drainage area 5, industrial activities occur within each of the drainage areas. The following provides a description of potential storm water pollutants that could be discharged from the five storm water outfalls. See **Attachment B**.

Drainage Area 1 (Outfall #004,easterly of the cooling tower): - As shown on the **Attachment B** of this Fact Sheet, this area is located on the south side of the site, encompasses approximately 3.07 acres, and is associated with one (1) discharge point, Outfall 004. Outfall 004 is a 12" corrugated metal pipe that drains a storm water detention basin. The slopes in this area allow storm water to sheet flow across paved and vegetated surface to a grass swale that directs runoff to the detention basin. Industrial activities that have the potential to impact storm water within this drainage area are water treatment, equipment maintenance, and unloading of oils and chemicals into the Maintenance Building. All materials within this area are stored in a building.

Drainage Area 2 (Outfall #005, southerly of the ash silo): As shown on **Attachment B** of this Fact Sheet, this area is located on the south portion of the site, encompasses approximately 4.01 acres, and is associated with discharge point, Outfall 5. Outfall 5 is an outlet ditch that is a collection point for all runoff from Drainage Area 2. The slopes in this area allow storm water to sheet flow across paved and vegetated surfaces to

1. APPLICATION SUMMARY (cont'd)

Outfall 5. Industrial activities that have the potential to impact storm water within this drainage area are ash storage, propane storage, and chemical unloading. All materials within area are stored inside a building with the exception of propane.

Drainage Area 3 (Outfall #006, northeasterly of the chip pile): As shown on **Attachment B** of this Fact Sheet, this area is located on the northeast side of the site, encompasses approximately 8.53 acres, and is associated with one (1) discharge point, Outfall 006. Outfall 006 is an 18" corrugated metal pipe that serves as an outlet to a storm water detention pond. Slopes in this area allow stormwater to sheet flow across the partially vegetated wood chip storage yard to a grass swale that directs runoff to the detention basin. Industrial activities that have the potential to impact storm water within this area are wood chip storage, wood chip unloading, and hydraulic equipment operation.

Drainage Area 4 (Outfall #007, northeasterly of the chip pile): As shown on **Attachment B** of this Fact Sheet, this area is located on the northeast side of the site, encompasses approximately 3.49 acres, and is associated with one (1) discharge point, Outfall 007. Outfall 007 is an 18" corrugated metal pipe that serves as an outlet to a storm water detention pond. Slopes in this area allow stormwater to sheet flow across the partially vegetated wood chip storage yard to a grass swale that directs runoff to the detention basin. Industrial activities that have the potential to impact storm water within this area are wood chip storage, diesel fuel unloading, and diesel fuel storage.

Drainage Area 5 (Outfall #008, northeasterly of the chip pile): As shown on **Attachment B** of this Fact Sheet, this area is located on the northeast side of the site, encompasses approximately 1.55 acres, and is associated with one (1) discharge point, Outfall 008. Outfall 008 is an 18" corrugated metal pipe that serves as an outlet to a storm water detention pond. There are no industrial activities that have the potential to impact storm water in this area.

e. Waste Water Treatment – The only waste water stream that receives any formal treatment is the building and equipment drain water and minor quantities of storm water that is collected in a sump. The waste waters pass through an oil/water separator before being discharged. All sanitary waste waters generated by employees at the facility are disposed of via an on-site subsurface waste water disposal system.

2. PERMIT SUMMARY

a. Terms and conditions - This permitiing action is similar to the 7/26/05 permitting action in that it is carrying forward all limitations and monitoring requirement except that this permit expands the requirements on the discharge of storm water runoff.

2. PERMIT SUMMARY (cont'd)

b. History: The most current relevant regulatory actions for the industrial facility include the following:

April 24, 1985 - The Department issued WDL #W006116-44-A-N to Babcock Ultrapower West Enfield for a five-year term.

June 25, 1985 – The U.S. Environmental Protection agency (EPA) issued National Pollutant Discharge Elimination system (NPDES) permit #ME0023213 to Babcock-Ultrapower West Enfield for a five-year term..

May 16, 1986 - The EPA issued a permit modification of NPDES permit #ME0023213 which added Outfall #003, sand filter backwash, to the permit.

May 30, 1986 - The Department issued an amendment to WDL #W006116-44-A-N for the inclusion of Outfall #003.

January 25, 1990 – Babcock Ultrapower West Enfield submitted a timely application to the EPA to renew NPDES permit # ME0023213. The EPA never acted on the renewal application.

May 20, 1991 - The Department issued a renewal of the waste discharge license, WDL #W006116-42-D-R to Bacbcock Ultrapower for a five-year term.

October 10, 1996 - INDECK Power Overseas Limited acquired the West Enfield electric generating station from Babcock-UltraPower.

December 6, 1996 - The EPA issued a letter to INDECK Power Overseas Limited informing the company that NPDES permit #ME0023213 had been transferred from Babcock-UltraPower to INDECK Power Overseas Limited.

December 10, 1996 - The Department transferred all State licenses and permits held by Babcock-UltraPower to INDECK Power Overseas Limited.

January 14, 1997 – The Department issued a renewal of the waste discharge license, WDL #W006116-42-E-R to INDECK Power Overseas Limited for five-year term.

June 5, 1997 – The Department issued an Order transferring all licenses/permits issued by the Department Department from INDECK Power Overseas Limited to Indeck Maine Energy LLC.

June 6, 1997 – The EPA transferred NPDES permit #ME0023213 from INDECK Power Overseas Limited to Indeck Maine Energy, LLC.

