



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

December 8, 2011

VIA ELECTRONIC MAIL

Mr. Albert Lelis  
Osram Sylvania Incorporated  
100 Endicott Street  
Danvers, MA 01923  
[albert.lelis@sylvania.com](mailto:albert.lelis@sylvania.com)

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002381  
Maine Waste Discharge License (WDL) Application # W000714-5S-I-R  
**Final Permit – Osram Sylvania Incorporated**

Dear Mr. Lelis:

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

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

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

Sincerely,

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

Enclosure

Cc: Beth DeHaas, DEP/CMRO   Lori Mitchell, DEP/DMU   Sandy Mojica, EPA

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

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PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
17 STATE HOUSE STATION  
AUGUSTA, ME 04333

**DEPARTMENT ORDER**

**IN THE MATTER OF**

|                                |                             |
|--------------------------------|-----------------------------|
| OSRAM SYLVANIA INCORPORATED    | ) MAINE POLLUTANT DISCHARGE |
| TREATED GROUND WATER           | ) ELIMINATION SYSTEM PERMIT |
| WALDOBORO, WALDO COUNTY        | ) AND                       |
| ME0002381                      | ) WASTE DISCHARGE LICENSE   |
| W000714-5S-I-R <b>APPROVAL</b> | ) <b>RENEWAL</b>            |

Pursuant to the provisions of 38 M.R.S.A., §414-A *et seq.*, and applicable regulations, the Department of Environmental Protection (“Department”) has considered the application of OSRAM SYLVANIA INCORPORATED (“permittee”), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

The permittee has applied to the Department for renewal of Waste Discharge License (WDL) #W000714-5S-G-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002381 (“permit”) which was issued on October 3, 2006 and is due to expire on October 3, 2011. The 10/03/06 permit authorized the discharge of treated ground water to the Medomak River, Class SB, in Waldoboro, Maine. On October 29, 2010, the WDL was transferred from Osram Sylvania, Incorporated, to Osram Sylvania Incorporated, as the result of a merger between Osram Sylvania, Incorporated, and Osram Sylvania Products, Incorporated. The merged company’s new name is Osram Sylvania Incorporated, and the transfer application was assigned WDL #W000714-5S-H-T.

**PERMIT SUMMARY**

This permitting action is similar to the 10/03/06 permitting action in that it is carrying forward all the terms and conditions with the following exception:

1. This permitting action is eliminating the monitoring requirements for total arsenic.

## CONCLUSIONS

BASED on the findings in the attached Fact Sheet, dated December 8, 2011, 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 M.R.S.A. §464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
  - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A. §414-A(1)(D).

**ACTION**

THEREFORE, the Department APPROVES the above noted application of OSRAM SYLVANIA INCORPORATED, to discharge a monthly average flow of up to 10,000 gallons per day of treated ground water to the Medomak River, Class SB, in Waldoboro, Maine, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

1. "Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits," revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: August 22, 2011  
Date of application acceptance: August 24, 2011

This Order prepared by PHYLLIS ARNOLD RAND, BUREAU OF LAND & WATER QUALITY  
ME0002381 2011

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

1. The permittee is authorized to discharge **treated ground water** from **Outfall #006A** to the Medomak River in Waldoboro, Maine. Such discharges shall be limited and monitored by the permittee as specified below<sup>(1)</sup>:

| Effluent Characteristic             | Discharge Limitations  |                      |                        | Minimum Monitoring Requirements    |                              |                    |
|-------------------------------------|------------------------|----------------------|------------------------|------------------------------------|------------------------------|--------------------|
|                                     | <u>Monthly Average</u> | <u>Daily Maximum</u> | <u>Monthly Average</u> | <u>Daily Maximum</u>               | <u>Measurement Frequency</u> | <u>Sample Type</u> |
|                                     | as specified           | as specified         | as specified           | as specified                       | as specified                 | as specified       |
| <b>Flow</b><br>[50050]              | 10,000 GPD<br>[07]     | Report GPD<br>[07]   | ---                    | ---                                | 1/Quarter<br>[01/90]         | Estimate<br>[ES]   |
| <b>Tetrachloroethene</b><br>[78389] | ---                    | ---                  | ---                    | Report µg/L <sup>(2)</sup><br>[28] | 1/Quarter<br>[01/90]         | Grab<br>[GR]       |

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

**FOOTNOTES:** See Page 5 of this permit for applicable footnotes.

## **SPECIAL CONDITIONS**

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

#### **FOOTNOTES:**

1. **Monitoring** – All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. Any change in sampling location must be approved by the Department in writing.
2. Sampling and analysis must be conducted in accordance with; a) methods approved in Title 40 *Code of Federal Regulations* (40 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 for those analyses by the State of Maine's Department of Health and Human Services. Samples that are sent to another POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of the *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of 10-144 CMR 263.

