STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

March 5, 2012

VIA ELECTRONIC MAIL

Mr. Scott Firmin, P.E.
Portland Water District
Westbrook Wastewater Facility
P.O. Box 3553
Portland, ME 04104-3553
sfirmin@pwd.org

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0100846
Maine Waste Discharge License (WDL) Application #W001510-6D-E-R
Final Permit/WDL – Portland Water District, Westbrook WWTF

Dear Mr. Firmin:

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.

Sincerely,

Phyllis Arnold Rand

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

Enclosure

Cc: Stuart Rose, DEP/CMRO Lori Mitchell, DEP/DMU Sandy Mojica, EPA

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

DEPARTMENT ORDER

IN THE MATTER OF

PORTLAND WATER DISTRICT	)	MAINE POLLUTANT DISCHARGE
WESTBROOK, CUMBERLAND COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
ME0100846	)	WASTE DISCHARGE LICENSE
W001510-6D-E-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, § 1251, et seq. and Maine Law 38 M.R.S.A. § 414-A, et seq., and applicable regulations, the Department of Environmental Protection ("Department") has considered the application of the PORTLAND WATER DISTRICT ("permittee"), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The permittee has submitted a timely and complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100846/ Maine Waste Discharge License (WDL) #W001510-5L-D-R, ("permit") which was issued on December 22, 2006, and expired on December 22, 2011. The permit approved the discharge of up to a monthly average of 4.54 million gallons per day (MGD) of secondary treated waste water from a municipal waste water treatment facility and an unspecified quantity of untreated storm water and sanitary waste water from five (5) combined sewer overflow (CSO) outfalls to the Presumpscot River, Class C, in Westbrook, Maine. A site location map is included as **Attachment A** of the attached Fact Sheet.

PERMIT MODIFICATIONS REQUESTED

1. The permittee requests a modification of the existing monthly average flow limitation from 4.54 MGD to "Report" in order to maximize influent flows during wet weather events.

2. The permittee requests a modification of the existing settleable solids minimum monitoring frequency requirement from once per day (1/Day) to five days per week (5/Week) based on the permittee's compliance history.

PERMIT MODIFICATIONS GRANTED

1. The Department is modifying the monthly average flow limitation from 4.54 MGD to "Report" in order to maximize influent flows being treated during wet weather events and based on Department Best Professional Judgment.

2. The Department is modifying the settleable solids minimum monitoring frequency requirement from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

PERMIT SUMMARY

Terms and conditions: This permit carries forward all terms and conditions of the December 22, 2006 MEPDES permit/WDL with the following exceptions that include:

1. Eliminating the water quality-based chronic Whole Effluent Toxicity (WET) numerical effluent limitation for the water flea (*Ceriodaphnia dubia*) and reducing monitoring requirements for the water flea from 2/year to once every two years (1/2 years) per *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005).

2. Eliminating the water quality based mass and concentration limits for total cadmium and total lead per 06-096 CMR 530.

3. Revising the monthly average *E. coli* bacteria limitation from 142 colonies/100 mL to 126 colonies/100 mL based on revisions to the State's Water Classification Program for Class C waters.

4. Revising the water quality-based mass and concentration limits for inorganic arsenic per 06-096 CMR 530.

5. Revising the monthly average flow limitation from 4.54 MGD to "Report" in order to maximize flow volumes being treated during wet weather events and based on Department Best Professional Judgment (BPJ).

6. Revising the settleable solids minimum monitoring requirement from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

7. Revising the acute and chronic dilution factors based on new information.

8. Establishing key milestones for combined sewer overflow abatement.

9. Revising the pH minimum monitoring frequency requirement from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

10. Revising the mercury minimum monitoring frequency from 4/Year to 1/Year based on, *Certain deposits and discharges prohibited*, 38 M.R.S.A., §420 sub-§1-B(F).

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated February 27, 2012, 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;

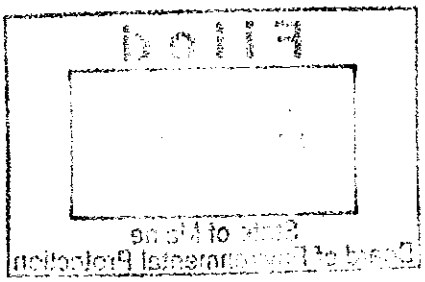
   b. Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;

   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 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 quality will be maintained and protected; and

   e. Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following the opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

4. The discharge(s) (including the CSOs) will be subject to effluent limitations that require application of best practicable treatment defined in 38 M.R.S.A., §414-A(1)(D).



ACTION

THEREFORE, the Department APPROVES the above noted application of the PORTLAND WATER DISTRICT to discharge an unspecified quantity of flow (design capacity of 4.54 MGD) of secondary treated waste waters from a municipally owned treatment works facility and an unspecified quantity of untreated storm water and sanitary waste water from five combined sewer overflow (CSO) outfalls to the Presumpscot River, Class C, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations, including:

1. "*Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*," revised July 1, 2002, copy attached.

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

3. This permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the authorization to discharge and the terms and conditions of this permit and all modifications and minor revisions thereto remain in effect until a final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002 and *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (effective April 1, 2003)]

DONE AND DATED AT AUGUSTA, MAINE, THIS 6TH DAY OF MARCH 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Mark R Bellen
For Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date filed with Board of Environmental Protection _____

Filed
MAR - 9 2012
State of Maine
Board of Environmental Protection

Date of initial receipt of application September 2, 2011
Date of application acceptance September 6, 2011

This Order prepared by Phyllis Arnold Rand, BUREAU OF LAND & WATER QUALITY
ME0100846 2012

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. Beginning the effective date of this permit, the permittee is authorized to discharge secondary treated waste water from **Outfall #001** to the Presumpscot River. Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Monthly Average as specified	Weekly Average as specified	Daily Maximum as specified	Measurement Frequency as specified	Sample Type as specified
Flow *[50050]*	Report MGD *[03]*	---	Report MGD *[03]*	---	---	---	Continuous *[99/99]*	Recorder *[RC]*
Biochemical Oxygen Demand (BOD_5) *[00310]*	1,137 lbs/day *[26]*	1,705 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	3/Week *[03/07]*	24-Hour Composite *[24]*
BOD5 % Removal (1) *[81010]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Total Suspended Solids (TSS) *[00530]*	1,137 lbs/day *[26]*	1,705 lbs/day *[26]*	Report lbs/day *[26]*	30 mg/L *[19]*	45 mg/L *[19]*	50 mg/L *[19]*	3/Week *[03/07]*	24-Hour Composite *[24]*
TSS % Removal (1) *[81011]*	---	---	---	85% *[23]*	---	---	1/Month *[01/30]*	Calculate *[CA]*
Settleable Solids *[00545]*	---	---	---	---	---	0.3 mL/L *[25]*	5/Week *[05/07]*	Grab *[GR]*
E. coli. Bacteria (2) *[31616]*	---	---	---	126/100 mL (3) *[13]*	---	949/100 mL *[13]*	3/Week *[03/07]*	Grab *[GR]*
Total Residual Chlorine (4) *[50060]*	---	---	---	0.1 mg/L *[19]*	---	0.3 mg/L *[19]*	1/Day *[01/01]*	Grab *[GR]*
pH (Std. Units) *[00400]*	---	---	---	---	---	6.0-9.0 *[12]*	5/Week *[05/07]*	Grab *[GR]*
Arsenic (Inorganic) *[01252]*	0.010 lbs/day *[26]*	---	---	0.50 ug/L (5) *[28]*	---	---	2/Year *[02/YR]*	24-Hour Composite *[24]*
Arsenic (Total) *(Upon permit issuance)* *[01002]*	Report lbs/day *[26]*	---	---	Report ug/L (5) *[28]*	---	---	2/Year *[02/YR]*	24-Hour Composite *[24]*
Mercury (Total) (6) *[71900]*	---	---	---	0.0155 ug/L *[28]*	---	0.0232 ug/L *[28]*	1/Year *[01/YR]*	Grab *[GR]*

The italicized numeric values in brackets in the table above and the tables that follow are not limitations but are code numbers used by Department personnel to code Discharge Monitoring Reports (DMRs). Footnotes – See pages 8-11 for footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001

2. *SURVEILLANCE LEVEL* - Beginning upon issuance of this permit and lasting until 12 months prior to permit expiration.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity(7)						
Acute – NOEL						
Ceriodaphnia dubia [TDA3B] *(Water flea)*	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
Salvelinus fontinalis [TDA6F] *(Brook trout)*	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
Chronic – NOEL						
Ceriodaphnia dubia [TBP3B] *(Water flea)*	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
Salvelinus fontinalis [TBQ6F] *(Brook trout)*	---	---	---	Report % [23]	1/2 Years [01/2Y]	Composite [24]
Analytical chemistry (8) [51477]	---	---	---	Report ug/L [28]	1/2 Years [01/2Y]	Composite/Grab [24]

The italicized numeric values in brackets in the table above and the tables that follow are not limitations but are code numbers used by Department personnel to code Discharge Monitoring Reports (DMRs).

Footnotes – See pages 8-11 for footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd) – OUTFALL #001

SCREENING LEVEL - Beginning 12 months prior to permit expiration and every five years thereafter.

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity(7)						
Acute – NOEL						
Ceriodaphnia dubia [TDA3B] *(Water flea)*	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Salvelinus fontinalis [TDA6F] *(Brook trout)*	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Chronic – NOEL						
Ceriodaphnia dubia [TBP3B] *(Water flea)*	---	---	---	Report % [23]	2/Year [02/YR]	Composite [24]
Salvelinus fontinalis [TBQ6F] *(Brook trout)*	---	---	---	Report % [23]	2/Year [01/YR]	Composite [24]
Analytical chemistry (8,9) [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]
Priority Pollutants (9) [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]

The italicized numeric values in brackets in the table above and the tables that follow are not limitations but are code numbers used by Department personnel to code Discharge Monitoring Reports (DMRs).

Footnotes – See pages 8-11 for footnotes.

SPECIAL CONDITIONS

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

Footnotes:

Sampling Locations:

Effluent sampling for all parameters shall be sampled after the last treatment process on a year-round basis.

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

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

All analytical test results shall be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. See **Attachment 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.

1. **Percent removal** - The treatment facility shall maintain a minimum of 85 percent removal of both BOD_5 and TSS. The percent removal shall be based on a monthly average calculation using influent and effluent concentrations. The percent removal shall be waived when the monthly average influent concentration is less than 200 mg/L. For instances when this occurs, the facility shall report "*NODI-9*" on the monthly Discharge Monitoring Report.

2. ***E. coli* bacteria** – Limits and monitoring requirements are in effect on a year-round basis.

SPECIAL CONDITIONS

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

Footnotes (cont'd)

3. ***E. coli* bacteria** – The monthly average limitation is a geometric mean limitation and shall be calculated and reported as such.

4. **Total Residual Chlorine** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine based compounds are utilized to disinfect the discharge(s). The permittee shall utilize an EPA-approved test method capable of bracketing the TRC limitations specified in this permitting action.

5. **Arsenic (Total) – Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic,** the permittee shall sample and analyze the discharge from the facility for total arsenic. The Department's most current reporting limit (RL) for total arsenic is 5 ug/L but may be subject to revision during the term of this permit. All detectable analytical test results shall be reported to the Department including results which are detected below the Department's most current RL at the time of sampling and reporting.

   Arsenic (Inorganic) – The limitations and monitoring requirements are not in effect until the USEPA approves of a test method for inorganic arsenic. Once effective, compliance will be based on a 12-month rolling average beginning 12 months after the effective date of the limits. Following USEPA approval of a test method for inorganic arsenic and based on recent available data, the permittee may request that the Department reopen this permit in accordance with Special Condition O, *Reopening of Permit For Modifications*, of this permit to establish a schedule of compliance for imposition of the numeric inorganic arsenic limitations.

6. **Mercury** – All mercury sampling (1/Year) required to determine compliance with interim limitations established pursuant to *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001) shall be conducted in accordance with EPA's "clean sampling techniques" found in EPA Method 1669, Sampling Ambient Water For Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses shall be conducted in accordance with EPA Method 1631E, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. See **Attachment B,** *Effluent Mercury Test Report*, of this permit for the Department's form for reporting mercury test results.

SPECIAL CONDITIONS

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

Footnotes:

7. **Whole effluent toxicity (WET) testing** - Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic thresholds of 2.44%), which provides a point estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points. The critical acute and chronic thresholds were derived as the mathematical inverses of the applicable acute and chronic dilution factors of 40.9:1.

   a. **Surveillance level testing** - Beginning upon permit issuance and lasting through 12 months prior to permit expiration, the permittee shall conduct surveillance level WET testing. Acute and chronic tests shall be conducted on the water flea (*Ceriodaphnia dubia*) and the brook trout (*Salvelinus fontinalis*) at a frequency of once every other year (1/2 Years). Tests shall be conducted in a different calendar quarter each year. There shall be at least six (6) months between sampling events.

   b. **Screening level testing** - Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct screening level WET testing at a minimum frequency of twice per year (2/Year). Acute and chronic tests shall be conducted on the water flea (*Ceriodaphnia dubia*) and the brook trout (*Salvelinus fontinalis*). There shall be at least six (6) months between sampling events.

      Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory conducting the testing before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds of 2.7% each. See **Attachment C** of this permit for a copy of the Department's WET report form.

      Toxicity tests must be conducted by an experienced laboratory approved by the Department. The laboratory must follow procedures as described in the following U.S.E.P.A. methods manuals:

      Short Term Methods for Estimating the Chronic Toxicity of Effluent and Receiving Water to Marine and Estuarine Organisms, Third Edition, October 2002, EPA-821-R-02-014.