2. PERMIT SUMMARY (cont'd)

August 25, 1997 – The EPA issued a notice to Indeck Maine Energy, LLC informing them that their Notice of Intent (NOI) had been processed by the EPA and that they had coverage under the Multi-Sector General Permit for the discharge of storm water associated with industrial activities.

October 2000 - Indeck Maine Energy, LLC. submitted a NOI to the EPA for authorization to discharge storm water runoff from five outfalls under the terms and conditions of EPA's Multi-Sector General Permit (MSGP). The EPA subsequently granted coverage under the MSGP.

September 12, 2003 – The Department issued WDL renewal WDL #W006116-5S-F-R for a five year term.

July 26, 2005 – The Department modified and renewed the 9/12/03 WDL for the facility by incorporating the terms and conditions of the MEPDES permitting program and acknowledge the discharge of storm water runoff associated with industrial activities.

January 9, 2009 - Indeck Maine Energy, LLC submitted a letter to the Department notifying it that Convanta Maine LLC purchased Indeck Maine Energy LLC on December 22, 2008. The letter indicates the Department made the decision that said transaction does not require a transfer in Department permits/licenses as the legal entity that owns the facilities did not change.

April 22, 2010 – Convanta Maine LLC submitted a timely and complete application to the Department to renew the MEPDES permit for the West Enfield power plant.

3. CONDITIONS OF PERMITS

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

4. RECEIVING WATER QUALITY STANDARDS:

Maine law, 38 M.R.S.A., Section 467(7)(A)(4) states that the Penobscot River, at the point of discharge, is classified as a Class B waterway. Maine law, 38 M.R.S.A., Section 465(3) contains the classification standards for Class B waters.

5. EXISTING WATER QUALITY CONDITIONS

The State of Maine 2008 Integrated Water Quality Monitoring and Assessment Report, ("Report") prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists a 36.5-mile reach of the main stem of the Penobscot River from its confluence with the Piscataquis River in Howland to Orson Island in Old Town (Waterbody #232R) as, *"Category 4-B: Rivers and Streams Impaired by Pollutants with Pollution Control Requirements Reasonably Expected to Result in Attainment."* Impairment in this context refers to a statewide fish consumption advisory due to the presence of dioxin.

In addition, the Report lists all freshwaters in Maine as "*Category 5-C: Waters Impaired by Atmospheric Deposition."* Impairment in this context refers to the designated use of recreational fishing due to elevated levels of mercury in some fish caused by atmospheric deposition. As a result, the State has established a fish consumption advisory for all freshwaters in Maine. Pursuant to Maine law, 38 M.R.S.A. §420(1-B)(B), *"a facility is not in violation of the ambient criteria for mercury if the facility is in compliance with an interim discharge limit established by the Department pursuant to section 413 subsection 11."* As of the date of this permitting action, the Department has not established interim monthly average and daily maximum mercury concentration limits for this facility.

In the summers of 1997, 2001 and 2007, the Department conducted ambient water quality sampling on a 103-mile segment of the Penobscot River from Millinocket to Bucksport. Reports entitled, *Penobscot River Modeling Report, Final, June 2000*, *Penobscot River Data Report May 2002*, and *Penobscot River Modeling Report Draft, March 2003*, prepared by the Department, indicate there are sections of non-attainment of dissolved oxygen standards in portions of the Class B sections of the rivers. The Department is scheduled to perform a total maximum daily load (TMDL) by calendar year 2011. The Department has no information at this time that the Covanta facility causes or contributes to non-attainment of the standards for Class B waters. The Department reserves the right at any time, with notice to the permittee, to reopen this permit to establish phosphorus monitoring requirements and/or effluent limitations as necessary to protect receiving water quality.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS:

The EPA has developed National Effluent Guidelines and Standards found at 40 CFR, Part 423, *Steam Electric Power Generating Point Source Category,* for facilities such as the West Enfield facility. Effluent limitations and monitoring requirements in Special Condition A of this permitting action were derived as follows:

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

OUTFALL #001-Cooling Tower Blowdown - Waste waters discharged from this outfall are categorized as cooling tower blown waste waters pursuant to federal regulation, 40 CFR, §423.12(b)(7). Limits on parameters are specified to ensure attainment of the in-stream water quality criteria and that best practicable treatment (BPT) is utilized. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits.

a. Flow: The daily maximum limit of 150,000 gallons per day (gpd) in the previous permitting action is being carried forward in this permitting action. The limitation was derived as a best professional judgment of a limitation that was representative of discharge flows during normal operating conditions.

Discharge Monitoring Report (DMR) data for the period August 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum flow limitation 100% of the time as values during said period have been reported as follows:

Flow (DMRs=51)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Daily Maximum	150,000	796 – 105,946	17,553

b. Temperature: The daily maximum temperature limit of 85°F in the previous permitting action is being carried forward in this permitting action. The limitation was derived as a best professional judgment of a limitation that was representative of the temperature of the discharge during normal operating conditions.

DMR data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum temperature limitation 100% of the time as values during said period have been reported as follows:

Temperature Summer (June 1 – September 30)(DMRs=20)

Value	Limit (ºF)	Range (ºF)	Mean (ºF)
Daily Maximum	85°F	76 - 85	81

Temperature Summer (October 1 – May 31)(DMRs=37)

Value	Limit (ºF)	Range (ºF)	Mean (ºF)
Daily Maximum	85°F	77 - 82	78

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

c. Free Available Chlorine - The monthly average and daily maximum technology based chlorine limitations of 0.2 mg/L and 0.5 mg/L are being carried forward from the previous permitting action and are based on the best practicable treatment (BPT) limitation found in 40 CFR, §423.12(b)(7).