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 A** 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 RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

### **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 permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

## SPECIAL CONDITIONS

### C. MONITORING AND REPORTING

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

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

Maine Department of Environmental Protection  
Central Maine Regional Office  
Bureau of Land and Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, Maine 04333

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

### D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee shall notify the Department of any substantial change (increase or decrease) in the volume or character of pollutants being discharged. For the purposes of this section, notice regarding substantial change shall include information on:

1. the quality and quantity of water discharged; and
2. any anticipated impact caused by the change in the quantity or quality of the water to be discharged.

### E. UNAUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on August 24, 2011; 2) the terms and conditions of this permit and, 3) only from Outfall #006A. Discharges of wastewater from any other point source that are not authorized under this permit are prohibited and shall be reported in accordance with Standard Condition B(5), *Bypasses*, of this permit.

## **SPECIAL CONDITIONS**

### **F. REOPENING OF PERMIT FOR MODIFICATIONS**

Upon evaluation of the test results or monitoring requirements specified in Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at 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.

### **G. 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 respects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.



# **ATTACHMENT A**

**Maine Department of Environmental Protection  
WET and Chemical Specific Data Report Form**

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

Facility Name \_\_\_\_\_

MEPDES # \_\_\_\_\_

Facility Representative Signature \_\_\_\_\_

Pipe # \_\_\_\_\_

To the best of my knowledge this information is true, accurate and complete.

Licensed Flow (MGD) \_\_\_\_\_

Acute dilution factor \_\_\_\_\_

Chronic dilution factor \_\_\_\_\_

Human health dilution factor \_\_\_\_\_

Criteria type: M(arine) or F(resh) \_\_\_\_\_

**M**Flow for Day (MGD)<sup>(1)</sup> \_\_\_\_\_Flow Avg. for Month (MGD)<sup>(2)</sup> \_\_\_\_\_

Date Sample Collected \_\_\_\_\_

Date Sample Analyzed \_\_\_\_\_

Laboratory \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Lab Contact \_\_\_\_\_ Lab ID # \_\_\_\_\_

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

**MARINE AND ESTUARY VERSION**

Please see the footnotes on the last page.

Receiving  
Water or  
Ambient**Effluent Concentration**  
(ug/L or as noted)

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

**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.**

| PRIORITY POLLUTANTS <sup>(4)</sup> |                                                   | Effluent Limits      |                        |                       |       | Reporting<br>Limit Check | Possible Exceedence <sup>(7)</sup> |        |  |
|------------------------------------|---------------------------------------------------|----------------------|------------------------|-----------------------|-------|--------------------------|------------------------------------|--------|--|
|                                    | Reporting Limit                                   | Acute <sup>(6)</sup> | Chronic <sup>(6)</sup> | Health <sup>(6)</sup> | Acute |                          | Chronic                            | Health |  |
| M                                  | ANTIMONY                                          | 5                    |                        |                       |       |                          |                                    |        |  |
| M                                  | BERYLLIUM                                         | 2                    |                        |                       |       |                          |                                    |        |  |
| M                                  | MERCURY (5)                                       | 0.2                  |                        |                       |       |                          |                                    |        |  |
| M                                  | SELENIUM                                          | 5                    |                        |                       |       |                          |                                    |        |  |
| M                                  | THALLIUM                                          | 4                    |                        |                       |       |                          |                                    |        |  |
| A                                  | 2,4,6-TRICHLOROPHENOL                             | 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                    |                        |                       |       |                          |                                    |        |  |

**Maine Department of Environmental Protection  
WET and Chemical Specific Data Report Form**

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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  | 1,1,1,2-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-CHLOROETHYL VINYL ETHER                             | 20   |  |  |  |  |  |  |  |  |  |