SPECIAL CONDITIONS

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

Footnotes:

Methods for Measuring the Acute Toxicity of Effluent and Receiving Waters to Freshwater and Marine Organisms, Fifth Edition, October 2002, EPA-821-R-02-012.

The permittee is also required to analyze the effluent for the parameters specified in the analytical chemistry on the form in **Attachment A** of this permit each time a WET test is performed.

8. **Analytical chemistry** – Refers to a suite of chemical tests in **Attachment A** of the permit.

   a. **Surveillance level testing** – Beginning upon permit issuance and lasting through 12 months prior to permit expiration, the permittee shall conduct analytical chemistry testing at a minimum frequency of once every other year (1/2 Years).

   b. **Screening level testing** – Beginning 12 months prior to permit expiration and every five years thereafter, the permittee shall conduct analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter) for four consecutive calendar quarters.

9. **Priority pollutant testing** – Priority pollutant testing refers to analyses for a suite of chemicals listed in **Attachment A** of this permit. Screening level testing shall be conducted once per year (1/Year) beginning 12 months prior to expiration of the permit and every five years thereafter. Surveillance level priority pollutant testing is not required pursuant to 06-096 CMR 530 (2)(D).

   Analytical chemistry and priority pollutant testing shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests, when applicable, and shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve the most current minimum reporting levels of detection as specified by the Department.

   Test results must be submitted to the Department not later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days of their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in 06-096 CMR 584. For the purposes of DMR reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

1. The effluent shall not contain a visible oil sheen, foam or floating solids at any time which would impair the usages designated for 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 for the classification of the receiving waters.

3. The discharge shall not cause visible discoloration or turbidity in the receiving waters which would impair the usages designated for the classification of the receiving waters.

4. Notwithstanding specific conditions of this permit the effluent must not lower the quality of any classified body of water below such classification, or lower the existing quality of any body of water if the existing quality is higher than the classification.

C. TREATMENT PLANT OPERATOR

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

D. LIMITATIONS FOR INDUSTRIAL USERS

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

SPECIAL CONDITIONS

E. NOTIFICATION REQUIREMENT

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

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

2. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants into the system at the time of permit issuance. For the purposes of this section, notice regarding substantial change shall include information on:

   (a) the quality and quantity of waste water introduced to the waste water collection and treatment system; and

   (b) any anticipated impact caused by the change in the quantity or quality of the waste water to be discharged from the treatment system.

F. 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 September 6, 2011; 2) the terms and conditions of this permit; and 3) the five (5) combined sewer overflow (CSO) outfalls listed in Special Condition K of this permit. Discharges of waste water from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), *Bypass*, of this permit.

G. SCHEDULE OF COMPLIANCE – INORGANIC ARSENIC

Beginning upon issuance of this permit and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic arsenic are not in effect. During this time frame, the permittee is required by Special Condition A, *Effluent Limitations and Monitoring Requirements,* of this permit to conduct 2/Year sampling and analysis for total arsenic.

Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.

SPECIAL CONDITIONS

H. HIGH FLOW MANAGEMENT PLAN

The permittee shall maintain a High Flow Management Plan to direct the staff on how to operate the facility effectively during periods of high flow. The Department acknowledges that the existing collection system may deliver flows in excess of the monthly average design capacity of the treatment plant during periods of high infiltration and rainfall. The plan shall include operating procedures for a range of intensities, address solids handling procedures (including septic waste and other high strength wastes if applicable) and provide written operating and maintenance procedures during the events. **The permittee shall review their plan annually** and record any necessary changes to keep the plan up to date.

I. OPERATION & MAINTENANCE (O&M) PLAN

This facility shall have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which 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.

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

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

J. DISPOSAL OF TRANSPORTED WASTES IN WASTE WATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to receive and introduce to the treatment process or solids handling stream **a maximum of 10,000 gallons per day [and a monthly total of 300,000 gallons]** of transported wastes, subject to the following terms and conditions:

1. "Transported wastes" means any liquid non-hazardous waste delivered to a wastewater treatment facility by a truck or other similar conveyance that has different chemical constituents or a greater strength than the influent described on the facility's application for a waste discharge license. Such wastes may include, but are not limited to septage, industrial wastes or other wastes to which chemicals in quantities potentially harmful to the treatment facility or receiving water have been added.

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTE WATER TREATMENT FACILITY (cont'd)

2. The character and handling of all transported wastes received must be consistent with the information and management plans provided in application materials submitted to the Department.

3. At no time shall the addition of transported wastes cause or contribute to effluent quality violations. Transported wastes may not cause an upset of or pass through the treatment process or have any adverse impact on the sludge disposal practices of the wastewater treatment facility. Wastes that contain heavy metals, toxic chemicals, extreme pH, flammable or corrosive materials in concentrations harmful to the treatment operation must be refused. Odors and traffic from the handling of transported wastes may not result in adverse impacts to the surrounding community. If any adverse effects exist, the receipt or introduction of transported wastes into the treatment process or solids handling stream shall be suspended until there is no further risk of adverse effects.

4. The permittee shall maintain records for each load of transported wastes in a daily log which shall include at a minimum the following:

   (a) The date;
   (b) The volume of transported wastes received;
   (c) The source of the transported wastes;
   (d) The person transporting the transported wastes;
   (e) The results of inspections or testing conducted;
   (f) The volumes of transported wastes added to each treatment stream; and
   (g) The information in (a) through (d) for any transported wastes refused for acceptance.

   These records shall be maintained at the treatment facility for a minimum of five years.

5. The addition of transported wastes into the treatment process or solids handling stream shall not cause the treatment facilities design capacity to be exceeded. If, for any reason, the treatment process or solids handling facilities become overloaded, introduction of transported wastes into the treatment process or solids handling stream shall be reduced or terminated in order to eliminate the overload condition.

6. Holding tank wastewater from domestic sources to which no chemicals in quantities potentially harmful to the treatment process have been added shall not be recorded as transported wastes but should be reported in the treatment facility's influent flow.

SPECIAL CONDITIONS

J. DISPOSAL OF TRANSPORTED WASTES IN WASTE WATER TREATMENT FACILITY (cont'd)

7. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current High Flow Management Plan approved by the Department pursuant to Special Condition K that provides for full treatment of transported wastes without adverse impacts.

8. In consultation with the Department, chemical analysis is required prior to receiving transported wastes from new sources that are not of the same nature as wastes previously received. The analysis must be specific to the type of source and designed to identify concentrations of pollutants that may pass through, upset or otherwise interfere with the facility's operation.

9. Access to transported waste receiving facilities may be permitted only during the times specified in the application materials and under the control and supervision of the person responsible for the wastewater treatment facility or his/her designated representative.

10. The authorization in this Special Condition is subject to annual review and, with notice to the permittee and other interested parties of record, may be suspended or reduced by the Department as necessary to ensure full compliance with 06-096 CMR 555 and the terms and conditions of this permit.

K. CONDITIONS FOR COMBINED SEWER OVERFLOW

Pursuant to *Combined Sewer Overflow Abatement*, 06-096 CMR 570, the permittee is authorized to discharge mixed sanitary and stormwater from the following locations of CSOs (storm water/sanitary waste water) subject to the conditions and requirements contained herein:

1. CSO Locations

Outfall #	Regulator Location	Receiving Water, Class
002	Warren Parking Lot Regulator	Presumpscot River, C
003	Siphon Inlet Structure	Presumpscot River, C
004	Dunn Street Regulator	Presumpscot River, C
007	Brown Street Regulator	Presumpscot River, C
008	King Street Regulator	Presumpscot River, C

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOW (cont'd)

2. Prohibited Discharges

   a) The discharge of dry weather flows is prohibited. All such discharges shall be reported to the Department in accordance with Standard Condition D (1) of this permit.

   b) No discharge shall occur as a result of mechanical failure, improper design or inadequate operation or maintenance.

   c) No discharges shall occur at flow rates below the maximum design capacities of the wastewater treatment facility, pumping stations or sewerage system.

3. Narrative Effluent Limitations

   a) The effluent shall not contain a visible oil sheen, settled substances, foam, or floating solids at any time that impair the characteristics and designated uses ascribed to the classification of the receiving waters.

   b) The effluent shall not contain materials in concentrations or combinations that are hazardous or toxic to aquatic life; or which would impair the usage designated by the classification of the receiving waters.

   c) The discharge shall not impart color, turbidity, toxicity, radioactivity or other properties that cause the receiving waters to be unsuitable for the designated uses and other characteristics ascribed to their class.

   d) Notwithstanding specific conditions of this permit, the effluent by itself or in combination with other discharges shall 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.

4. CSO Master Plan (see § 2 & 3 of Chapter 570 Department Rules)

   The permittee shall implement CSO control projects in accordance with an approved CSO Master Plan and abatement schedule. The CSO Master Plan, entitled *Sewer System Master Plan for Westbrook, Maine, December 1993*, prepared by Portland Water District and the City of Westbrook, and a supplemental document entitled *CSO Master Plan for Westbrook, Maine, Volume II, December 1996*, were approved by the Department on March 26, 1997. A revised abatement schedule dated October 8, 1999 was approved by the Department on October 27, 1999. The revised abatement schedule was further modified in the document entitled, *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME*, prepared by Woodard & Curran and dated December 2008 (referred as "Volume I" in correspondence) and further modified in a document entitled, *Combined*

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOW (cont'd)

Sewer Overflow Master Plan Update Study for Westbrook, ME, prepared by Woodard & Curran and dated September 2010 (referred as "Volume II" in correspondence).

Key milestones approved in the most recent abatement schedule that the permittee is required to comply with are:

On or before December 31, 2012 ***[PCS Code 04599]***, the permittee shall complete those projects listed in the modified *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME*, dated September 2010 with construction dates of 2012.

On or before December 31, 2013, ***[PCS Code 04599]***, the permittee shall complete those projects listed in the modified *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME*, dated September 2010 with construction dates of 2013.

On or before December 31, 2014, ***[PCS Code 06699]***, the permittee shall submit a CSO Master Plan Update evaluating the success of abatement projects to date and the need to proceed with additional CSO Abatement Projects.

On or before December 31, 2015, ***[PCS Code 04599]***, the permittee shall complete those projects listed in the modified *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME*, dated September 2010 with construction dates of 2015.

To modify the dates and or projects specified above (but not dates in the Master Plan), the permittee must file an application with the Department to formally modify this permit. The work items identified in the abatement schedule may be amended from time to time based upon approval by the Department. The permittee must notify the Department in writing prior to any proposed changes to the implementation schedule.

5. Nine Minimum Controls (NMC) (see §5 of 06-096 CMR 570)

   The permittee shall implement and follow the Nine Minimum Control documentation as approved by EPA on May 29, 1997. Work performed on the Nine Minimum Controls during the year shall be included in the annual CSO Progress Report (see below).

6. CSO Compliance Monitoring Program (see §6 of 06-096 CMR 570)

   The permittee shall conduct block testing or flow monitoring according to an approved *Compliance Monitoring Program* on all CSO points, as part of the CSO Master Plan. Annual flow volumes for all CSO locations shall be determined by actual flow monitoring, or by estimation using a model such as EPA's Storm Water Management Model (SWMM).

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOW (cont'd)

Results shall be submitted annually as part of the annual *CSO Progress Report* (see below), and shall include annual precipitation, CSO volumes (actual or estimated) and any block test data required. Any abnormalities during CSO monitoring shall also be reported. The results shall be reported on the Department form, "CSO Activity and Volumes" (**Attachment D** of this permit) or similar format and submitted to the Department in an electronic format approved by the Department. CSO control projects that have been completed shall be monitored for volume and frequency of overflow to determine the effectiveness of the project toward CSO abatement. This requirement shall not apply to those areas where complete separation has been completed and CSO outfalls have been eliminated.

7. Additions of New Wastewater (see §8 of 06-096 CMR 570)

06-096 CMR § 8 lists requirements relating to any proposed addition of wastewater to the combined sewer system. Documentation of the new wastewater additions to the system and associated mitigating measures shall be included in the annual *CSO Progress Report* (see below). Reports must contain the volumes and characteristics of the wastewater added or authorized for addition and descriptions of the sewer system improvements and estimated effectiveness. Any sewer extensions upstream of a CSO must be reviewed and approved by the Department prior to their connection to the collection system. A Sewer Extension/Addition Reporting Form shall be completed and submitted to the Department along with plans and specifications of the proposed extension/addition.

8. Annual CSO Progress Reports (see §7 of 06-096 CMR 570)

By March 1 of each year ***(PCS Code 11099)***, the permittee must submit an Annual CSO Progress Report covering the previous calendar year (January 1 to December 31) to the Department. The CSO Progress Report shall include, but is not necessarily limited to, the following topics as further described in 06-096 CMR 570: CSO abatement projects, schedule comparison, progress on inflow sources, costs, flow monitoring results, CSO activity and volumes, nine minimum controls update, sewer extensions, and new commercial or industrial flows.

SPECIAL CONDITIONS

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

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit *[PCS Code 95799]*:

(a) Changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may increase the toxicity of the discharge;

(b) Changes in the operation of the treatment works that may increase the toxicity of the discharge; and

(c) Changes in industrial manufacturing processes contributing wastewater to the treatment works that may increase the toxicity of the discharge.

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

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

(e) Increases in the type or volume of hauled wastes accepted by the facility.

The Department reserves the right to reinstate annual (surveillance level) testing or other toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds. See **Attachment F** of the attached Fact Sheet for an acceptable certification form to satisfy this Special Condition.