The DMR data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the free available chlorine limitations 100% of the time as values during said period have been reported as follows:

Free Available Chlorine (DMRs=57)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	0.2	0.0 – 0.11	0.008
Daily Maximum	0.5	0.0 – 0.19	0.01

d. pH – The previous permitting action established a technology based pH range limitation of 6.0 –9.0 standard units (SUs) based on federal regulation 40 CFR, §423.12(b)(1). The DMR data for the period January 2007 – January 2010 indicates the permittee has been in compliance with the pH range limitation 100% of the time as values during said period have been reported as follows:

pH (DMRs=51)

Value	Limit (s.u.)	Range (s.u.)
Daily Maximum	6.0 – 9.0	6.9 – 7.9

OUTFALL #002- Low Volume Waste Waters - From building and equipment drain waters. Waste waters discharged from this outfall are categorized as low volume waste waters pursuant to federal regulation, 40 CFR, §423.12(b)(3). Limits on parameters are specified to ensure attainment of the in-stream water quality criteria and that BPT is utilized. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits.

e. Flow: The previous permitting action established a daily maximum flow limitation of 1,000 gpd. The limitation was derived as a best professional judgment of a limitation that was representative of flows during normal operating conditions**.** The limitation is being carried forward in this permitting action and remains representative of the discharge.

Discharge Monitoring Report (DMR) data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum flow limitation 100% of the time as values during said period have been reported as follows:

Flow (DMRs=51)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Daily Maximum	1,000	528 - 905	765

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

f. Total Suspended Solids (TSS) - The previous permitting action established monthly average and daily maximum technology based concentration limitations of 30 mg/L and 100 mg/L respectively, and are being carried forward in this permitting action. The limits are consistent with the BPT limits for TSS established in federal regulation 40 CFR §423.12(b)(3).

Discharge Monitoring Report (DMR) data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the monthly average and daily maximum TSS limitations 100% of the time as values during said period have been reported as follows:

TSS (DMRs=58)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	30	<1.0 – 21.5	2.5
Daily Maximum	100	<1.0 – 39.0	2.8

g. Oil and Grease: - The previous permitting action established a Department BPT daily maximum technology based concentration limitation of 15 mg/L. It is noted this limitation is more stringent than the daily maximum technology based limit of 20 mg/L established in federal regulation 40 CFR §423.12(b)(3). The Department's limitation of 15 mg/L is being carried forward in this permitting action.

Discharge Monitoring Report (DMR) data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum oil & grease limitation 98% of the time as values during said period have been reported as follows:

Oil & grease (DMRs=58)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Daily Maximum	15	<5 - 14	5.3

h. Temperature: A previous permitting action established a daily maximum temperature limit of 80°F that is being carried forward in this permitting action. The limitation was derived as a best professional judgment of a limitation that was representative of the temperature of the discharge during normal operating conditions.

DMR data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum temperature limitation 100% of the time as values during said period have been reported as follows:

Temperature Summer (June 1 – September 30)(DMRs=20)

Value	Limit (ºF)	Range (ºF)	Mean (ºF)
Daily Maximum	85°F	59 - 68	64

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Temperature Summer (October 1 – May 31)(DMRs=37)

Value	Limit (ºF)	Range (ºF)	Mean (ºF)
Daily Maximum	85°F	51 - 62	58

i. pH - The previous permitting action established a technology based pH range limitation of 6.0 –9.0 standard units (SUs) based on 40 CFR, §423.12(b)(1). The DMR data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the pH range limitation 100% of the time as values during said period have been reported as follows:

pH (DMRs=57)

Value	Limit (s.u.)	Range (s.u.)
Daily Maximum	6.0 – 9.0	6.2 – 7.7

OUTFALL #003- Sand Filter Backwash Waters - Waste waters discharged from this outfall are also categorized as low volume waste waters pursuant to federal regulation, 40 CFR, §423.12(b)(3). Limits on parameters are specified to ensure attainment of the in-stream water quality criteria and that BPT is utilized. Permits issued by this Department impose the more stringent of the calculated water quality based or BPT based limits.

j. Flow: The previous permitting action established a daily maximum flow limitation of 36,000 gpd. The limitation was derived as a best professional judgment of a limitation that was representative of flows during normal operating conditions**.** The limitation is being carried forward in this permitting action and remains representative of the discharge.

Discharge Monitoring Report (DMR) data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the daily maximum flow limitation 98% of the time as values during said period have been reported as follows:

Flow (DMRs=51)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Daily Maximum	36,000	15,190 – 64,118	18,926

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

k. Total Suspended Solids (TSS) - The previous permitting action established a monthly average and daily maximum technology based concentration limitations of 30 mg/L and 100 mg/L respectively. The limits are consistent with the BPT limits for TSS established in federal regulation 40 CFR §423.12(b)(3).

Discharge Monitoring Report (DMR) data for the period January 2005 – January 2010 indicates the permittee has been in compliance with the monthly average and daily maximum TSS limitations 100% of the time as values during said period have been reported as follows:

TSS (DMRs=57)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	30	2.1 – 26.7	8
Daily Maximum	100	2.3 - 47	12

l. pH -The previous licensing action established a technology based pH range limitation of 6.0 –9.0 standard units (SUs) based on federal regulation 40 CFR, §423.12(b)(1). The DMR data for the period January 2007 – January 2010 indicates the permittee has been in compliance with the pH range limitation 100% of the time as values during said period have been reported as follows:

pH (DMRs=57)

Value	Limit (s.u.)	Range (s.u.)
Daily Maximum	6.0 – 9.0	7.2 – 8.6

Outfalls #004, #005, #006, #007 and #008 - Storm water runoff from the facility is managed and treated via four detention ponds surrounding the power plant. The permittee has requested the Department maintain authorization to discharge storm water runoff in this permitting action. Therefore, this permit requires the permittee to maintain an up-to-date Storm Water Pollution Prevention Plan (SWPPP) and conduct periodic visual inspections of the discharges.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has made a determination based on a best professional judgment that the existing water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the waterbody to meet standards for Class B classification.

8. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about March 11, 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 permit shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

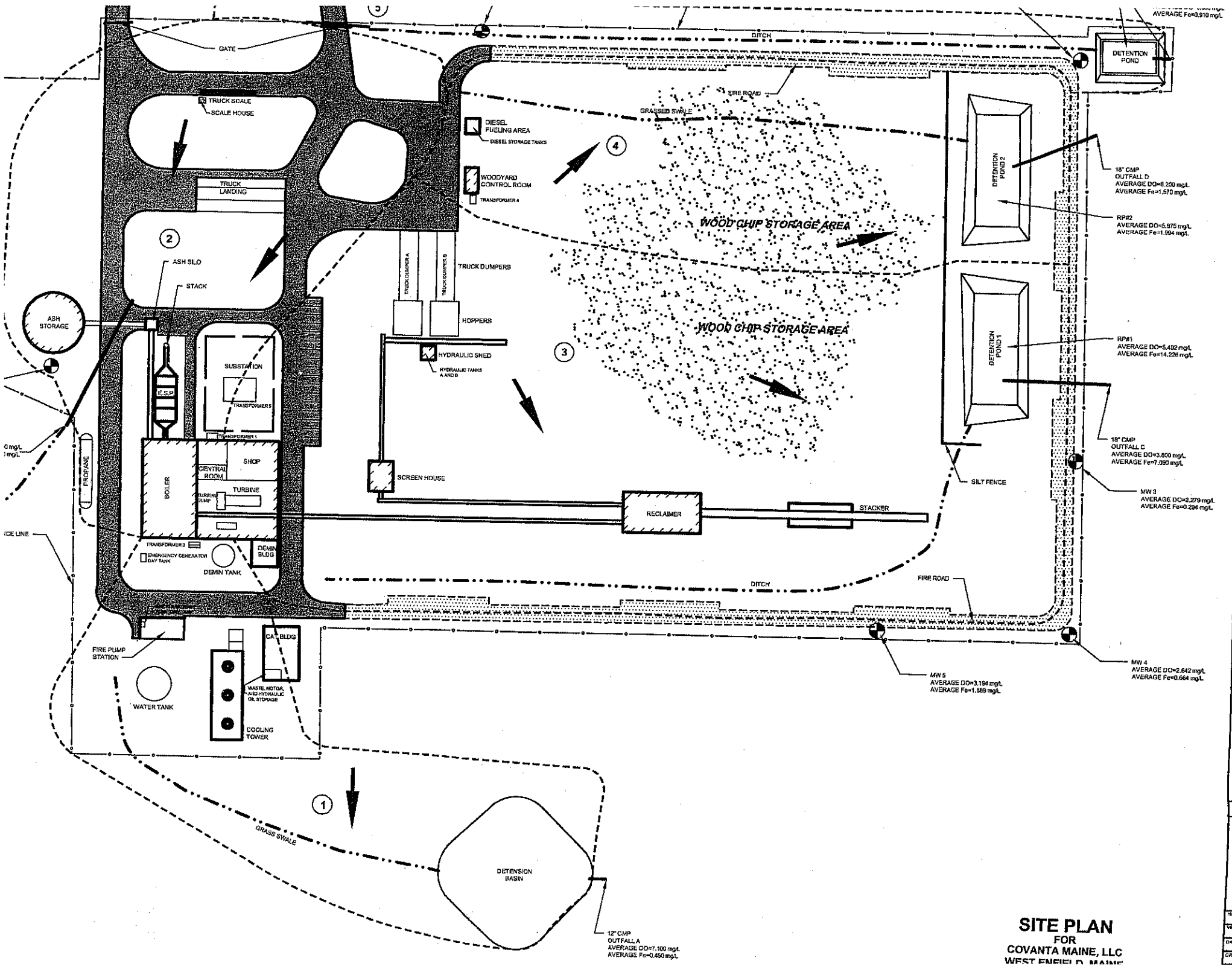
9. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone (207) 287-3901
e-mail: gregg.wood@maine.gov

10. RESPONSE TO COMMENTS

During the period of July 28, 2010, through the issuance date of this permit, the Department solicited comments on the proposed draft license to be issued for the discharge(s) from the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the license. Therefore, the Department has not prepared a Response to Comments.



SITE PLAN
FOR
COVANTA MAINE, LLC
WEST ENFIELD, MAINE

COVANTA MAINE, LLC

ATTACHMENT A

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

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

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

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under the Maine Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity regardless of the facility's industrial sector code. All permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges associated with industrial activity as part of their Stormwater Pollution Prevention Plans (SWPPP) in order to achieve compliance with the Multi-Sector General Permit.

2. **PURPOSE.** To provide guidelines for standardized methods for sample collection and visual examination of industrial stormwater discharges for indicators of stormwater pollution as defined in Part V of the Maine MSGP. To provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data. These guidelines are described in Part 5 of the MSGP.

3. **DEFINITIONS.**

   3.1. Multi-Sector General Permit (MSGP) A general permit for Stormwater Discharges Associated with Industrial Activities. Authorizes the direct discharge of stormwater associated with industrial activity to waters of the State other than groundwater, provided the discharge meets the requirements stated in this permit. This permit is effective October 11, 2005 and expires October 11, 2010. It replaces EPA's MSGP for Industrial Activities issued October 30, 2000.