**Maine Department of Environmental Protection  
WET and Chemical Specific Data Report Form**

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

|   |                                                                 |    |  |  |  |  |  |  |  |  |  |
|---|-----------------------------------------------------------------|----|--|--|--|--|--|--|--|--|--|
| V | ACROLEIN                                                        | NA |  |  |  |  |  |  |  |  |  |
| V | ACRYLONITRILE                                                   | NA |  |  |  |  |  |  |  |  |  |
| V | BENZENE                                                         | 5  |  |  |  |  |  |  |  |  |  |
| V | BROMOFORM                                                       | 5  |  |  |  |  |  |  |  |  |  |
| V | CARBON TETRACHLORIDE                                            | 5  |  |  |  |  |  |  |  |  |  |
| V | CHLOROBENZENE                                                   | 6  |  |  |  |  |  |  |  |  |  |
| V | CHLORODIBROMOMETHANE                                            | 3  |  |  |  |  |  |  |  |  |  |
| V | CHLOROETHANE                                                    | 5  |  |  |  |  |  |  |  |  |  |
| V | CHLOROFORM                                                      | 5  |  |  |  |  |  |  |  |  |  |
| V | DICHLOROBROMOMETHANE                                            | 3  |  |  |  |  |  |  |  |  |  |
| V | ETHYLBENZENE                                                    | 10 |  |  |  |  |  |  |  |  |  |
| V | METHYL BROMIDE (Bromomethane)                                   | 5  |  |  |  |  |  |  |  |  |  |
| V | METHYL CHLORIDE (Chloromethane)                                 | 5  |  |  |  |  |  |  |  |  |  |
| V | METHYLENE CHLORIDE                                              | 5  |  |  |  |  |  |  |  |  |  |
|   | TETRACHLOROETHYLENE<br>(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:

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

**FACT SHEET**

**December 8, 2011**

MEPDES PERMIT: **ME0002381**  
WASTE DISCHARGE LICENSE: **W000714-5S-I-R**

NAME AND ADDRESS OF APPLICANT:

**OSRAM SYLVANIA INCORPORATED  
100 ENDICOTT STREET  
DANVERS, MASSACHUSETTS 01923**

COUNTY: **LINCOLN**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**OSRAM SYLVANIA INCORPORATED  
405 FRIENDSHIP STREET  
WALDOBORO, MAINE 04572**

RECEIVING WATER / CLASSIFICATION: **MEDOMAK RIVER/CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **MR. ALBERT LELIS**  
**978-750-2611**  
[albert.lelis@sylvania.com](mailto:albert.lelis@sylvania.com)

**1. APPLICATION SUMMARY**

Application: Osram Sylvania Inc. ("permittee") has applied to the Department for renewal of Waste Discharge License (WDL) #W000714-5S-G-R / Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002381 ("permit") which was issued on October 3, 2006 and is due to expire on October 3, 2011. The 10/03/06 permit authorized the discharge of treated ground water to the Medomak River, Class SB, in Waldoboro, Maine. On October 29, 2010, the WDL was transferred from Osram Sylvania, Incorporated, to Osram Sylvania Incorporated, as the result of a merger between Osram Sylvania, Incorporated, and Osram Sylvania Products, Incorporated. The merged company's new name is Osram Sylvania Incorporated, and the transfer application was assigned WDL #W000714-5S-H-T.

## 2. PERMIT SUMMARY

- a. Terms & conditions: This permitting action is similar to the 10/03/06 permitting action in that it is carrying forward all the terms and conditions with the following exception:
  1. This permitting action is eliminating the monitoring requirements for total arsenic.
- b. Facility History: This section provides a summary of significant permitting actions and milestones that have been completed for the permittee.

May 31, 1988 – The Department ratified an Administrative Order by Consent with the permittee, which included an order to operate a ground water remediation system for the “purposes of extracting contaminated ground water in order to restore the water quality of the unconsolidated and bedrock aquifers beneath and adjacent to the site in a timely manner to levels protective of public health and the environment.”

December 24, 1996 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit modification #ME0002381 to the permittee for the discharge of treated process wastewater and treated ground water via two outfall points. The 12/24/96 NPDES permit superseded NPDES permits issued on December 13, 1995, September 28, 1988, May 19, 1983, and May 30, 1975 (earliest NPDES permit on file with the Department).