M. INDUSTRIAL PRETREATMENT PROGRAM

1. Pollutants introduced into POTWs by a non-domestic source (user) shall not pass-through the publicly owned treatment works (POTW) or interfere with the operation or performance of the works.

    a. The permittee shall develop and enforce specific effluent limits (local limits) for Industrial User(s), and all other users, as appropriate, which together with appropriate changes in the POTW facilities or operation, are necessary to ensure continued compliance with the POTW's MEPDES permit or sludge use or disposal practices. Specific local limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

SPECIAL CONDITIONS

K. CONDITIONS FOR COMBINED SEWER OVERFLOW (cont'd)

The CSO Progress Reports shall be completed on a standard form entitled "Annual CSO Progress Report", furnished by the Department, and submitted in electronic form, if possible, to the following address:

CSO Coordinator
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Engineering, Compliance and Technical Assistance
17 State House Station
Augusta, Maine 04333
e-mail: CSOCoordinator@state.me.us

9. Signs

If not already installed, the permittee shall install and maintain an identification sign at each CSO location as notification to the public that intermittent discharges of untreated sanitary wastewater occur. The sign must be located at or near the outfall and be easily readable by the public. The sign shall be a minimum of 12" x 18" in size with white lettering against a green background and shall contain the following information:

WET WEATHER
SEWAGE DISCHARGE
CSO # AND NAME

10. Definitions

For the purposes of this permitting action, the following terms are defined as follows:

a. Combined Sewer Overflow - a discharge of excess waste water from a municipal or quasi-municipal sewerage system that conveys both sanitary wastes and storm water in a single pipe system and that is in direct response to a storm event or snowmelt.

b. Dry Weather Flows - flow in a sewerage system that occurs as a result of non-storm events or are caused solely by ground water infiltration.

c. Wet Weather Flows - flow in a sewerage system that occurs as a direct result of a storm event, or snowmelt in combination with dry weather flows.

SPECIAL CONDITIONS

M. INDUSTRIAL PRETREATMENT PROGRAM (cont'd)

b. **Within 180 days of the effective date of this permit,** *[PCS code 08799]* the permittee shall prepare and submit a written technical evaluation to the Department analyzing the need to revise local limits. As part of this evaluation, the permittee shall assess how the POTW performs with respect to influent and effluent of pollutants, water quality concerns, sludge quality, sludge processing concerns/inhibition, biomonitoring results, activated sludge inhibition, worker health and safety and collection system concerns. In preparing this evaluation, the permittee shall complete the "Re-Assessment of Technically Based Local Limits" form included as **Attachment E** of this permit with the technical evaluation to assist in determining whether existing local limits need to be revised. Justifications and conclusions should be based on actual plant data if available and should be included in the report. Should the evaluation reveal the need to revise local limits, the permittee shall complete the revisions within 120 days of notification by the Department and submit the revisions to the Department for approval. The permittee shall carry out the local limits revisions in accordance with EPA's document entitled, *Local Limits Development Guidance (July 2004).*

2. The permittee shall implement the Industrial Pretreatment Program in accordance with the legal authorities, policies, procedures, and financial provisions described in the permittee's approved Pretreatment Program, and the General Pretreatment Regulations, found at 40 CFR 403 and Pretreatment Program, *Pretreatment Program*, 06-096 CMR 528 (effective January 12, 2001). At a minimum, the permittee must perform the following duties to properly implement the Industrial Pretreatment Program (IPP):

   a. Carry out inspection, surveillance, and monitoring procedures which will determine, independent of information supplied by the industrial user, whether the industrial user is in compliance with the Pretreatment Standards. At a minimum, all significant industrial users shall be sampled and inspected at the frequency established in the approved IPP but in no case less than once per year and maintain adequate records.

   b. Issue or renew all necessary industrial user control mechanisms within 90 days of their expiration date or within 180 days after the industry has been determined to be a significant industrial user.

   c. Obtain appropriate remedies for noncompliance by an industrial user with any pretreatment standard and/or requirement.

   d. Maintain an adequate revenue structure for continued implementation of the Pretreatment Program.

SPECIAL CONDITIONS

M. INDUSTRIAL PRETREATMENT PROGRAM (cont'd)

e. The permittee shall provide the Department with an annual report describing the permittee's pretreatment program activities for the twelve-month period ending 60 days prior to the due date in accordance with federal regulation found at 40 CFR 403.12(i) and 06-096 CMR 528(12)(i). **The annual report *[PCS code 53199]* shall be consistent with the format described in the "MEPDES Permit Requirements For Industrial Pretreatment Annual Report" form included as Attachment F of this permit and shall be submitted no later than October 15 of each calendar year.**

f. The permittee must obtain approval from the Department prior to making any significant changes to the industrial pretreatment program in accordance with federal regulation found at 40 CFR 403.18(c) and 06-096 CMR 528(18).

g. The permittee must assure that applicable National Categorical Pretreatment Standards are met by all categorical industrial users of the POTW. These standards are published in the federal regulations found at 40 CFR Parts 405 through 471.

h. The permittee must modify its pretreatment program to conform to all changes in the federal regulations and State rules that pertain to the implementation and enforcement of the industrial pretreatment program. **Within 180 days of the effective date of this permit *[PCS code 50999]*,** the permittee must provide the Department in writing, proposed changes to the permittee's pretreatment program deemed necessary to assure conformity with current federal regulations and State rules. At a minimum, the permittee must address in its written submission the following areas: (1) Enforcement response plan; (2) revised sewer use ordinances; and (3) slug control evaluations. The permittee will implement these proposed changes pending the Department's approval under federal regulation 40 CFR 403.18 and 06-096 CMR 528(18). This submission is separate and distinct from any local limits analysis submission described in section 1(a) above.

N. MONITORING AND REPORTING

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

SPECIAL CONDITIONS

N. MONITORING AND REPORTING (cont'd)

submitted to the Department assigned compliance inspector (unless otherwise specified) at the following address:

Maine Department of Environmental Protection
Southern Maine Regional Office
Bureau of Land & Water Quality
Division of Water Quality Management
312 Canco Road
Portland, Maine 04103

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 15th day of the month** following the completed reporting period. **Hard Copy documentation** submitted in support of the eDMR must be **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to the Department's Regional Office such that it is received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. **Electronic documentation** in support of the eDMR must be submitted **not later than close of business on the 15th day of the month** following the completed reporting period.

An electronic version of *"CSO Activity and Volumes"* (**Attachment D** of this permit) or similar format shall be submitted to the Department inspector at the above address and to the CSO Coordinator at the address below:

CSO Coordinator
Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333
e-mail: CSOCoordinator@maine.gov

O. REOPENING OF PERMIT FOR MODIFICATIONS

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

SPECIAL CONDITIONS

P. SEVERABILITY

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

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

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

Flow for Day (MGD)[1] _____ Flow Avg. for Month (MGD)[2] _____

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.

FRESH WATER VERSION

Please see the footnotes on the last page.

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

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

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

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

Notes:

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

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

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

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

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

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

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

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

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

Comments:

ATTACHMENT B

Maine Department of Environmental Protection

Effluent Mercury Test Report

Name of Facility: _____ Federal Permit # ME _____

Pipe # _____

Purpose of this test:
- ☐ Initial limit determination
- ☐ Compliance monitoring for: year _____ calendar quarter _____
- ☐ Supplemental or extra test

SAMPLE COLLECTION INFORMATION

Sampling Date: ___ ___ ___ (mm dd yy) Sampling time: _____ AM/PM

Sampling Location:

Weather Conditions: _____

Please describe any unusual conditions with the influent or at the facility during or preceding the time of sample collection:

Optional test - not required but recommended where possible to allow for the most meaningful evaluation of mercury results:

Suspended Solids _____ mg/L Sample type: _____ Grab (recommended) or _____ Composite

ANALYTICAL RESULT FOR EFFLUENT MERCURY

Name of Laboratory: _____

Date of analysis: _____ **Result:** _____ **ng/L (PPT)**

Please Enter Effluent Limits for your facility

Effluent Limits: **Average =** _____ ng/L **Maximum =** _____ ng/L

Please attach any remarks or comments from the laboratory that may have a bearing on the results or their interpretation. If duplicate samples were taken at the same time please report the average.

CERTIFICATION

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

By: _____ Date: _____

Title: _____

PLEASE MAIL THIS FORM TO YOUR ASSIGNED INSPECTOR

ATTACHMENT C

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
FRESH WATERS

Facility Name _____ MEPDES Permit # _____

P.I.C. # _____

Facility Representative _____ Signature _____

By signing this form, I attest that to the best of my knowledge that the information provided is true, accurate, and complete.

Facility Telephone # _____ Date Collected _____ Date Tested _____

mm/dd/yy mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results % effluent

	water flea	trout
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

	water flea			trout		
	% survival		no. young	% survival		final weight (mg)
QC standard	A>90	C>80	>15/female	A>90	C>80	> 2% increase
lab control						
receiving water control						
conc. 1 (%)						
conc. 2 (%)						
conc. 3 (%)						
conc. 4 (%)						
conc. 5 (%)						
conc. 6 (%)						
stat test used						

place * next to values statistically different from controls

for trout show final wt and % incr for both controls

Reference toxicant

	water flea		trout	
	A-NOEL	C-NOEL	A-NOEL	C-NOEL
toxicant / date				
limits (mg/L)				
results (mg/L)				

Comments _____

Laboratory conducting test

Company Name _____ Company Rep Name (Printed) _____

Mailing Address _____ Company Rep Signature _____

City, State, ZIP _____ Company Telephone # _____

Report WET chemistry on DEP Form "ToxSheet (Fresh Water Version), March 2007."

ATTACHMENT D

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
CSO ACTIVITY AND VOLUMES

MUNICIPALITY OR DISTRICT

REPORTING YEAR

YEARLY TOTAL PRECIPITATION INCHES

MEPDES / NPDES PERMIT NO.

SIGNED BY: DATE:

CSO EVENT NO.	START DATE OF STORM	PRECIP. DATA		FLOW DATA (GALLONS PER DAY) OR BLOCK ACTIVITY("1")											
		TOTAL INCHES	MAX. HR INCHES	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	LOCATION: NUMBER:	EVENT OVERFLOW GALLONS	EVENT DURATION HRS
1															
2															
3															
4															
5															
6															
7															
8															
9															
10															
11															
12															
13															
14															
15															
16															
17															
18															
19															
20															
21															
22															
23															
24															
25															
	TOTALS														

Note 1: Flow data should be listed as gallons per day. Storms lasting more than one day should show total flow for each day.

Note 2: Block activity should be shown as a "1" if the block floated away.

ATTACHMENT E

RE-ASSESSMENT OF TECHNICALLY BASED INDUSTRIAL DISCHARGE LIMITS

Pursuant to federal regulation 40 CFR Part 122.21(j)(4) and *Pretreatment Program*, 06-096 CMR 528, all Publicly Owned Treatment Works (POTWs) with approved Industrial Pretreatment Programs (IPPs) shall provide the Department with a written evaluation of the need to revise local industrial discharge limits under federal regulation 40 CFR Part 403.5(c)(1) and Department rule 06-096 CMR Chapter 528(6).

Below is a form designed by the U.S. Environmental Protection Agency (EPA - New England) to assist POTWs with approved IPPs in evaluating whether their existing Technically Based Local Limits (TBLLs) need to be recalculated. The form allows the permittee and Department to evaluate and compare pertinent information used in previous TBLLs calculations against present conditions at the POTW. **Please read the directions below before filling out the attached form.**

ITEM I.

* In Column (1), list what your POTW's influent flow rate was when your existing TBLLs were calculated. In Column (2), list your POTW's present influent flow rate. Your current flow rate should be calculated using the POTW's average daily flow rate from the previous 12 months.

* In Column (1) list what your POTW's SIU flow rate was when your existing TBLLs were calculated. In Column (2), list your POTW's present SIU flow rate.

* In Column (1), list what dilution ratio and/or 7Q10 value was used in your previous MEPDES permit. In Column (2), list what dilution ration and/or 7Q10 value is presently being used in your reissued MEPDES permit.

  The 7Q10 value is the lowest seven day average flow rate, in the river, over a ten-year period. The 7Q10 value and/or dilution ratio used by the Department in your MEPDES permit can be found in your MEPDES permit "Fact Sheet."

* In Column (1), list the safety factor, if any, that was used when your existing TBLLs were calculated.

* In Column (1), note how your bio-solids were managed when your existing TBLLs were calculated. In Column (2), note how your POTW is presently disposing of its biosolids and how your POTW will be disposing of its biosolids in the future.

ITEM II.

* List what your existing TBLLs are - as they appear in your current Sewer Use Ordinance (SUO).

RE-ASSESSMENT OF TECHNICALLY BASED INDUSTRIAL DISCHARGE LIMITS

ITEM III.

* Identify how your existing TBLLs are allocated out to your industrial community. Some pollutants may be allocated differently than others, if so please explain.

ITEM IV.

* Since your existing TBLLs were calculated, identify the following in detail:

  (1) if your POTW has experienced any upsets, inhibition, interference or pass-through as a result of an industrial discharge.

  (2) if your POTW is presently violating any of its current MEPDES permit limitations - include toxicity.

ITEM V.

* Using current sampling data, list in Column (1) the average and maximum amount of pollutants (in pounds per day) received in the POTW's influent. Current sampling data is defined as data obtained over the last 24 month period.

  All influent data collected and analyzed must be in accordance with federal regulation 40 CFR Part 136. Sampling data collected should be analyzed using the lowest possible detection method(s), e.g. graphite furnace, or other approved method.

  Based on your existing TBLLs, as presented in Item II., list in Column (2) each Maximum Allowable Industrial Headworks Loading (MAIHL) value corresponding to each of the local limits derived from an applicable environmental criteria or standard, *e.g.* water quality, sludge, MEPDES permit, inhibition, etc. For each pollutant, the MAIHL equals the calculated Maximum Allowable Headwork Loading (MAHL) minus the POTW's domestic loading source(s). For more information, please see, *Local Limits Development Guidance (July 2004).*

ITEM VI.