   3.2. SWPPP. Stormwater Pollution Prevention Plan. A plan developed and implemented by each industrial facility. It outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State. The Plan identifies in writing a SWPPP team of facility personnel as well as a SWPPP team leader who is ultimately responsible for SWPPP implementation.

   3.3. GRAB SAMPLE. Sample of stormwater discharge taken as a single uninterrupted event (i.e., grabbed at one time) from a single stormwater outfall from the industrial facility. The sample may be collected manually or with an automatic sampler.

   3.4. OUTFALL. Any location such as a ditch, rill, pipe, storm drain, boat ramp, or detention pond exit where shallow concentrated flow of stormwater leaves an industrial facility.

   3.5. MEASURABLE STORM EVENT. Any storm event that yields at least 0.1 inch of precipitation.

4. RESPONSIBILITIES.

4.1. MONITORING PROGRAM IMPLEMENTATION. The schedule for performing visual examinations should be clearly documented in the facility's SWPPP. The permittee must perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.

4.2. OUTFALL IDENTIFICATION. The permittee must identify each industrial stormwater outfall at the facility. All outfalls shall be clearly identified on the facility site map which is part of the facility's SWPPP and also listed in the written text of the SWPPP.

4.3. EMPLOYEE TRAINING. The permittee is responsible for ensuring that all facility personnel involved in stormwater sampling are properly trained to do so. Staff involved in sampling should:

a. Be familiar with the site map and outfall locations
b. Walk the site to physically identify each sampling location
c. Become familiar with local rainfall and drainage patterns
d. Learn proper procedures for measuring rainfall
e. Become competent with proper sample collection procedures

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

4.4. SAMPLE COLLECTION FREQUENCY. Visual examinations of industrial stormwater discharges must be performed once per monitoring quarter. If no measurable storm event resulted in discharge from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided the permittee documents in the monitoring records that no runoff occurred. Schedule of monitoring quarters is listed below.

- First: October 1 to December 31
- Second: January 1 to March 31
- Third: April 1to June 30
- July 1 to September 30

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

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

5. PROCEDURES

5.1. MEASURING RAINFALL. All facilities required to perform visual monitoring of industrial stormwater discharges should have a rain gauge on site for measuring rainfall. The rain gauge may be a standard rain gauge, tipping bucket gauge, weighing type gauge, float recording gauge, or any other National Weather Service approved device for measuring rainfall to the nearest 0.1 inch. To minimize measurement errors, the gauge should be placed on a level surface that is not windswept and is away from trees or buildings that might interfere with the path of rainfall. The gauge should be regularly inspected by sampling personnel to ensure that it is in good working order and capable of accurately measuring rainfall to the nearest 0.1 inch.

5.2. SAMPLE COLLECTION TIMING. A grab sample must be collected from each facility outfall once per monitoring quarter during a measurable storm event that occurs at least 72 hours from the previously measurable storm event. The 72 hour interval is waived when the preceding measurable storm did not yield a measurable discharge. During a measurable storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours of when runoff begins discharging from areas of exposed industrial activity. During monitoring quarters when snowmelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snowmelt within the first 60 minutes or as soon thereafter as practicable, but not to exceed 2.25 hours) of when snowmelt begins discharging from areas of exposed industrial activity. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.

5.3. SAMPLE CONTAINER CLEANING AND PREPARATION. The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue by the container manufacturer, or cleaned according to the following procedure.

5.3.1. Wash containers in a non-phosphate detergent and tap water wash.

5.3.2. Thoroughly fill and rinse containers with tap water at least three (3) times.

5.3.3. Store containers closed, and in an area free of dust and other potential sample contaminants.

5.3.4. If additional containers are needed to collect samples from less accessible outfalls (i.e. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.

5.4. SAMPLE COLLECTION. Samples should be examined in clear glass or clear plastic container prepared and cleaned as indicated above, so that all visual monitoring criteria can be observed.

5.4.1. MANUAL GRAB SAMPLE COLLECTION. Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. Small containers (ideally 250 ml to 750 ml or approximately 8 to 24 ounces in size) are recommended in order to be able to submerse the container opening under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (i.e., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.

5.4.2. COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER. Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.

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

sample of tap water be collected in the same type of container used to collect the samples and used as a comparison to aid in evaluating the samples for the criteria stated above.

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

5.6. SAMPLE DATA RECORDING. Record all sample data on the visual monitoring form (Attachment B) after examining the sample for all of the criteria listed in the instructions (Attachment A). The form should include the examination date and time, examination personnel, the nature of the discharge (i.e., rain or snowmelt), identification of outfall sampled, quality of the stormwater discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and any other obvious indicators of stormwater pollution), and probable sources of any observed contamination. The permittee must sign and certify the documentation in accordance with Part VII (E) of the Maine MSGP. All visual examination reports must be maintained on site with the SWPPP.

5.7. RECOMMENDATIONS FOR SOLVING SAMPLE LOCATION PROBLEMS. Consult guidelines listed below when it is necessary to sample an outfall located at a less than ideal location for sampling.

- PROBLEM: Sampling where stormwater comingles with process or non process water.
  RECOMMENDATION: Attempt to sample the stormwater discharge before it mixes with the non-stormwater discharge. If this is impossible, sample the discharge both during dry and wet weather and maintain a record of the visual examination data observed under both conditions on site with the SWPPP. This will provide an indication of the contribution of any observable contamination from each source.

- PROBLEM: Numerous small point channels make up an outfall from which it is difficult to collect a sample.
  RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic to prevent infiltration and/or high levels of sediment.