September 18, 2001 – The Department issued WDL #W000714-5N-F-R/MEPDES permit #ME0002381 to the permittee for the monthly average discharge of 0.05 MGD of industrial process wastewater via Outfall #001A and for the monthly average discharge of 0.036 MGD of treated ground water via Outfall #006A to the Medomak River in Waldoboro. The 9/18/01 WDL/MEPDES permit superseded WDL Modification #W000714-44-E-R issued on October 4, 1996, WDL #W000714-44-D-R issued on November 9, 1995, WDL Transfer #W000714-44-E-T issued on April 22, 1993, WDL Amendment #W000714-44-C-A issued on June 15, 1989, WDL Amendment (not numbered) issued on July 22, 1987, and WDL #W000714-44-A-R issued on March 25, 1985 (earliest Order on file with the Department).

October 3, 2006 – The Department issued WDL #W000714-5S-G-R / MEPDES #ME0002381 to the permittee for a five-year term.

October 29, 2010 – The Department transferred WDL #W000714-5S-G-R from Osram Sylvania, Incorporated, to Osram Sylvania Incorporated, as the result of a merger between Osram Sylvania, Incorporated, and Osram Sylvania Products, Incorporated. The merged company’s new name is Osram Sylvania Incorporated. The transfer application was assigned WDL #W000714-5S-H-T.

August 22, 2011 – The permittee submitted a timely application for permit renewal. The Department accepted the application as complete on 8/24/11 and assigned WDL # W000714-5S-I-R.

## 2. PERMIT SUMMARY (cont'd)

- c. Source Description: The permittee has ceased all manufacturing operations at its Waldoboro facility and discharges of treated process wastewater via Outfall #001A ceased on February 28, 2006 according to a letter from the permittee's plant manager to the Department, dated March 3, 2006. The permittee is, however, still required to continue operation of a ground water remediation system, which is the source of wastewater discharged via Outfall #006A.

The ground water extraction system at the facility consists of four active shallow bedrock wells (EW-1, EW-2, EW-3, and EW-4) and a deep bedrock extraction well (MW-3), which is the well from which the majority of ground water is extracted. Water extracted from these wells is conveyed to a buried concrete accumulation tank. Water from this tank is pumped constantly through an air stripper tower for reduction of volatile organic compounds. The extraction system maintains a fixed capture zone by maintaining preset water levels in the wells. Effluent from the air stripper (*i.e.* treated ground water) is discharged to the Medomak River via a four-inch diameter PVC pipe designated Outfall #006A in this permitting action. The outfall pipe terminates in an open ditch which serves as a conveyance to the Medomak River.

## 3. CONDITIONS OF PERMIT

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

## 4. RECEIVING WATER QUALITY STANDARDS

*Classification of estuarine and marine waters*, 38 M.R.S.A. §469 states, "all estuarine and marine waters lying within the boundaries of the State and which are not otherwise classified are Class SB waters." The Medomak River at the point of discharge is not otherwise classified and is therefore a Class SB water. *Standards for classification of estuarine and marine waters*, 38 M.R.S.A. §465 (B)(2) describes the standards for Class SB waters.

## 5. RECEIVING WATER QUALITY CONDITIONS

The *State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report*, prepared by the Department pursuant to §303(d) and §305(b) of the Federal Water Pollution Control Act (referred to as the "305b Report"), lists the Medomak River Estuary (Waterbody ID 726-11) as, "Category 4-B-1: Estuarine and Marine Waters Impaired by Pollutants – Pollution Control Requirements Reasonably Expected to Result in Attainment." Impairment in this context refers to the designated use of habitat for fish and other marine life. The 305b Report states that the impairment is caused by municipal point source discharge, but further states that the municipal point source was eliminated. Data are not available as of the date of this permitting action to determine if



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

elimination of the municipal point source has resulted in attainment of the receiving water. The Report lists the Medomak River at Waldoboro as, "Category 4-A: Estuarine and Marine Waters with Impaired Use, TMDL Completed." The 305b Report lists elevated fecal coliform bacteria as the cause of impairment and states that a TMDL has been completed for "listed causes," but, "...there is insufficient new data to determine if attainment has been achieved." The 305b Report lists all estuarine and marine waters as, "Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants." Impairment in this context refers to these waters partially supporting the designated use of fishing (fish and shellfish consumption) due to elevated levels of PCBs in tissues of some fish as well as other persistent bioaccumulating substances in lobster tomalley. The Department has no information at this time that the discharge from the permittee causes or contributes to non-attainment of the standards of classification for Class SB waters.