* Using current sampling data, list in Column (1) the average and maximum amount of pollutants (in micrograms per liter) present your POTW's effluent. Current sampling data is defined as data obtained during the last 24 month period.

  All effluent data collected and analyzed must be in accordance with federal regulation 40 CFR Part 136. Sampling data collected should be analyzed using the lowest possible detection method(s), *e.g.* graphite furnace, or other approved method.

RE-ASSESSMENT OF TECHNICALLY BASED INDUSTRIAL DISCHARGE LIMITS

* List in Column (2A) what the Ambient Water Quality Criteria (AWQC) (found in Department rule Chapter 584 –*Surface Water Quality Criteria For Toxic Pollutants, Appendix A,* October 2005) were (in micrograms per liter) when your TBLLs were calculated. Please note what hardness value was used at that time. Hardness should be expressed in milligrams per liter of Calcium Carbonate. In the absence of a specific AWQC, control(s) adequate to protect the narrative water quality standards for the receiving water may be applied.

List in Column (2B) the current AWQC values for each pollutant multiplied by the dilution ratio used in your reissued MEPDES permit. For example, with a dilution ratio of 25:1 at a hardness of 20 mg/l - Calcium Carbonate (copper's chronic freshwater AWQC equals 2.36 ug/l) the chronic MEPDES permit limit for copper would equal 45 ug/l. Example calculation:

EOP concentration = [Dilution factor x 0.75 x AWQC] + [0.25 x AWQC]
Chronic AWQC = 2.36 ug/L

Chronic EOP = [25 x $0.75^{(1)}$ x 2.36 ug/L] + [0.25 x 2.36 ug/L] = 45 ug/L

(1) Department rule Chapter 530, *Surface Water Toxics Control Program*, October 2005) requires that 10% of the AWQC be set aside for background that may be present in the receiving water and 15% of the AWQC be set aside as a reserve capacity for new dischargers or expansion of existing discharges.

ITEM VII.

* In Column (1), list all pollutants (in micrograms per liter) limited in your reissued MEPDES permit. In Column (2), list all pollutants limited in your previous MEPDES permit.

ITEM VIII.

* Using current sampling data, list in Column (1) the average and maximum amount of pollutants in your POTW's biosolids. Current data is defined as data obtained during the last 24-month period. Results are to be expressed as total dry weight.

All biosolids data collected and analyzed must be in accordance with federal 40 CFR Part 136.

In Column (2A), list current State and/or Federal sludge standards that your facility's biosolids must comply with. Also note how your POTW currently manages the disposal of its biosolids. If your POTW is planning on managing its biosolids differently, list in Column (2B) what your new biosolids criteria will be and method of disposal.

If you have any questions, please contact the State Pretreatment Coordinator at the Maine Department of Environmental Protection, Bureau of Land & Water Quality, Division of Water Quality Management, State House Station #17, Augusta, ME. 04333. The telephone number is (207) 287-8898, and the email address is james.r.crowley@maine.gov.

REASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS (TBLLs)

POTW Name & Address : _____

MEDES Permit # : _____

Date EPA approved current TBLLs : _____

Date EPA approved current Sewer Use Ordinance : _____

ITEM I.

In Column (1) list the conditions that existed when your current TBLLs were calculated. In Column (2), list current conditions or expected conditions at your POTW.

	Column (1)	**Column (2)**
	EXISTING TBLLs	PRESENT CONDITIONS
POTW Flow (MGD)	_____	_____
SIU Flow (MGD)	_____	_____
Dilution Ratio or 7Q10 from the MEPDES Permit)	_____	_____
Safety Factor	_____	N/A
Biosolids Disposal Method(s)	_____	_____

REASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS (TBLLs)

ITEM II.

EXISTING TBLLs

POLLUTANT	NUMERICAL LIMIT (mg/l) or (lb/day)	POLLUTANT	NUMERICAL LIMIT (mg/l) or (lb/day)

ITEM III.

Note how your existing TBLLs, listed in Item II., are allocated to your Significant Industrial Users (SIUs), i.e. uniform concentration, contributory flow, mass proportioning, other. Please specify by circling.

ITEM IV.

Has your POTW experienced any upsets, inhibition, interference or pass-through from industrial sources since your existing TBLLs were calculated?

If yes, explain. _____
_____

Has your POTW violated any of its MEPDES permit limits and/or toxicity test requirements?

If yes, explain. _____
_____

REASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS (TBLLs)

ITEM V.

Using current POTW influent sampling data fill in Column (1). In Column (2), list your Maximum Allowable Industrial Headwork Loading (MAIHL) values used to derive your TBLLs listed in Item II. In addition, please note the environmental criteria for which each MAIHL value was established, *i.e.* water quality, sludge, MEPDES, etc.

Pollutant	**Column (1)** Influent Data Analyses Maximum (lb/day)	Average (lb/day)	**Column (2)** MAIHL Values (lb/day)	Criteria
Arsenic				
Cadmium				
Chromium				
Copper				
Cyanide				
Lead				
Mercury				
Nickel				
Silver				
Zinc				
Other (List)				

REASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS
(TBLLs)

ITEM VI.

Using current POTW effluent sampling data, fill in Column (1). In Column (2A) list what the Ambient Water Quality Criteria (AWQC) were at the time your existing TBLLs were developed. List in Column (2B) current AWQC values multiplied by the dilution ratio used in your reissued MEPDES permit.

	Column (1) Effluent Data Analyses		**Columns** (2A) Water Quality Criteria (AWQC)	(2B)
	Maximum (ug/l)	Average (ug/l)	From TBLLs (ug/l)	Today (ug/l)
Pollutant				
Arsenic				
Cadmium*				
Chromium*				
Copper*				
Cyanide				
Lead*				
Mercury				
Nickel*				
Silver				
Zinc*				
Other (List)				

*Hardness Dependent (mg/l - CaCO3)

RE-ASSESSMENT OF TECHNICALLY BASED LOCAL LIMITS (TBLLs)

ITEM VII.

In Column (1), identify all pollutants limited in your reissued MEPDES permit. In Column (2), identify all pollutants that were limited in your previous MEPDES permit.

Column (1) REISSUED PERMIT		**Column (2)** PREVIOUS PERMIT	
Pollutants	Limitations (ug/l)	Pollutants	Limitations (ug/l)

ITEM VIII.

Using current POTW biosolids data, fill in Column (1). In Column (2A), list the biosolids criteria that were used at the time your existing TBLLs were calculated. If your POTW is planning on managing its biosolids differently, list in Column (2B) what your new biosolids criteria would be and method of disposal.

	Column (1) Biosolids Data Analyses Average (mg/kg)	**Columns** (2A) Biosolids Criteria From TBLLs (mg/kg)	(2B) New (mg/kg)
Pollutant			
Arsenic			
Cadmium			
Chromium			
Copper			
Cyanide			
Lead			
Mercury			
Nickel			
Silver			
Zinc			
Molybdenum			
Selenium			
Other (List)			

ATTACHMENT F

MEPDES PERMIT REQUIREMENTS
FOR
INDUSTRIAL PRETREATMENT ANNUAL REPORT

The information described below shall be included in the pretreatment program annual reports:

1. An updated list of all industrial users by category, as set forth in federal regulation 40 CFR Part 403.8 and Department rule 06-096 CMR Chapter 528(9) indicating compliance or noncompliance with the following:

   - baseline monitoring reporting requirements for newly promulgated industries
   - compliance status reporting requirements for newly promulgated industries
   - periodic (semi-annual) monitoring reporting requirements,
   - categorical standards, and
   - local limit.

2. A summary of compliance and enforcement activities during the preceding year, including the number of:

   - significant industrial users inspected by POTW (include inspection dates for each industrial user);
   - significant industrial users sampled by POTW (include sampling dates for each industrial user);
   - compliance schedules issued (include list of subject users);
   - written notices of violations issued (include list of subject users);
   - administrative orders issued (include list of subject users),
   - criminal or civil suits filed (include list of subject users); and
   - penalties obtained (include list of subject users and penalty amounts).

3. A list of significantly violating industries required to be published in a local newspaper in accordance with federal regulation 40 CFR Part 403.8(f)(2)(viii) and Department rule 06-096 CMR Chapter 528(9)(f)(2)(vii).

4. A narrative description of program effectiveness including present and proposed changes to the program, such as funding, staffing, ordinances, regulations, rules and/or statutory authority.

5. A summary of all pollutant analytical results for influent, effluent, sludge and any toxicity or bioassay data from the wastewater treatment facility. The summary shall include a comparison of influent sampling results versus threshold inhibitory concentrations for the POTW and effluent sampling results versus water quality standards. Such a comparison shall be based on the sampling program described in the paragraph below or any similar sampling program described in this permit.

MEPDES PERMIT REQUIREMENTS
FOR
INDUSTRIAL PRETREATMENT ANNUAL REPORT

At a minimum, annual sampling and analysis of the influent and effluent of the POTW shall be conducted for the following pollutants:

a.) Total Cadmium	f.) Total Nickel
b.) Total Chromium	g.) Total Silver
c.) Total Copper	h.) Total Zinc
d.) Total Lead	i.) Total Cyanide
e.) Total Mercury	j.) Total Arsenic

The sampling program shall consist of one 24-hour, flow-proportioned, composite and at least one grab sample that is representative of the flows received by the POTW. The composite shall consist of hourly, flow-proportioned grab samples taken over a 24-hour period if the sample is collected manually, or shall consist of a minimum of 48 samples collected at 30-minute intervals if an automated sampler is used. Cyanide shall be taken as a grab sample during the same period as the composite sample. Sampling and preservation shall be consistent with federal regulation 40 CFR Part 136.

6. A detailed description of all interference and pass-through that occurred during the past year.

7. A thorough description of all investigations into interference and pass-through during the past year.

8. A description of monitoring, sewer inspections and evaluations which were done during the past year to detect interference and pass-through, specifying parameters and frequencies.

9. A description of actions being taken to reduce the incidence of significant violations by significant industrial users.

10. The date of the latest adoption of local limits and an indication as to whether or not the City is under a State or Federal compliance schedule that includes steps to be taken to revise local limits.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

February 27, 2012

PERMIT NUMBER: **ME0100846**
LICENSE NUMBER: **W001510-6D-E-R**

NAME AND ADDRESS OF APPLICANT:

Portland Water District
Westbrook Wastewater Facility
P.O. Box 3553
Portland, Maine 04104-3553

COUNTY: **Cumberland County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

Westbrook Wastewater Treatment Facility
Park Road
Westbrook, Maine 04102

RECEIVING WATER AND CLASSIFICATION: **Presumpscot River, Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Scott Firmin, P.E.**
(207) 774-5961 x3077
sfirmin@pwd.org

1. APPLICATION SUMMARY

a. Application: The Portland Water District ("permittee") has submitted a timely and complete application to the Department to renew combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0100846/ Maine Waste Discharge License (WDL) #W001510-5L-D-R, ("permit") which was issued on December 22, 2006, and expired on December 22, 2011. The permit approved the discharge of up to a monthly average of 4.54 million gallons per day (MGD) of secondary treated waste water from a municipal waste water treatment facility and an unspecified quantity of untreated storm water and sanitary waste water from five (5) combined sewer overflow (CSO) outfalls to the Presumpscot River, Class C, in Westbrook, Maine. A site location map is included as **Attachment A** of this Fact Sheet.

2. PERMIT MODIFICATIONS REQUESTED

A. The permittee requests a modification of the existing monthly average flow limitation from 4.54 MGD to "Report" in order to maximize influent flows during wet weather events.

B. The permittee requests a modification of the existing settleable solids minimum monitoring frequency requirement from once per day (1/Day) to five days per week (5/Week) based on the permittee's compliance history.

3. PERMIT MODIFICATIONS GRANTED

A. The Department is modifying the monthly average flow limitation from 4.54 MGD to "Report" in order to maximize influent flows being treated during wet weather events and based on Department Best Professional Judgment.

B. The Department is modifying the settleable solids minimum monitoring frequency requirement from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

4. PERMIT SUMMARY

a. Terms and conditions: This permit carries forward all terms and conditions of the December 22, 2006 MEPDES permit/WDL with the following exceptions that include:

1. Eliminating the water quality-based chronic Whole Effluent Toxicity (WET) numerical effluent limitation for the water flea (*Ceriodaphnia dubia*) and reducing monitoring requirements for the water flea from 2/year to once every two years (1/2 years) per *Surface Water Toxics Control Program*, 06-096 CMR 530 (effective October 9, 2005).

2. Eliminating the water quality based mass and concentration limits for total cadmium and total lead per 06-096 CMR 530.

3. Revising the monthly average *E. coli* bacteria limitation from 142 colonies/100 mL to 126 colonies/100 mL based on revisions to the State's Water Classification Program for Class C waters.

4. Revising the water quality-based mass and concentration limits for inorganic arsenic per 06-096 CMR 530.

5. Revising the monthly average flow limitation from 4.54 MGD to "Report" in order to maximize flow volumes being treated during wet weather events and based on Department Best Professional Judgment (BPJ).

6. Revising the settleable solids minimum monitoring requirement from 1/Day to 5/Week based on an evaluation of the permittee's compliance history and to maintain consistency with similar permits.

4. PERMIT SUMMARY (cont'd)

7. Revising the acute and chronic dilution factors based on new information.

8. Establishing key milestones for combined sewer overflow abatement.

9. Revising the pH minimum monitoring frequency requirement from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

10. Revising the mercury minimum monitoring frequency requirement from 4/Year to 1/Year based on, *Certain deposits and discharges prohibited*, 38 M.R.S.A. §420, sub-§ 1-B(F).

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

September 28, 1993 – The U.S. Environmental Protection Agency (EPA) issued National Pollutant Discharge Elimination System (NPDES) permit #ME0100846 for a five-year term.