- PROBLEM: Inaccessible discharge point (examples include underwater discharges or unreachable discharges (e.g., out of a cliff).
  RECOMMENDATION: Go up the pipe to sample (i.e., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.

- PROBLEM: Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.
  RECEMMONDATION: Have a sampling crew ready for mobilization when forecasts indicate a measurable storm event is likely to occur. If this is not possible, sample missed outfall locations during other measurable storm events.

- PROBLEM: Commingling of parking lot runoff with discharge associated with industrial activity.

RECOMMENDATION: The combined runoff must be sampled at the discharge point as near as possible to the industrial activity or at the parking lot drain inlet if there is one.

- PROBLEM: Sampling in manholes
  RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training if manhole has to be entered.

- PROBLEM: Run-on from other property.
  RECOMMENDATION: If possible, collect and examine a sample of the stormwater at the border of the property where the run-on occurs. Then, collect and examine a sample of the stormwater at a facility outfall downstream of the run-on point. Note any observable differences between the samples and maintain the documentation with the SWPPP.

- When confronted with other difficult sampling scenarios not addressed above, the permittee should consult DEP for guidance on how to best address the situation.

6. REFERENCES

6.1. GUIDANCE MANUAL FOR THE MONITORING AND REPORTING REQUIREMENTS OF THE NPDES MULTI-SECTOR STORM WATER GENERAL PERMIT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-B-99-001(January, 1999)

6.2. NPDES STORM WATER SAMPLING GUIDANCE DOCUMENT
United States Environmental Protection Agency, Office of Water (EN-336), EPA 833-8-92-001 (July, 1992)

6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-A-N (October 11, 2005)

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

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

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

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

Pollard Water
200 Atlantic Ave.
Hyde Park, NY 11040
800-437-1146
www.pollardwater.com

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

Instructions for Completing the Visual Monitoring Form

1. Completely fill out all required information on the top of the visual monitoring form.

2. Pour the sample into a 1 L clear polycarbonate Imhoff cone. Record the total sample volume measured in the cone to the nearest milliliter. Evaluate the sample for the following parameters according to the following instructions.

   - **Foam:** This must be done first. Examine the sample for foam immediately after pouring it into the cone. Record foam results on the visual monitoring form as they most closely match one of the descriptions listed below.

     i. **None**-Most bubbles break down within ten (10) seconds of pouring; only a few large bubbles persist longer than ten (10) seconds.

     ii. **Moderate**-Many small bubbles are present but these bubbles persist for less than two (minutes) after pouring.

     iii. **High**-Many small bubbles are present and they persist longer than two (2) minutes after pouring.

3. Examine the sample for the following criteria after it has settled for ten (10) minutes. Record the results on the visual monitoring form as they most closely match the descriptions listed below.

   - **Color:** Record the best description of the sample color in the appropriate space on the visual monitoring form.

   - **Odor:** If sample has no odor other than natural rainwater or snowmelt write "normal" on the visual monitoring form. Note the presence of any of the following odors if detected: Gasoline, diesel, oil, solvents (WD-40, other petroleum products, etc.), landfill, fishy, glycol, any other unusual odors not normally present in clean runoff from the area sampled.

   - **Clarity:** Record sample clarity results as they most closely match one of the descriptions listed below.

     i. **Clear**-Sample doesn't filter out any light, can be seen through regardless of color.

     ii. **Cloudy**-Sample filters out some light; not clear but objects can still be identified when looking through the cone.

     iii. **Very Cloudy**-Sample filters out most light; objects are indiscernible when looking through the cone.

     iv. **Opaque**-Sample doesn't allow any light to pass through; objects cannot be seen when looking through the cone.

- **Floating Solids:** Give a general description of the type of floating solids present (wood chips, leaf debris, algae, etc) in the general comments section for each sample. Record results for amount floating solids present as they most closely match the descriptions listed below. Record amount data in the appropriate box on page 1 of the visual monitoring form.

    i. **None**- No floating solids present on the surface of the sample.

    ii. **Slight**-Only a few floating particles observed on the surface of the sample.

    iii. **Moderate**- Less than 20% of the surface of the sample is covered with floating solids.

    iv. **High**- More than 20% of the surface of the sample is covered with floating solids.

- **Settled Solids:** Give a general description of the type of settled solids present (sand, decayed plant matter, rust particles etc) in the general comments section for each sample. Allow settle for one hour. Measure the settled solids in the bottom of the cone to the nearest milliliter and record the results in the appropriate box on page 1 of the visual monitoring form.

- **Suspended solids:** In the general comments section for each sample, give a general description of the type of solids present if any are observed suspended below the sample surface. Record whether or not settled solids were present in the appropriate box on page 1 of the visual monitoring form.

- **Oil Sheen:** Record whether or not an oil sheen is present in the sample.

- **General Comments Section on Page 2:** Make sure you have described the type of floating, settled and suspended solids observed in the samples in the general comments section provided for each outfall sample. Also note the following conditions at each outfall during the time sampled: General volume of water and flow, algae (if any is present), odor, color, and any other unusual characteristics noticed at the sampling location. Record the number of days since the last known measurable storm or runoff event.

4. Ensure that all visual monitoring forms are filed on site with the Stormwater Pollution Prevention Plan (SWPPP) each time visual monitoring is done.

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

Visual Monitoring Form

Facility Name _____ Sampler's Name _____

Facility Address _____ MSGP Permit Number _____

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

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

Sampler's Signature _____ Date _____

General Comments

In the comments section, enter physical description of floating, settled, and suspended solids for each outfall sampled. Enter general comments on the condition and appearance of each outfall in the comments section also as indicated in the instructions.	
Outfall 1	Comments:
Outfall 2	Comments:
Outfall 3	Comments:
Outfall 4	Comments:
Outfall 5	Comments:
Outfall 6	Comments:

ATTACHMENT B

Printed 1/22/2009

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
This form is for reporting laboratory data and facility information. Official compliance reviews will be done by DEP.