The Maine Department of Marine Resources (DMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The DMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The DMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (in-stream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of most wastewater treatment outfall pipes as a precautionary measure due to bacteria, viruses and other deleterious substances associated with wastewater treatment plant effluents. The area that this outfall discharges into is classified as prohibited and identified as pollution area # 26 A1. However, DMR does not consider this outfall as the cause for the prohibited classification. Area #26 is closed to the harvesting of shellfish due to water quality not meeting the standards of the National Shellfish Sanitation Program unrelated to the presence of this outfall. The shellfish closure area is identified on the map included as Fact Sheet **Attachment A**. The Department is making the determination that the discharge of treated ground water from the permittee does not cause or contribute to the closure of the shellfish harvesting area.

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: This permitting action is carrying forward the monthly average discharge flow limitation of 10,000 gallons per day (GPD) and the minimum monitoring frequency requirement of once per calendar quarter from the previous permitting action.

A review of the monthly average and daily maximum flow data as reported on the Discharge Monitoring Reports submitted to the Department for the period August 31, 2006 – August 31, 2011 (n=19) indicates the average monthly flow has ranged from 2,170 GPD to 7,468 GPD with an arithmetic mean of 4,169 GPD. The maximum flow has ranged from 3,000 GPD to 14,300 GPD with an arithmetic mean of 6,375 GPD.

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

- b. Dilution Factors: *Surface Water Toxics Control Program*, 06-096 CMR 530 §4.A.(2)(a) states that, "For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model." The dilution factors associated with the discharge from the permittee specified below are based on a Department best professional judgment determination in consideration of results of an extensive dye study that was conducted to determine the mixing characteristics of the effluent as it exits the conveyance ditch and enters the receiving waters.

Acute = 425:1

Chronic = 500:1

Harmonic mean<sup>1</sup> = 1,500:1

### Footnote:

- (1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication "*Technical Support Document for Water Quality-based Toxics Control*" (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation.
- c. Arsenic (Total): The previous permitting action carried forward a daily maximum concentration reporting requirement for total arsenic and a daily maximum mass reporting requirement for total arsenic based on the presence of this chemical in soil and ground water samples taken between March 1985 and April 1987. A review of the daily maximum effluent arsenic data as reported on the Discharge Monitoring Reports submitted to the Department for the period August 31, 2006 through August 31, 2011 indicates that the maximum effluent value reported was 7 ug/L. Given the 1500:1 harmonic mean dilution, the arsenic data submitted to-date does not demonstrate a reasonable potential to exceed the acute, chronic or human health ambient water quality criteria (AWQC) for arsenic. Therefore, this permitting action is eliminating monitoring requirements for total arsenic. Should the Department receive new information indicating that the discharge exceeds or has a reasonable potential to exceed the ambient water quality criteria for arsenic, the Department reserves the right to reopen this permit in accordance with permit Special Condition F.
- d. Tetrachloroethene: Air stripper system *influent* concentration levels for tetrachloroethene and other volatile organic compounds (VOCs) have been summarized in a report prepared for the permittee by EOS Research, Ltd., entitled, Report of Remedial System Operations 4/04-4/05 Osrar Sylvania Inc. Waldoboro, Maine, July, 2005. Table 2 of the report, *Historical VOC Concentration in Extraction Wells and Air Stripper Influent*, summarizes the data for the period of November 1996 through April 2005. The values represent the combined influent concentration from the five extraction wells prior to treatment via the air stripper system and were generated by water quality analysis performed on a once per calendar quarter basis.

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

On May 19, 2006, the Department conducted a statistical evaluation in accordance with 06-096 CMR 530 (3)(E) on the *influent* volatile organic compound (VOC) test results provided in the July 2005 report identified above to determine whether the untreated ground water concentrations of VOCs extracted from the five extraction wells indicate a reasonable potential (RP) to exceed the ambient surface water quality criteria. The Department made a best professional judgment determination to establish a quarterly *effluent* monitoring requirement for any parameter which indicates RP. Although the *effluent* data for these VOC parameters does not demonstrate RP, the Department identified in the previous permitting action that failure of the ground water remediation system to function properly may result in a discharge of certain VOCs in concentrations that may pose a threat to marine life or to human health by way of consumption of marine organisms affected by the discharge.