May 28, 1996 – The Department issued WDL #W001510-46-B-R for a five-year term.

November 30, 1998 – The EPA approved a Total Maximum Daily Load (TMDL) report prepared by the Department for the lower Presumpscot River.

January 24, 2000 – The Department administratively modified WDL #W001510-46-B-R by issuing a letter to the PWD requiring year-round disinfection beginning September 30, 2000. This action was necessary in that the State's Department of Marine Resources (DMR) had water quality information that indicated that the City of Westbrook's and Town of Falmouth's waste water treatment facilities were likely causing elevated bacteria levels in Mackworth Cove. As a result, the shellfish growing and winter harvesting area in Mackworth Cove were closed. Year-round disinfection resulted in DMR re-opening the growing and harvesting area.

May 23, 2000 – The Department administratively modified WDL #W001510-46-B-R by establishing interim average and maximum concentration limits for mercury.

December 21, 2001 – The Department issued combination MEPDES permit #ME0100846/ WDL #W001510-5L-C-R, for a five-year term. Issuance of the MEPDES permit resulted in the NPDES permit last issued by the EPA on 9/28/93 being superseded which nullified the terms and conditions contained therein.

December 22, 2006 – The Department issued combination MEPDES permit #ME0100846/ WDL #W001510-5L-D-R for a five-year term.

September 2, 2011 – The permittee submitted a timely application for renewal of combination MEPDES permit #ME0100846/ WDL #W001510-5L-D-R. The Department accepted the application as complete on September 6, 2011 and assigned WDL#W001510-6D-E-R.

4. PERMIT SUMMARY (cont'd)

c. Source Description: The collector sewers in Westbrook are owned and maintained by the City of Portland. The permittee treats domestic and commercial sanitary waste water generated by approximately 31,000 customers from the City of Westbrook, the Town of Gorham, a southern section of the Town of Windham and from the following categorical industrial users: Silvex (approx. 23,000 gpd of metal finishing waste water pretreated via hydroxide precipitation), Irwin (approx. 70 gpd of non-process basement groundwater pretreated via an oil/water separator) Southern Maine Industries (1,575 gpd batch discharge of metal finishing waste water pretreated via hydroxide precipitation) and Calpine, a gas-powered steam generating facility (355,000 gpd pretreated via an oil/water separator). The permittee also receives pretreated waste water from three industrial laundries, a research and development laboratory, a newspaper printing facility, and the Maine Correctional Center (prison).

In Westbrook, the permittee maintains five CSOs, approximately 25,000 feet of interceptor lines, and 17,500 feet of force main from three pump stations, all with on-site back-up power. In Gorham, there is approximately 49,500 feet of collection system, approximately 51,900 feet of interceptor line and 26,500 feet of force main from nine pump stations. Four of the ten pump stations have on-site back-up power while the remaining stations are set up to accept power from portable generators owned and operated by the permittee. There are no CSOs located in the Town of Gorham. The Gorham/Windham section includes 5 pump stations (3 with back-up power), 17,300 feet of interceptors and 11,300 feet of force mains.

Since the previous permitting action, the permittee has added the following significant modifications: The influent pump stations were upgraded; screens were added to the influent pump stations and the plant water system; the sludge feed pumps, RAS pumps, WAS pumps, filtrate pumps, polymer system, secondary scum handling system and chlorine contact tank gates were all upgraded. Emergency generators were added to 3 pump stations in Gorham.

The permittee prepared its original CSO Master Plan back in 1993 and subsequently revised the plan and abatement schedule in 1996 and 1999. An update to the CSO Master Plan was completed and submitted to MEDEP. The Portland Water District is currently in the third year of their part of that plan. See Special Condition K of this permit.

The permittee is authorized to treat up to 10,000 gallons per day of transported wastes. The permittee submitted an updated Transported Waste Management Plan as part of their 2011 application for renewal as required in *Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities*, 06-096 CMR 555 (last amended March 9, 2009). Also see Special Condition J, *Disposal of Transported Wastes In Waste Water Treatment Facility* of this permit.

d. Waste Water Treatment: The permittee maintains a facility that provides a secondary level of treatment via an aerated grit chamber, two separate aeration basins followed by two clarifiers that measure 90 feet in diameter. Sludge dewatering is accomplished by means of a sludge thickener and belt filter press. Screenings and grit are removed at the headworks by means of an automatic climbing rake and grit screw apparatus respectively. Dewatered sludge is composted or landfilled by a third party. Secondary effluent is chlorinated in detention tanks

4. PERMIT SUMMARY (cont'd)

and dechlorinated prior to being discharged to the Presumpscot River through a reinforced concrete outfall pipe measuring 42 inches in diameter with a diffuser. The diffuser consists of fourteen equally spaced risers with ports measuring 6 inches in diameter to enhance rapid and complete mixing of the discharged effluent with the receiving waters. See **Attachment B** of this Fact Sheet for a schematic of the waste water treatment facility.

5. CONDITIONS OF PERMITS

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

6. RECEIVING WATER QUALITY STANDARDS

Classification of Major River Basins, 38 M.R.S.A., §465-(4) classifies the Presumpscot River at the point of discharge as a Class C waterway. The Class C classification extends downstream to the head of tide where it is then classified as Class SC. 38 M.R.S.A., §465(4) contains the classification standards for Class C waterways and 38 M.R.S.A., §465-B(3) contains the classification standards for Class SC waterways.

7. RECEIVING WATER QUALITY CONDITIONS

A document entitled, *2010 Integrated Water Quality Monitoring and Assessment Report* (also known as the "305B Report") prepared by the Department pursuant to Section 305(b) of the Federal Water Pollution Control Act lists a 6.9 mile Class C segment of the Presumpscot River, main stem, below the Sacarappa Dam [Assessment Unit (HUC) #ME0106000103, segment ID #609R] in a table entitled, *Category 2: Rivers and Streams Attaining Some Designated Uses – Insufficient information for Other Uses.* In 2006, this segment was delisted as impaired due to the closure of the SD Warren pulp mill, the breach of the Smelt Hill Dam and attainment of dissolved oxygen and biocriteria. The 305B Report also lists this segment in a table entitled, *Category 4-A, Rivers and Streams With Impaired Use Other Than Mercury, TMDL Completed.* Recreational use impairment for this segment is now in Category 4-A due to approval of statewide bacteria TMDL.

8. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Flow: In October 2001, the Department promulgated a new rule, *Surface Water Toxics Control Program,* 06-096 CMR 530, which no longer based WET or chemical specific testing frequencies on permitted monthly average flow limits. As a result, the permittee is requesting the Department modify the monthly average flow limitation from 4.54 MGD in the 12/22/06 permit to "Report" as a result of improvements to the Cottage Place and East Bridge Pump Stations, as treating more waste water will result in monthly average flow violations. The permittee and the Department agree that treating as much waste water as possible is more environmentally sound than discharging untreated waste water from the pump stations in order to avoid violations of the monthly average flow limit in the permit. Therefore, the Department is replacing the monthly average flow limit of 4.54 MGD with a "Report" requirement in this permitting action based on Department BPJ. Regulating the discharge in this manner in no way shall be construed to represent any change to design flow or loading criteria of the waste water treatment facility.

A review of the DMR data for the period June 1, 2007 – June 1, 2011 indicates the following:

Flow

Value	Limit (MGD)	Range (MGD)	Average (MGD)	Number of DMRs	Compliance
Monthly Average	4.54	2.15 – 6.6	3.58	48	79%
Daily Maximum	Report	2.85 – 16.3	7.54	48	N/A

b. Dilution Factors: The Department has made the determination that the dilution factors for the discharge shall be calculated in accordance with freshwater protocols established in 06-096 CMR 530. With a permit flow limit of 4.54 MGD and 280 cfs[(1)] being both the 7Q10 and 1Q10 low flow values for the Presumpscot River, the dilution factors are:

Acute: 1Q10 = 280 cfs[(2)] $\Rightarrow \frac{(280\ \text{cfs})(0.6464) + (4.54\ \text{MGD})}{(4.54\ \text{MGD})} = 40.9{:}1$

Chronic: 7Q10 = 280 cfs $\Rightarrow \frac{(280\ \text{cfs})(0.6464) + (4.54\ \text{MGD})}{(4.54\ \text{MGD})} = 40.9{:}1$

Harmonic Mean: = 511 cfs[(3)] $\Rightarrow \frac{(511\ \text{cfs})(0.6464) + (4.54\ \text{MGD})}{(4.54\ \text{MGD})} = 73.8{:}1$

Footnotes:

(1) Under a minimum flow agreement with the Department, S. D. Warren (owner and operator of the Eel Weir Dam that controls flows out of Sebago Lake, the source of the Presumpscot River) provides a minimum flow release of 250 cfs from Sebago Lake. With a minimum flow of 250 cfs from the dam and the additional flow contribution of 30 cfs from the drainage area between the dam and the mill, the resultant 7Q10 flow at the mill is 280 cfs. Based on this agreement and the water withdrawals and water input/discharges between Sebago Lake and the permittee, the Department has determined that after initial

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

Footnotes:

mixing at the point of discharge, the chronic and acute effluent dilution ratios for the permittee at the 7Q10 and 1Q10 receiving water flows of 280 cfs are both 40.9 to 1.

(2) 06-096 CMR 530 (4)(B)(1) states that analyses using numeric acute criteria for aquatic life must be based on 1/4 of the 1Q10 stream design flow to prevent substantial acute toxicity within any mixing zone. The 1Q10 is the lowest one day flow over a ten-year recurrence interval. The regulation goes on to say that where it can be demonstrated that a discharge achieves rapid and complete mixing with the receiving water by way of an efficient diffuser or other effective method, analyses may use a greater proportion of the stream design, up to including all of it. The Department has made the determination that the discharge does receive rapid and complete mixing with the receiving water, therefore the default stream flow of the total 1Q10 is applicable in acute statistical evaluations pursuant to 06-096 CMR 530.

(3) From 1991 study.

c. Biochemical Oxygen Demand (BOD5) & Total Suspended Solids (TSS): This permitting action is carrying forward the monthly and weekly average BOD5 and TSS best practicable treatment (BPT) concentration limits of 30 mg/L and 45 mg/L respectively, that were based on secondary treatment requirements in 06-096 CMR 525(3)(III). The maximum daily BOD5 and TSS concentration limits of 50 mg/L were based on a Department best professional judgment of BPT. All three concentration limits are being carried forward in this permitting action.

The monthly average and weekly average mass limits in the previous permitting action are being carried forward in this permitting action and are based on a flow limitation of 4.54 MGD and the applicable concentration limits.

Monthly average: (4.54 MGD)(8.34 lbs/gallon)(30 mg/L) = 1,137 lbs/day
Weekly average: (4.54 MGD)(8.34 lbs/gallon)(45 mg/L) = 1,705 lbs/day
Daily maximum: Report Only

It is noted that no daily maximum mass limits for BOD5 or TSS have been established in this permit (or the previous permit) due to the presence of CSOs in the collection system. Establishing such a limit would likely discourage the permittee from treating as much waste water as it can physically treat during wet weather events. However, pursuant to Standard Condition B(2) of this permit, the permittee shall maximize its capacity to treat as much waste water as possible to a secondary level of treatment during wet weather events.

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

A review of the DMR data for the period June 1, 2007 – June 1, 2011 indicates the following:

BOD_5 Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	1,137	105 – 1243	228	48	98%
Weekly Average	1,705	136 – 2,168	379	48	98%
Daily Maximum	Report	157 – 6,132	690	48	N/A

BOD_5 Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	4 – 37	8	48	98%
Weekly Average	45	6 – 34	11	48	100%
Daily Maximum	50	7 – 86	17	48	98%

TSS Mass

Value	Limit (lbs/day)	Range (lbs/day)	Average (lbs/day)	Number of DMRs	Compliance
Monthly Average	1,137	80 – 1,134	244	48	100%
Weekly Average	1,705	153 – 3,953	500	48	98%
Daily Maximum	Report	228 – 11,338	955	47	N/A

TSS Concentration

Value	Limit (mg/L)	Range (mg/L)	Average (mg/L)	Number of DMRs	Compliance
Monthly Average	30	3 – 22	8	48	100%
Weekly Average	45	4 – 60	14	48	98%
Daily Maximum	50	6 – 159	23	48	94%

This permitting action also carries forward a requirement of 85% removal for BOD5 and TSS pursuant to 06-096 CMR 525 (3)(III)(a&b)(3).

Monitoring frequencies for BOD5 and TSS of 3/Week are being carried forward from the previous permitting action and are based on Department guidance for facilities with monthly average flows between 1.5 MGD and 5.0 MGD.

d. Settleable Solids: This permitting action is carrying forward a daily maximum settleable solids concentration limit of 0.3 mL/L and is considered by the Department as a best professional judgment of BPT for secondary treated waste waters. This permitting action is revising the settleable solids minimum monitoring frequency from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits. A review of the DMR data for the period June 1, 2007 – June 1, 2011 (n=48) indicates the daily maximum

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

settleable solids concentration values reported have ranged from 0 mL/L to 2.5 mL/L (98% compliance).

e. *E. coli* bacteria: The previous permitting action carried forward year-round monthly average and daily maximum *E. coli* bacteria concentration limits of 142 colonies/100 mL and 949 colonies/100 mL, respectively, based on the State's Water Classification Program criteria for Class C waters in effect at the time the previous permit was issued. 38 M.R.S.A. § 465(4) has since been amended to require that the *E. coli* bacteria of human and domestic animal origin in Class C waters may not exceed a geometric mean of 126 colonies/100 mL or an instantaneous level of 236 colonies/100 mL. This permitting action is revising the monthly average (geometric mean) limitation for *E. coli* bacteria from 142 colonies/100 mL to 126 colonies/100 mL. The Department has determined that end-of-pipe limitations for the instantaneous concentration standard of 236 colonies/100 mL will be achieved through available dilution of the effluent with the receiving waters and need not be revised in MEPDES permits for facilities with adequate dilution (dilutions greater than 1:1), such as that for the permittee.