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

Licensed Flow (MGD)		**Flow for Day (MGD)[1]**	**Flow Avg. for Month (MGD)[2]**
Acute dilution factor			
Chronic dilution factor		**Date Sample Collected**	Date Sample Analyzed
Human health dilution factor			
Criteria type: M(arine) or F(resh)			

Laboratory _____ Telephone _____
Address _____
Lab Contact _____ Lab ID # _____

ERROR WARNING ! Essential facility information is missing. Please check required entries in bold above.

FRESH WATER VERSION

Please see the footnotes on the last page.

			Effluent Limits, %			Receiving Water or Ambient	**Effluent Concentration (ug/L or as noted)**		**Possible Exceedence [7]**		
			Acute	Chronic			WET Result, % Do not enter % sign	Reporting Limit Check	Acute	Chronic	
	WHOLE EFFLUENT TOXICITY										
	Trout - Acute										
	Trout - Chronic										
	Water Flea - Acute										
	Water Flea - Chronic										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					(8)					
	Total Solids (mg/L)										
	Total Suspended Solids (mg/L)										
	Alkalinity (mg/L)					(8)					
	Specific Conductance (umhos)										
	Total Hardness (mg/L)					(8)					
	Total Magnesium (mg/L)					(8)					
	Total Calcium (mg/L)					(8)					
	ANALYTICAL CHEMISTRY [3]										

	Also do these tests on the effluent with WET. Testing on the receiving water is optional	Reporting Limit	Effluent Limits, ug/L Acute[6]	Chronic[6]	Health[6]			Reporting Limit Check	**Possible Exceedence [7]** Acute	Chronic	Health
	TOTAL RESIDUAL CHLORINE (mg/L) (9)	0.05				NA					
	AMMONIA	NA				(8)					
M	ALUMINUM	NA				(8)					
M	ARSENIC	5				(8)					
M	CADMIUM	1				(8)					
M	CHROMIUM	10				(8)					
M	COPPER	3				(8)					
M	CYANIDE	5				(8)					
M	LEAD	3				(8)					
M	NICKEL	5				(8)					
M	SILVER	1				(8)					
M	ZINC	5				(8)					

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

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BN	FLUORANTHENE	5									
BN	FLUORENE	5									
BN	HEXACHLOROBENZENE	2									
BN	HEXACHLOROBUTADIENE	1									
BN	HEXACHLOROCYCLOPENTADIENE	10									
BN	HEXACHLOROETHANE	2									
BN	INDENO(1,2,3-CD)PYRENE	5									
BN	ISOPHORONE	5									
BN	N-NITROSODI-N-PROPYLAMINE	10									
BN	N-NITROSODIMETHYLAMINE	1									
BN	N-NITROSODIPHENYLAMINE	5									
BN	NAPHTHALENE	5									
BN	NITROBENZENE	5									
BN	PHENANTHRENE	5									
BN	PYRENE	5									
P	4,4'-DDD	0.05									
P	4,4'-DDE	0.05									
P	4,4'-DDT	0.05									
P	A-BHC	0.2									
P	A-ENDOSULFAN	0.05									
P	ALDRIN	0.15									
P	B-BHC	0.05									
P	B-ENDOSULFAN	0.05									
P	CHLORDANE	0.1									
P	D-BHC	0.05									
P	DIELDRIN	0.05									
P	ENDOSULFAN SULFATE	0.1									
P	ENDRIN	0.05									
P	ENDRIN ALDEHYDE	0.05									
P	G-BHC	0.15									
P	HEPTACHLOR	0.15									
P	HEPTACHLOR EPOXIDE	0.1									
P	PCB-1016	0.3									
P	PCB-1221	0.3									
P	PCB-1232	0.3									
P	PCB-1242	0.3									
P	PCB-1248	0.3									
P	PCB-1254	0.3									
P	PCB-1260	0.2									
P	TOXAPHENE	1									
V	1,1,1-TRICHLOROETHANE	5									
V	1,1,2,2-TETRACHLOROETHANE	7									
V	1,1,2-TRICHLOROETHANE	5									
V	1,1-DICHLOROETHANE	5									
V	1,1-DICHLOROETHYLENE (1,1-dichloroethene)	3									
V	1,2-DICHLOROETHANE	3									
V	1,2-DICHLOROPROPANE	6									
V	1,2-TRANS-DICHLOROETHYLENE (1,2-trans-dichloroethene)	5									
V	1,3-DICHLOROPROPYLENE (1,3-dichloropropene)	5									
V	2-CHLOROETHYLVINYL ETHER	20									

Maine Department of Environmental Protection
WET and Chemical Specific Data Report Form
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V	ACROLEIN	NA									
V	ACRYLONITRILE	NA									
V	BENZENE	5									
V	BROMOFORM	5									
V	CARBON TETRACHLORIDE	5									
V	CHLOROBENZENE	6									
V	CHLORODIBROMOMETHANE	3									
V	CHLOROETHANE	5									
V	CHLOROFORM	5									
V	DICHLOROBROMOMETHANE	3									
V	ETHYLBENZENE	10									
V	METHYL BROMIDE (Bromomethane)	5									
V	METHYL CHLORIDE (Chloromethane)	5									
V	METHYLENE CHLORIDE	5									
V	TETRACHLOROETHYLENE (Perchloroethylene or Tetrachloroethene)	5									
V	TOLUENE	5									
V	TRICHLOROETHYLENE (Trichloroethene)	3									
V	VINYL CHLORIDE	5									

Notes:

(1) Flow average for day pertains to WET/PP composite sample day.