The 5/19/06 evaluation indicated that the maximum reported tetrachloroethene influent value of 660 µg/L reported for October 1999 indicated a reasonable potential to exceed the human health-based ambient water quality criterion of 1.77 µg/L and therefore established a daily maximum concentration reporting requirement for tetrachloroethene and a minimum monitoring frequency requirement of once per calendar quarter, consistent with the monitoring requirement established in the May 31, 1988 Administrative Order by Consent. A review of the daily maximum effluent data for tetrachloroethene as reported on the Discharge Monitoring Reports submitted to the Department for the period August 31, 2006 through August 31, 2011 indicates that the maximum effluent value reported was <1 µg/L. The *effluent* values reported for tetrachloroethene do not demonstrate a RP to exceed the AWQC, therefore, this permitting action is carrying forward the quarterly monitoring requirements for tetrachloroethene but is not establishing numerical effluent limitations.

- e. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing:  
38 M.R.S.A., §414-A and §420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. *Surface Water Toxics Control Program*, 06-096 CMR 530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected and narrative and numeric water quality criteria are met. *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

06-096 CMR 530 (2)(A) specifies the dischargers subject to the rule as, “*all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedences of narrative or numerical water*

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

*quality criteria.*” The permittee does not discharge process or domestic wastewaters. Further, 06-096 CMR 530 (2)(D)(4) states, “*The Department may waive or reduce testing or replace testing with requirements adequate to characterize the toxicity of identified pollutants when a discharger provides information adequate to:*

- (a) Identify all toxic pollutants present or demonstrate that no toxic pollutants are used in its processes in toxic amounts;*
- (b) Demonstrate that chemicals used in or formed by the discharger's industrial processes are not known or suspected to result in the formation of toxic pollutants in toxic amounts; and*
- (c) Demonstrate the discharger does not process or treat waters known or suspected to contain toxic pollutants.”*

This permitting action is carrying forward the BPJ-based determination from the previous permitting action which states that routine WET, priority pollutant, or analytical chemistry testing for Outfall #006A is not warranted at this time.

## **7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY**

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

## **8. PUBLIC COMMENTS**

Public notice of this application was made in the *Lincoln County News* newspaper on or about August 11, 2011. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## **9. DEPARTMENT CONTACTS**

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

Phyllis Arnold Rand  
Division of Water Quality Management  
Bureau of Land & Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017      Tel: (207) 287-7658      Fax: (207) 287-3435  
e-mail: [phyllis.a.rand@maine.gov](mailto:phyllis.a.rand@maine.gov)

## 10. RESPONSE TO COMMENTS

During the period of October 13, 2011 through the issuance date of the permit, the Department solicited comments on the proposed draft permit to be issued for the discharge(s) from the permittee. The Department received written comments in an electronic mail dated November 7, 2011 from the Maine Department of Marine Resources (DMR). No other comments were received from State or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit/license. The comments and the Department's response to the DMR's comments are below.

### **DMR Comments: Fact Sheet Section 5, RECEIVING WATER QUALITY CONDITIONS**

The Maine Department of Marine Resources (DMR) assesses information on shellfish growing areas to ensure that shellfish harvested are safe for consumption. The DMR has authority to close shellfish harvesting areas wherever there is a pollution source, a potential pollution threat, or poor water quality. The DMR traditionally closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (in-stream thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions. ~~In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, shellfish harvesting area #26 is closed to the harvesting of shellfish due to insufficient or limited ambient water quality data to determine that the area meets the standards in the National Shellfish Sanitation Program.~~ In addition, the DMR prohibits shellfish harvesting in the immediate vicinity of most wastewater treatment outfall pipes as a precautionary measure due to bacteria, viruses and other deleterious substances associated with wastewater treatment plant effluents. The area that this outfall discharges into is classified as prohibited and identified as pollution area # 26 A1. However, DMR does not consider this outfall as the cause for the prohibited classification. Area #26 is closed to the harvesting of shellfish due to water quality not meeting the standards of the National Shellfish Sanitation Program unrelated to the presence of this outfall. The shellfish closure area is identified on the map included as Fact Sheet **Attachment A**. The Department is making the determination that the discharge of treated ground water from the permittee does not cause or contribute to the closure of the shellfish harvesting area.

### **Department Response:**

The Department concurs and the requested changes are reflected in the final permit.