The limits have been and will continue to be in effect on a year-round basis to protect shellfish harvesting areas downstream of the discharge.

A review of the DMR data for the period June 1, 2007 – June 1, 2011 indicates the monthly average and daily maximum values have been reported as follows:

***E. coli* bacteria**

Value	Limit (#col/100 mL)	Range (#col/100 mL)	Arith. Mean (#col/100 mL)	Number of DMRs	Compliance
Monthly Average	142	<1 – 38	8	48	100%
Daily Maximum	949	5 – 2,420	334	48	90%

Results reported as "less than" (<) were considered present at the detection limit for calculation purposes.

This permitting action is carrying forward the 3/Week *E. coli* monitoring requirement from the previous permitting action based on Department guidance for facilities with a monthly average flows between 1.5 MGD and 5.0 MGD.

f. Total Residual Chlorine (TRC): Best practicable treatment limitations for TRC are being carried forward in this permitting action. Limits on total residual chlorine are specified to ensure attainment of the in-stream water quality criteria for levels of chlorine and that the best practicable treatment technology is utilized to abate the discharge of chlorine. Limits on total residual chlorine (TRC) are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge.

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

Water quality-based thresholds for TRC can be calculated as follows:

Parameter	Acute Criteria	Chronic Criteria	Acute Dilution	Chronic Dilution	Acute Limit	Chronic Limit
Chlorine	19 ug/L	11 ug/L	40.9:1	40.9:1	0.8 mg/L	0.4 mg/L

Example calculation, Acute: 0.019 mg/L (40.9) = 0.8 mg/L

To meet the chronic and acute water quality based thresholds, the permittee must dechlorinate the effluent prior to discharge. In April of 1999, the Department established new daily maximum and monthly average BPT limitations of 0.3 mg/L and 0.1 mg/L, respectively, for facilities that need to dechlorinate their effluent unless calculated water quality based thresholds are lower than the BPT limits. In the case of the permittee, the calculated acute and chronic water quality based thresholds are higher than the BPT limits of 0.3 mg/L and 0.1 mg/L. Thus, the daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively, are being carried forward in this permit.

A review of the DMR data for the period June 1, 2007 – June 1, 2011 indicates the monthly average and daily maximum TRC concentration values have been reported as follows:

Total Residual Chlorine

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)	Number of DMRs	Compliance
Monthly Average	0.1	0 – 0.05	0.03	48	100%
Daily Maximum	0.3	0.05 – 0.25	0.12	48	100%

The monitoring frequency of 1/Day in the previous permitting action is being carried forward in this permitting action.

g. pH: This permitting action is carrying forward the 1/Day minimum monitoring frequency and the BPT-based pH daily maximum limits of 6.0 to 9.0 standard units pursuant to 06-096 CMR 525(3)(III)(c). A review of the DMR data for the period June 1, 2007 – June 1, 2011 (n=48) indicates the daily maximum pH range was 6.9 SU to 8.0 SU. This permitting action is revising the pH minimum monitoring frequency from 1/Day to 5/Week based on the permittee's compliance history and to maintain consistency with similar permits.

h. Mercury: On May 23, 2000, pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420, *Waste discharge licenses*, 38 M.R.S.A. § 413 and *Interim Effluent Limitations and Controls for the Discharge of Mercury*, 06-096 CMR 519 (last amended October 6, 2001), the Department issued a *Notice of Interim Limits for the Discharge of Mercury* to the permittee thereby administratively modifying WDL #W001510-46-B-R by establishing interim monthly average and daily maximum effluent concentration limits of 15.5 parts per trillion (ppt) and 23.2 ppt, respectively, and a minimum monitoring frequency requirement of four (4) tests per

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

year for mercury. The interim mercury limits were scheduled to expire on October 1, 2001; however, effective June 15, 2001, the Maine Legislature enacted *Waste discharge licenses,* 38 M.R.S.A. §413, sub-§11, specifying that interim mercury limits and monitoring requirements remain in effect. On September 28, 2011, the Maine Legislature enacted, *Certain deposits and discharges prohibited,* 38 M.R.S.A §420 sub-§1-B(F), allowing the Department to reduce mercury monitoring frequencies to once per year for facilities that maintain at least five (5) years of mercury testing data. The permittee has met the data requirement, therefore, this permitting action is revising the mercury minimum monitoring frequency from 4/Year to 1/Year. A review of the Department's database for the period July 1, 2006 – July 1, 2011 (n=24) indicates mercury test results have ranged from 1.14 ppt to 30.1 ppt with an arithmetic mean of 4.76 ppt. Mercury test results are included as **Attachment C** of this Fact Sheet.

i. Whole Effluent Toxicity (WET) & Chemical-Specific 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, and *Surface Water Quality Criteria for Toxic Pollutants,* 06-096 CMR 584, set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters. WET, priority pollutant and analytical chemistry testing as required by 06-096 CMR 530 are included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health AWQC as established in 06-096 CMR 584.

06-096 CMR 530 establishes four categories of testing requirements based predominantly on the chronic dilution factor. The categories are as follows:

1) Level I – chronic dilution factor of <20:1.
2) Level II – chronic dilution factor of ≥20:1 but <100:1.
3) Level III – chronic dilution factor ≥100:1 but <500:1 or >500:1 and Q ≥1.0 MGD
4) Level IV – chronic dilution >500:1 and Q ≤1.0 MGD

Based on the criteria, the permittee falls into the Level II frequency category as the permittee has a chronic dilution factor ≥20:1 but <100:1.

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

06-096 CMR 530 (D)(1) specifies that routine screening and surveillance level testing requirements are as follows:

Routine Screening level testing – Beginning 12 months prior to expiration of the permit and every five years thereafter.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	2 per year	1 per year	4 per year

Routine Surveillance level testing – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration.

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	1 per year	None required	2 per year

See **Attachment D** of this Fact Sheet for a summary of the WET test results and **Attachment E** of this Fact Sheet for a summary of the chemical-specific test dates.

06-096 CMR 530 (3)(c) states, in part, *Dischargers in Level II may reduce surveillance testing to one WET or specific chemical series every other year provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedence as calculated pursuant to section 3(E).*

06-096 CMR 530 §(3)(E) states "*For effluent monitoring data and the variability of the pollutant in the effluent, the Department shall apply the statistical approach in Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.) to data to determine whether water-quality based effluent limits must be included in a waste discharge license. Where it is determined through this approach that a discharge contains pollutants or WET at levels that have a reasonable potential to cause or contribute to an exceedence of water quality criteria, appropriate water quality-based limits must be established in any licensing action.*"

06-096 CMR 530 (3) states, "*In determining if effluent limits are required, the Department shall consider all information on file and effluent testing conducted during the preceding 60 months. However, testing done in the performance of a Toxicity Reduction Evaluation (TRE) approved by the Department may be excluded from such evaluations.*"

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

WET evaluation

On 2/22/12, the Department conducted a statistical evaluation on the most recent 60 months of the permittee's WET data. The evaluation showed that the discharge did not exceed or have a reasonable potential to exceed the critical acute or chronic AWQC thresholds of 2.44% and 2.44%, respectively (the mathematical inverses of the acute and chronic dilution factors of 40.9:1 and 40.9:1, respectively).

In summary, this permitting action is carrying forward the reduced surveillance level WET testing for the water flea and establishing reduced surveillance level WET testing for the brook trout as follows in accordance with 06-096 CMR 530 (3)(c):

Surveillance level testing – Beginning upon issuance of the permit and lasting through 12 months prior to permit expiration:

Level	WET Testing
II	1 per 2 years

Pursuant to 06-096 CMR 530 (1)(D), screening level testing is being carried forward as follows:

Screening level testing – Beginning 12 months prior to expiration of the permit and every five years thereafter:

Level	WET Testing
II	2/Year

Chemical Evaluation

06-096 CMR 530 §4(C), states "*The background concentration of specific chemicals must be included in all calculations using the following procedures. The Department may publish and periodically update a list of default background concentrations for specific pollutants on a regional, watershed or statewide basis. In doing so, the Department shall use data collected from reference sites that are measured at points not significantly affected by point and non-point discharges and best calculated to accurately represent ambient water quality conditions.*" *The Department shall use the same general methods as those in section 4(D) to determine background concentrations. For pollutants not listed by the Department, an assumed concentration of 10% of the applicable water quality criteria must be used in calculations.* The Department has very limited information on the background levels of metals in the water column in the Presumpscot River. Therefore, a default background concentration of 10% of the applicable water quality criteria is being used in the calculations of this permitting action.

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

06-096 CMR 530 4(E), states, "*In allocating assimilative capacity for toxic pollutants, the Department shall hold a portion of the total capacity in an unallocated reserve to allow for new or changed discharges and non-point source contributions. The unallocated reserve must be reviewed and restored as necessary at intervals of not more than five years. The water quality reserve must be not less than 15% of the total assimilative quantity*". Therefore, the Department is reserving 15% of the applicable water quality criteria in the calculations of this permitting action.

06-096 CMR 530 §4(F) states in part "*Where there is more than one discharge into the same fresh or estuarine receiving water or watershed, the Department shall consider the cumulative effects of those discharges when determining the need for and establishment of the level of effluent limits. The Department shall calculate the total allowable discharge quantity for specific pollutants, less the water quality reserve and background concentration, necessary to achieve or maintain water quality criteria at all points of discharge, and in the entire watershed. The total allowable discharge quantity for pollutants must be allocated consistent with the following principles.*

Evaluations must be done for individual pollutants of concern in each watershed or segment to assure that water quality criteria are met at all points in the watershed and, if appropriate, within tributaries of a larger river.

The total assimilative capacity, less the water quality reserve and background concentration, may be allocated among the discharges according to the past discharge quantities for each as a percentage of the total quantity of discharges, or another comparable method appropriate for a specific situation and pollutant. Past discharges of pollutants must be determined using the average concentration discharged during the past five years and the facility's licensed flow.

The amount of allowable discharge quantity may be no more than the past discharge quantity calculated using the statistical approach referred to in section 3(E) [Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control"] of the rule, but in no event may allocations cause the water quality reserve amount to fall below the minimum referred to in 4(E) [15% of the total assimilative capacity]. Any difference between the total allowable discharge quantity and that allocated to existing dischargers must be added to the reserve.

See **Attachment G** of this Fact Sheet for Department guidance that establishes protocols for establishing waste load allocations. The guidance states that the most protective of water quality becomes the facility's allocation. According to the 2/21/12 statistical evaluation (Report ID #435), the pollutant of concern for the permittee (arsenic) is to be limited based on the segment allocation method.

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

06-096 CMR 530 §(3)(D)(1) states "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded. With regard to concentration limits, the Department may review past and projected flows and set limits to reflect proper operation of the treatment facilities that will keep the discharge of pollutants to the minimum level practicable.*"

Since the adoption of Chapter 530, the Department has a developed a policy for establishing equitable concentration limits in permits that are greater than calculated end-of-pipe concentrations. In general, most dischargers subject to the Chapter 530 testing requirements are discharging at or about 50% of the flow limitations established in their permits. This provides the Department with the flexibility to establish higher concentration limits in the permit while still maintaining compliance with the water quality based mass limitations. With an actual discharge flow at ½ (0.5) of permitted flow rate, a concentration limit of two times (mathematical inverse of 0.5) the calculated end-of-pipe concentration, will maintain compliance with water quality based mass limits.

Segment allocation methodology

Historical Average:

For the segment allocation methodology, the historical average quantity (mass) for each pollutant of concern for each facility is calculated utilizing the arithmetic mean of the concentrated values reported for each pollutant, a conversion factor of 8.34 lbs/gallon and the monthly average permit limit for flow. The historical mass discharged for each pollutant for each facility is mathematically summed to determine the total mass discharged for each pollutant in the watershed. Based on the individual discharger's historical average, each discharger is assigned a percentage of the whole which is then utilized to determine the percent of the segment allocation for each pollutant for each facility. For the permittee, the historical average for arsenic was calculated as follows:

Arsenic (Inorganic)

Mass limits

Mean concentration (n=9) = 3.27 ug/L or 0.00327 mg/L
Permit flow limit = 4.54 MGD
Historical average mass = (0.00327 mg/L)(8.34)(4.54 MGD) = 0.124 lbs/day

The 2/21/12 statistical evaluation indicates the historical average mass of arsenic discharged by the permittee is 38.29% of the arsenic discharged by the facilities on the Presumpscot River and its tributaries. The Department has calculated a harmonic mean assimilative capacity of 0.0248 lbs/day of arsenic at PWD-Westbrook, the most downstream discharger on the

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

Presumpscot River. The harmonic mean assimilative capacity at PWD-Westbrook was calculated based on 75% of the applicable AWQC (taking into consideration the 10% reduction to account for background, 15% reduction for reserve, totaling 25%) and harmonic mean critical low flow (511 cfs). Monthly average (harmonic mean) calculations for arsenic are as follow:

Harmonic Mean:

HM @ PWD-Westbrook = 511 cfs or 330 MGD
Arsenic AWQC = 0.012 ug/L
0.012 ug/L(0.75) = 0.009 ug/L or 0.000009 mg/L

Harmonic Mean AC = (330 MGD)(8.34 lbs/gal)(0.000009 mg/L) = 0.0248 lbs/day

Therefore, the mass segment allocation for inorganic arsenic for the permittee can be calculated as follows:

Monthly average: (Harmonic Mean assimilative capacity mass)(% of total arsenic discharged)

(0.0248 lbs/day)(0.3829) = **0.0095 lbs/day**

Concentration Limit, Inorganic Arsenic:

Monthly average mass limit = 0.0095 lbs/day

$$\frac{(0.0095 \text{ lbs/day})}{(8.34 \text{ lbs/gal})(4.54 \text{ MGD})} = 0.00025 \text{ mg/L or } 0.25 \text{ ug/L}$$

06-096 CMR 530 (C)(6) states:

All chemical testing must be carried out by approved methods that permit detection of a pollutant at existing levels in the discharge or that achieve detection levels as specified by the Department. When chemical testing results are reported as less than, or detected below the Department's specified detection limits, those results will be considered as not being present for the purposes of determining exceedences of water quality criteria.