(2) Flow average for month is for month in which WET/PP sample was taken.

(3) Analytical chemistry parameters must be done as part of the WET test chemistry.

(4) Priority Pollutants should be reported in micrograms per liter (ug/L).

(5) Mercury is often reported in nanograms per liter (ng/L) by the contract laboratory, so be sure to convert to micrograms per liter on this spreadsheet.

(6) Effluent Limits are calculated based on dilution factor, background allocation (10%) and water quality reserves (15% - to allow for new or changed discharges or non-point sources).

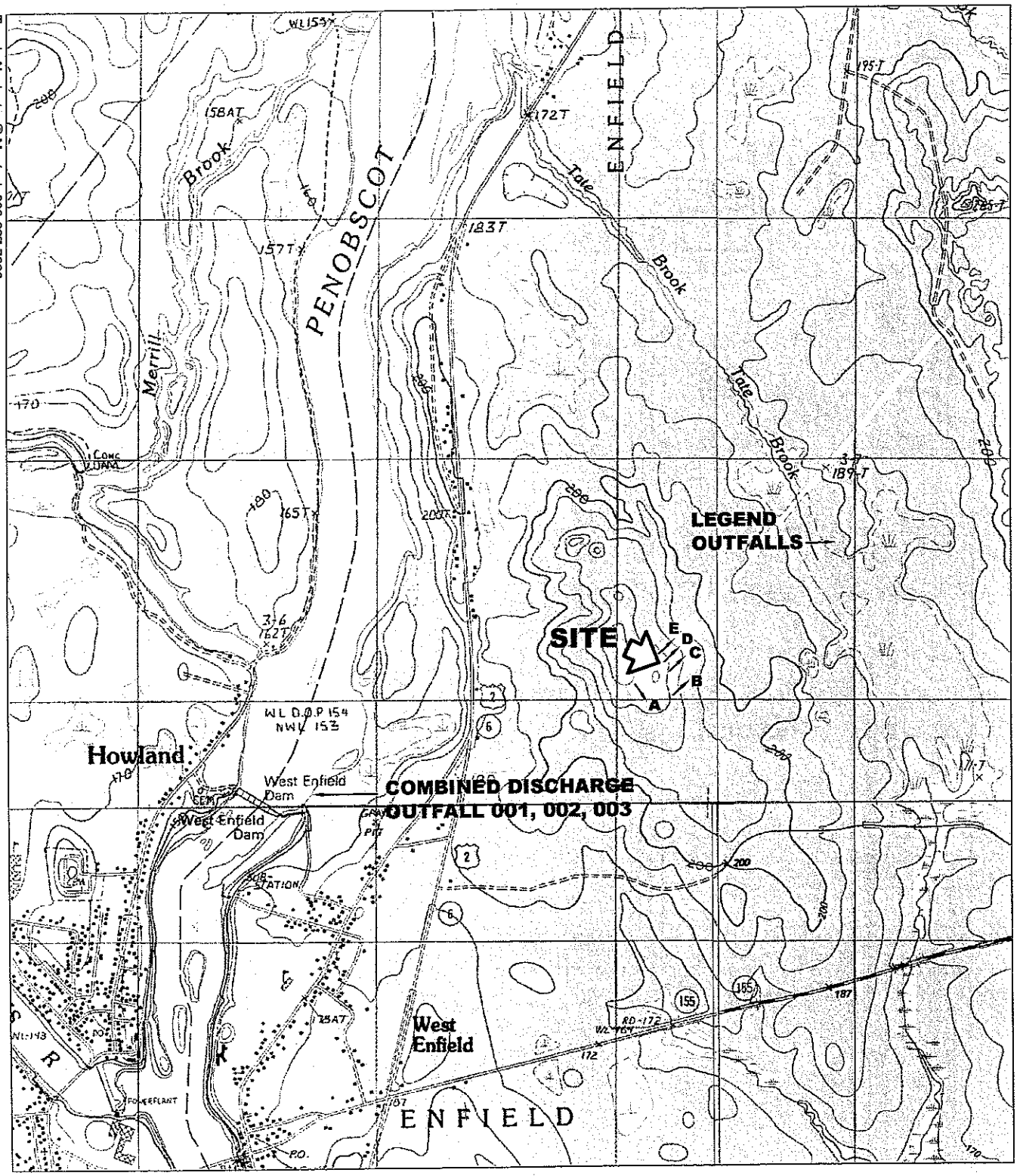
(7) Possible Exceedence determinations are done for a single sample only on a mass basis using the actual pounds discharged. This analysis does not consider watershed wide allocations for fresh water discharges.

(8) These tests are optional for the receiving water. However, where possible samples of the receiving water should be preserved and saved for the duration of the WET test. In the event of questions about the receiving water's possible effect on the WET results, chemistry tests should then be conducted.

(9) pH and Total Residual Chlorine must be conducted at the time of sample collection. Tests for Total Residual Chlorine need be conducted only when an effluent has been chlorinated or residual chlorine is believed to be present for any other reason.

Comments:

ATTACHMENT A



SOURCE:
U.S.G.S. TOPOGRAPHIC QUADRANGLE
HOWLAND
@ 1:24,000

CES INC

COVANTA MAINE, LLC
WEST ENFIELD, MAINE
LOCATION MAP

4/5/10
4100.10

ATTACHMENT B

CONTENTS

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).

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 if 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 MAINTENACE 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

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.

(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.

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.

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

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).

(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.

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 contaminates 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.

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.

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.