# **ATTACHMENT A**



# Maine Department of Marine Resources

## Pollution Area No. 26

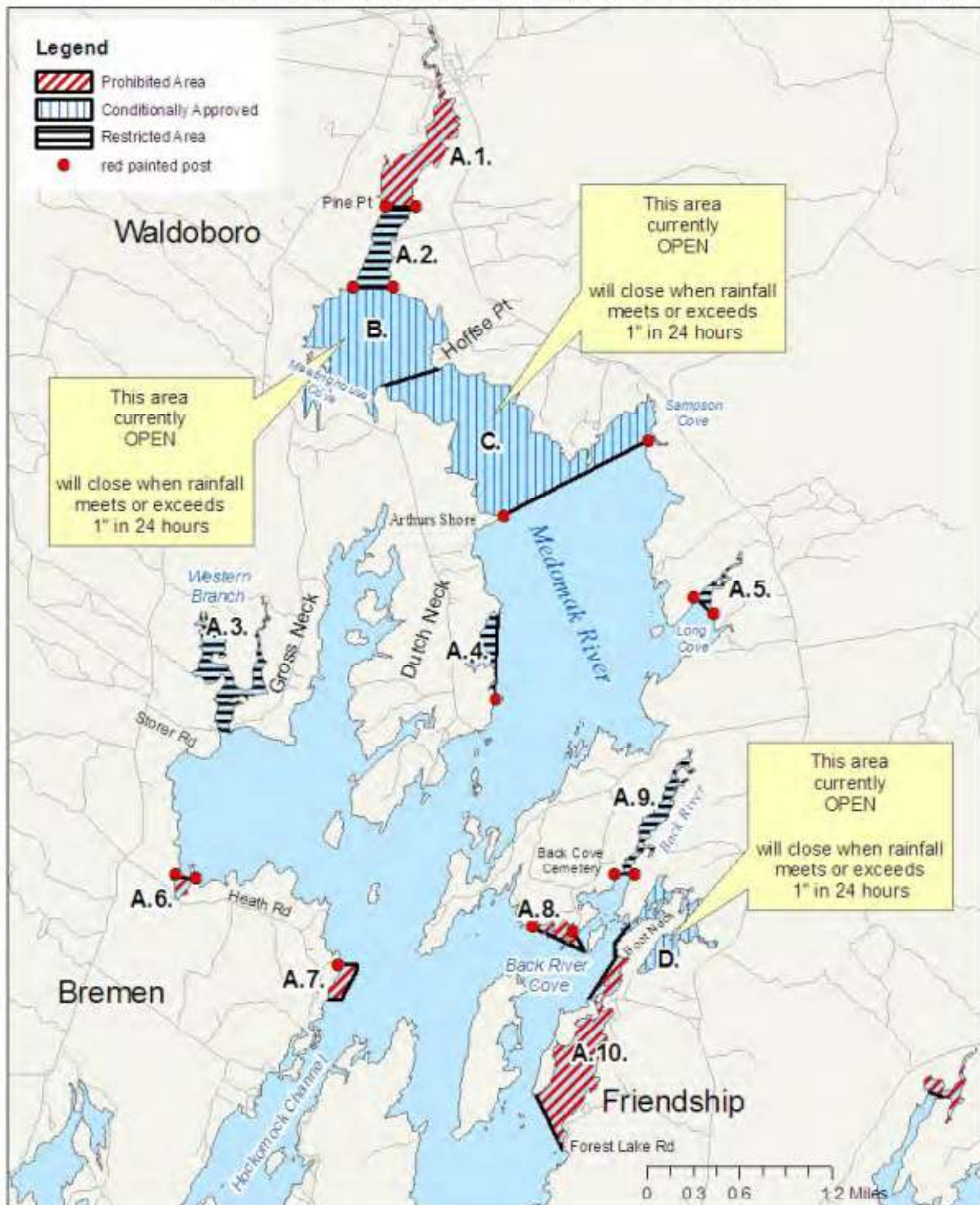
Medomak River (Waldoboro, Bremen, and Friendship)



9/13/11

### Legend

- Prohibited Area
- Conditionally Approved
- Restricted Area
- red painted post





MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**A. GENERAL PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **B. OPERATION AND MAINTENANCE OF FACILITIES**

### **1. General facility requirements.**

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

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

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

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

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

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

### **5. Bypasses.**

#### (a) Definitions.

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

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

#### (c) Notice.

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

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

**6. Upsets.**

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

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**C. MONITORING AND RECORDS**

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

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

**3. Monitoring and records.**

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

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

#### **5. Publicly owned treatment works.**

- (a) All POTWs must provide adequate notice to the Department of the following:
  - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

#### **E. OTHER REQUIREMENTS**

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.



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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("BMPs")** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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

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

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

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

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

**Maximum daily discharge limitation** means the highest allowable daily discharge.

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

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

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

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

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

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**Point source** means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

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

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.



# 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.

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

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