The USEPA has not approved a test method for inorganic arsenic as of the date of issuance of this permit. Therefore, there is no way for the permittee to formally demonstrate compliance with the monthly average water quality based mass and concentration limits for inorganic arsenic established in this permitting action. Therefore, beginning upon issuance of this permit and lasting through the date in which the USEPA approves a test method for inorganic arsenic the permittee is being required to monitor for total arsenic. Once a test method is approved, the Department will notify the permittee in writing and the limitations and monitoring requirements for inorganic arsenic become effective thereafter. Once a test method is approved, the

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

Department will notify the permittee in writing and the limitations and monitoring requirements for inorganic arsenic become effective thereafter.

As of the date of this permitting action, the Department has limited data on the percentage of inorganic arsenic (approximately 50%) in total arsenic test results. Based on a literature search conducted by the Department, the inorganic fraction can range from 1% - 99% depending on the source of the arsenic. Generally speaking, ground water supplies derived from bedrock wells will likely tend to have higher fractions of inorganic arsenic (As^{+3}-arsentite and/or As^{+5}-arsenate) than one may find in a food processing facility where the inorganic fraction is low and the organic fraction (arsenobetaine, arsenoribosides) is high. Until the Department and the regulated community in Maine develop a larger database to establish statistically defensible ratios of inorganic and organic fractions in total arsenic test results, the Department is making a rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results.

Being that the only approved test method for compliance with arsenic limits established in permits is for total arsenic, the Department converted the water quality based end-of pipe monthly average concentration value of 0.25 ug/L for inorganic arsenic calculated on the previous page of this Fact Sheet into an equivalent total arsenic threshold (assuming 50% of the total arsenic is inorganic arsenic). This results in a total arsenic end-of-pipe monthly average concentration threshold of 0.50 ug/L. The calculation is as follows:

$$\frac{\text{0.25 ug/L inorganic arsenic}}{\text{0.5 ug/L inorganic arsenic/ 1.0 ug/L total arsenic}} = \textbf{0.50 ug/L} \text{ total arsenic}$$

Therefore, a total arsenic value greater than 0.50 ug/L is potentially exceeding the water quality based end-of pipe monthly average concentration value of 0.25 ug/L for inorganic arsenic. Only the results greater than the total arsenic threshold of 0.50 ug/L will be considered a potential exceedence of the inorganic limit of 0.25 ug/L. It is noted the Department's current RL for total arsenic is 5.0 ug/L.

If a test result is determined to be a potential exceedence, the permittee shall submit a toxicity reduction evaluation (TRE) to the Department for review and approval within 45 days of receiving the test result of concern from the laboratory. Contact the Department's compliance inspector for a copy of the Department's December 2007 guidance on conducting a TRE for arsenic.

Maine law, 38 M.R.S.A., §414-A(2), Schedules of Compliance states "*Within the terms and conditions of a license, the department may establish a schedule of compliance for a final effluent limitation based on a water quality standard adopted after July 1, 1977. When a final effluent limitation is based on new or more stringent technology-based treatment requirements, the department may establish a schedule of compliance consistent with the time limitations permitted for compliance under the Federal Water Pollution Control Act, Public Law 92-500, as amended. A schedule of compliance may include interim and final dates for attainment of*

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

specific standards necessary to carry out the purposes of this subchapter and must be as short as possible, based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards." Special Condition G, *Schedule of Compliance – Inorganic Arsenic*, of this permit is carrying forward a schedule as follows:

> *Beginning upon issuance of this permit modification and lasting through a date on which the USEPA approves a test method for inorganic arsenic, the limitations and monitoring requirements for inorganic arsenic are not in effect. During this time frame, the permittee is required by Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit to conduct 2/Year sampling and analysis for total arsenic.*
>
> *Upon receiving written notification by the Department that a test method for inorganic arsenic has been approved by the USEPA, the limitations and monitoring requirements for inorganic arsenic become effective and enforceable and the permittee is relieved of their obligation to sample and analyze for total arsenic.*

The schedule of compliance reserves the final date for compliance with the limit for inorganic arsenic. This reservation stems from the fact the EPA has no schedule for approving a test method for inorganic arsenic nor does the Department have any authority to require the EPA to do so. Therefore, the Department considers the aforementioned schedule for inorganic arsenic to be as short as possible given the technological (or lack thereof) issue of not being able to sample and analyze for inorganic arsenic with an approved method.

Waste Discharge License Conditions, 06-096 CMR 523 §7, *Schedules of Compliance* sub-§3, *Interim dates*, states in part, "*if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.*

(i) *The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.*

(ii) *If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.*

Special Condition A, *Effluent Limitations and Monitoring Requirements*, of this permit requires that beginning upon issuance of this permit and lasting through USEPA approval of a test method for inorganic arsenic, the permittee shall conduct 2/Year monitoring for total arsenic. Should the test method approval for inorganic arsenic extend more than one year from the date of the issuance of this permit the sampling and analysis for total arsenic will serve to satisfy the

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

interim requirements specified by 06-096 CMR 523, Section 7, *Schedules of Compliance*, sub-§3, *Interim dates.*

06-096 CMR 530 §(3)(D)(1) states, "*For specific chemicals, effluent limits must be expressed in total quantity that may be discharged and in effluent concentration. In establishing concentration, the Department may increase allowable values to reflect actual flows that are lower than permitted flows and/or provide opportunities for flow reductions and pollution prevention provided water quality criteria are not exceeded.*

With regard to concentration limits, the Department may review past and projected flows and set limits to reflect proper operation of the treatment facilities that will keep the discharge of pollutants to the minimum level practicable."

It is noted the calculations for establishing limitations for inorganic arsenic in this Fact Sheet do not increase the EOP concentration for inorganic arsenic by a factor of 2.0 due to uncertainty of the ratio between organic and inorganic fractions of total arsenic. However, the Department has given the permittee some flexibility by evaluating possible exceedences using the rebuttable presumption that the effluent contains a ratio of 50% inorganic arsenic and 50% organic arsenic in total arsenic results. In other words, the equivalent total arsenic concentration threshold has been increased by a factor of 2.0.

As for the remaining chemical specific parameters tested to date, none of the test results in the 60-month evaluation period exceed or have a reasonable potential to exceed applicable acute, chronic or human health AWQC. Therefore, this permitting action is carrying forward the reduced surveillance level reporting and monitoring frequencies for analytical chemistry (1/2 Years) and is waiving surveillance level priority pollutant testing requirements. As with reduced WET testing, the permittee must file an annual certification with the Department pursuant to Chapter 530 §2(D)(4) and Special Condition L, *06-096 CMR 530(2)(D)(4) Statement For Reduced/Waived Toxics Testing* of this permit.

Beginning 12 months prior to the expiration date of the permit, the permittee shall conduct routine screening level analytical chemistry testing at 1/Quarter and priority pollutant testing at a minimum frequency of 1/Year.

j. Combined Sewer Overflows: The following are the locations for the permittee's Combined Sewer Overflows (CSOs):

Outfall #	Regulator Location	Receiving Water, Class
002	Warren Parking Lot Regulator	Presumpscot River, C
003	Siphon Inlet Structure	Presumpscot River, C
004	Dunn Street Regulator	Presumpscot River, C
007	Brown Street Regulator	Presumpscot River, C
008	King Street Regulator	Presumpscot River, C

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

This permit does not contain effluent limitations on the individual CSO outfalls listed in the table below. *Combined Sewer Overflow Abatement,* 06-096 CMR 570 states that for discharges from overflows from combined municipal storm and sanitary sewer systems, the requirement of, "best practicable treatment" specified in 38 M.R.S.A., §414 A-1(D) may be met by agreement with the discharger as a condition of its permit through development of a plan within a time period specified by the Department. The permittee submitted to the Department a CSO Master Plan entitled, *Sewer System Master Plan for Westbrook, Maine, Volume II,* dated December 1996 and abatement project schedules were approved by the EPA on February 24, 1997 and the Department on March 26, 1997. A revised abatement schedule dated October 8, 1999 was approved by the Department on October 27, 1999. The revised abatement schedule was further modified in the document entitled *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME prepared by Woodard & Curran and dated December 2008* (referred as volume I in correspondence) and further modified in a document entitled *Combined Sewer Overflow Master Plan Update Study for Westbrook, ME prepared by Woodard & Curran and dated September 2010* (referred as volume II in correspondence). The permittee has been actively implementing the recommendations of the Master Plan and to-date has significantly reduced the volume of untreated combined sewer overflows to the receiving water. Special Condition K, *Conditions for Combined Sewer Overflows,* of this permit, contains a schedule of compliance for items in the most current up-to-date abatement plan that must be completed.

k. Transported Wastes: This permitting action is carrying forward the authorization for the permittee to accept and treat up to 10,000 gallons per day of transported wastes. *Standards for the Addition of Transported Wastes to Wastewater Treatment Facilities,* 06-096 CMR 555, limits the quantity of transported wastes treated at a facility to 1% of the design capacity of treatment facility. With a design capacity of 4.54 MGD, 10,000 gallons per day only represents 0.2% of said capacity. The permittee has submitted an up-to-date Septage Management Plan as an exhibit to their 2011 application for permit renewal. The Department has reviewed said plan and determined that under normal operating conditions, the addition of 10,000 gallons per day of transported wastes to the facility will not cause or contribute to upset conditions of the treatment process.

9. PRETREATMENT

The permittee is required to administer a pretreatment program based on the authority granted under Federal regulations 40 CFR §122.44(j), 40 CFR Part 403 and section 307 of the Federal Water Pollution Control Act (Clean Water Act) and *Pretreatment Program,* 06-096 CMR 528. The permittee's pretreatment program received EPA approval on September 30, 1983 and as a result, appropriate pretreatment program requirements were incorporated into the previous National Pollutant Discharge Elimination System (NPDES) permit which were consistent with that approval and federal pretreatment regulations in effect when the permit was issued. Since issuance of the previous NPDES permit, the State of Maine has been authorized by the EPA to administer the federal pretreatment program as part of receiving authorization to administer the NPDES program.

9. PRETREATMENT (cont'd)

Upon issuance of this permit, the permittee is obligated to modify (if applicable) its pretreatment program to be consistent with current federal regulations and State rules. Those activities that the permittee must address include, but are not limited to, the following: (1) develop and enforce Department approved specific effluent limits (technically-based local limits - last approved by the EPA on May 13, 1999); (2) revise the local sewer-use ordinance or regulation, as appropriate, to be consistent with federal regulations and State rules; (3) develop an enforcement response plan; (4) implement a slug control evaluation program; (5) track significant noncompliance for industrial users; and (6) establish a definition of and track significant industrial users. These requirements are necessary to ensure continued compliance with the permittee's MEPDES permit and its biosolids use or disposal practices.

In addition to the requirements described above, this permit requires that within 180 days of the permit's effective date, the permittee shall submit to the Department in writing, a description of proposed changes to permittee's pretreatment program deemed necessary to assure conformity with current federal and State pretreatment regulations and rules respectively. These requirements are included in the permit (Special Condition M) to ensure that the pretreatment program is consistent and up-to-date with all pretreatment requirements in effect. Lastly, by October 15 of each calendar year, the permittee must submit a pretreatment report detailing the activities of the program for the twelve month period ending 60 days prior to the due date.

10. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The Department acknowledges that the elimination of the five CSOs in the collection system is a costly long-term project. As the permittee's sewer collection system is upgraded and maintained in according to the CSO Master Plan and Nine Minimum Controls, there should be reductions in the frequency and volume of CSO activities and improvement in the quality of the waste water discharge to the receiving waters. As permitted, the Department of Environmental Protection has determined the existing water uses will be maintained and protected. If ambient water quality monitoring or future modeling determines that at full permitted discharge limits, the permittee's discharge is causing or contributing to the non-attainment of standards, this permit will be reopened per Special Condition O, *Reopening of Permit For Modifications*, to impose more stringent limitations to meet water quality standards.

11. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122.44(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards or conditions in the previous permit. Applicable exceptions include: 1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation, 2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance or test methods) and which would justify the application of less stringent effluent limitations at the time of

11. ANTI-BACKSLIDING (cont'd)

permit issuance and, 3) The Administrator determines technical mistakes or mistaken interpretations of law were made in issuing the permit under § CWA(a)(l)(b).

This permitting action is establishing less stringent monthly average flow limitations from 4.54 MGD to "Report" only. This modification is based on the fact that the permittee has made significant investments in the Cottage Place and East Bridge Pump Stations in order to maximize flows to the treatment plant during wet weather events. These upgrades allow the plant to accept instantaneous flows of up to 17 MGD and reduce the volume of CSOs that flow untreated to the Presumpscot River. The Department determined that this information is considered a material and substantial alteration or addition to the permitted facility occurring after issuance of the 12/22/06 permit which justifies the application of less stringent effluent limitations in this permitting action.

12. ANTI-DEGREDATION - IMPACT ON RECEIVING WATER QUALITY

Maine's anti-degradation policy is included in 38 M.R.S.A., § 464(4)(F) and addressed in the *Conclusions* section of this permit. Pursuant to the policy, where a new or increased discharge is proposed, the Department shall determine whether the discharge will result in a significant lowering of existing water quality. Increased discharge means a discharge that would add one or more new pollutants to an existing effluent, increase existing levels of pollutants in an effluent, or cause an effluent to exceed one or more of its current licensed discharge flow or effluent limits, after the application of applicable best practicable treatment technology.

This permitting action revises the previously established monthly average flow limitation. The rationale for this action is contained in Section 8a of this Fact Sheet. Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the Presumpscot River to meet Class C standards.

13. PUBLIC COMMENTS

Public notice of this application was made in the *Portland Press Herald* newspaper on or about September 2, 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).

14. DEPARTMENT CONTACTS

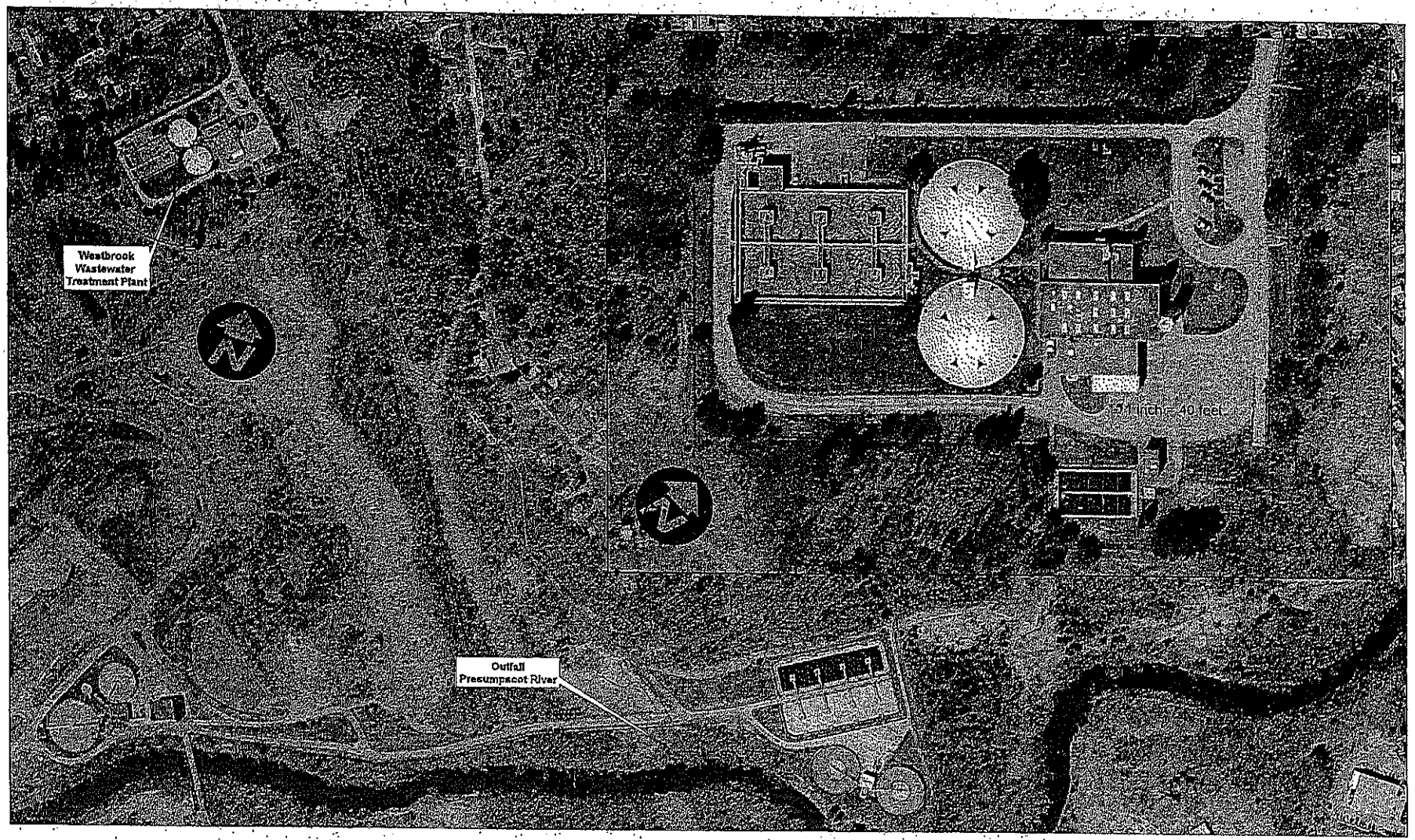
Additional information concerning this permitting action may be obtained from and written comments should be sent to:

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

15. RESPONSE TO COMMENTS

During the period of January 18, 2012, 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. No 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. Department staff determined, however, that the permittee's chronic 7Q10 and acute 1Q10 information was incorrect. The Department has corrected that information and the permittee's acute and chronic dilution ratios, and reassessed the permittee's effluent limits. The revised effluent limits are reflected in the permittee's final permit and in this fact sheet.

ATTACHMENT A

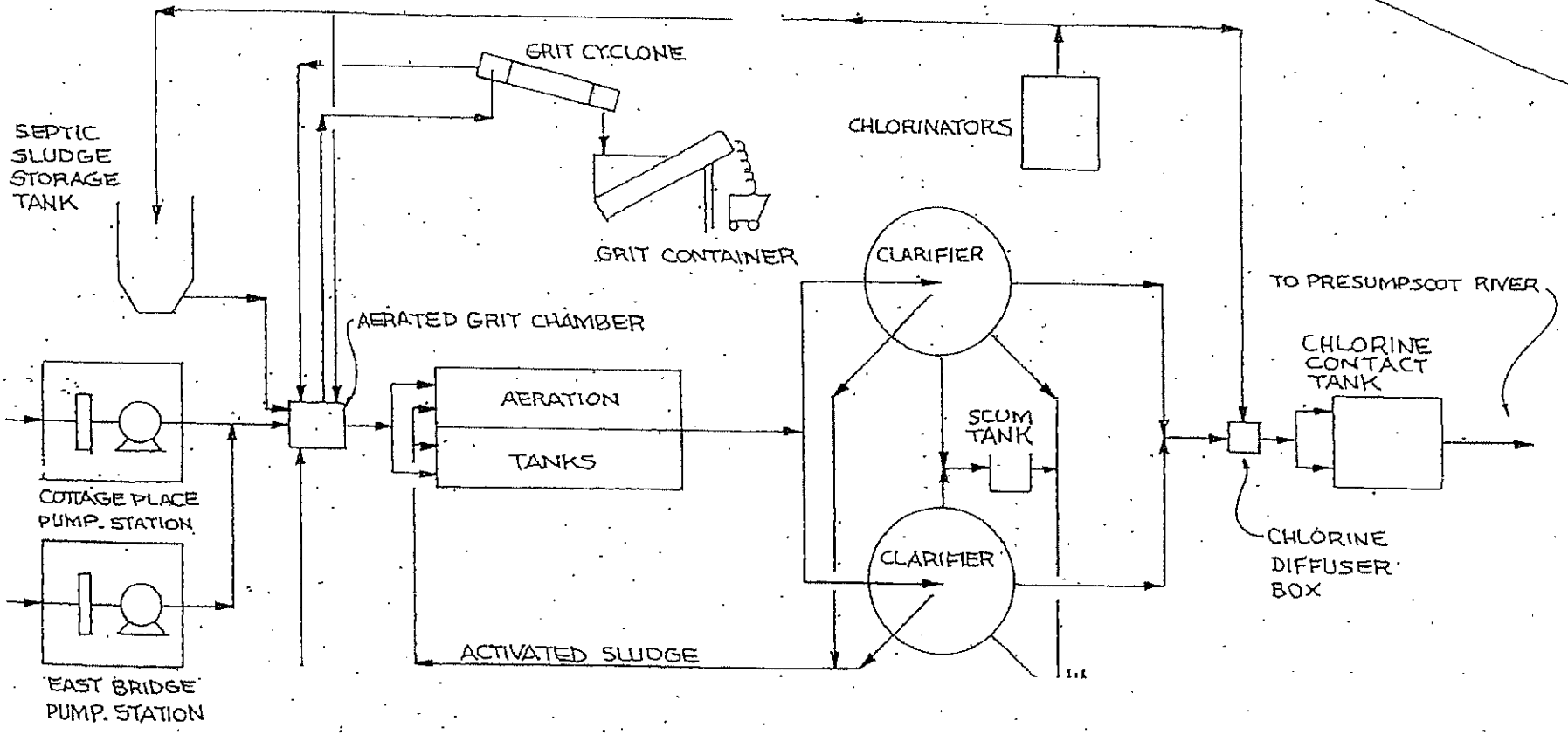


1 inch = 150 feet

0 75 150 300 450 600 Feet

PORTLAND WATER DISTRICT 225 Douglass Street Portland, ME 04104	Asset Management and Planning Dept.		Wastewater Treatment Plant	Aerial View
	Drawn By: JGH Date: 8/31/2011	Project Completion Date:	Westbrook	Sheet No. 1 of 1

ATTACHMENT B



Question 19

SCHEMATIC FLOW DIAGRAM - FIGURE No I-1

EDWARD C. JORDAN CO., INC.

ATTACHMENT C

MERCURY REPORT - Clean Test Only

Data Date Range: 13/Jul/2006-13/Jul/2011

Facility: WESTBROOK **Permit Number:** ME0100846

Max (ug/l): 0.0301 **Average (ug/l):** 0.0052

Sample Date	Result (ug/l)	Lsthan	Clean
08/14/2006	0.001140	N	T
12/13/2006	0.001690	N	T
03/21/2007	0.003620	N	T
06/22/2007	0.002520	N	T
09/25/2007	0.005040	N	T
12/11/2007	0.004990	N	T
03/18/2008	0.001900	N	T
06/12/2008	0.006700	N	T
09/16/2008	0.002200	N	T
12/15/2008	0.002400	N	T
03/18/2009	0.002100	N	T
06/17/2009	0.002700	N	T
09/22/2009	0.030100	N	T
10/16/2009	0.003800	N	T
12/08/2009	0.002800	N	T
03/08/2010	0.002700	N	T
06/09/2010	0.004600	N	T
09/24/2010	0.003040	N	T
12/14/2010	0.009490	N	T
03/14/2011	0.001700	N	T

ATTACHMENT D

FACILITY WET EVALUATION REPORT

Facility: WESTBROOK
Permit Number: ME0100846
Report Date: 2/22/2012
Receiving Water: PRESUMPSCOT RIVER
Rapidmix: Y
Dilution Factors: 1/4 Acute: 10.967 Acute: 40.867 Chronic: 40.8668
Effluent Limits: Acute (%): 2.447 Chronic (%): 2.447 **Date range for Evaluation: From:** 22/Feb/2007 **To:** 22/Feb/2012

Test Type: A_NOEL
Test Species: TROUT

Test Date	Result (%)	Status
10/28/2008	100.000	OK
04/20/2010	100.000	OK
03/20/2011	100.000	OK
09/19/2011	100.000	OK

Species Summary:

Test Number: 4 **RP:** 2.600 **Min Result (%):** 100.000 **RP factor (%):** 38.462 **Status:** OK

Test Type: C_NOEL
Test Species: TROUT

Test Date	Result (%)	Status
10/28/2008	50.000	OK
04/20/2010	100.000	OK
03/20/2011	100.000	OK
09/19/2011	100.000	OK

Species Summary:

Test Number: 4 **RP:** 2.600 **Min Result (%):** 50.000 **RP factor (%):** 19.231 **Status:** OK

Test Type: A_NOEL
Test Species: WATER FLEA

Test Date	Result (%)	Status
06/20/2007	100.000	OK
10/28/2008	100.000	OK
03/17/2009	100.000	OK
04/20/2010	100.000	OK
03/20/2011	100.000	OK
09/19/2011	100.000	OK

Speci Summary:

Test Number: 6 **RP:** 2.100 **Min Result (%):** 100.000 **RP factor (%):** 47.619 **Status:** OK

Test Type: C_NOEL

Test Species: WATER FLEA

Test Date	Result (%)	Status
06/20/2007	25.000	OK
10/28/2008	100.000	OK
03/17/2009	100.000	OK
04/20/2010	100.000	OK
03/20/2011	100.000	OK
09/19/2011	6.250	OK

Species Summary:

Test Number: 6 **RP:** 2.100 **Min Result (%):** 6.250 **RP factor (%):** 2.976 **Status:** OK

ATTACHMENT E

PRIORITY POLLUTANT DATA SUMMARY

Date Range: 22/Feb/2007 - 22/Feb/2012

Facility Name: **WESTBROOK** NPDES: **ME0100846**

Test Date	Monthly (Flow MGD)	Daily (Flow MGD)	Total Test Number	Test # By Group M	V	BN	P	O	A	Clean	Hg
06/19/2007	3.00	2.49	21	10	0	0	0	11	0	F	0
10/28/2008	3.41	4.44	21	10	0	0	0	11	0	F	0
03/17/2009	5.09	4.93	21	10	0	0	0	11	0	F	0
04/20/2010	4.16	3.49	21	10	0	0	0	11	0	F	0
09/12/2010	2.20	2.09	2	2	0	0	0	0	0	F	0
09/13/2010	2.20	2.48	3	3	0	0	0	0	0	F	0
09/14/2010	2.20	2.15	1	1	0	0	0	0	0	F	0
09/16/2010	2.20	2.51	2	2	0	0	0	0	0	F	0
02/08/2011	2.23	3.29	1	1	0	0	0	0	0	F	0
03/20/2011	5.50	5.87	133	14	28	46	25	9	11	F	0
06/09/2011	2.72	2.69	14	10	0	0	0	4	0	F	0

Key:

A = Acid O = Others P = Pesticides

BN = Base Neutral M = Metals V = Volatiles

ATTACHMENT F

CHAPTER 530.2(D)(4) CERTIFICATION

MEPDES# _____ Facility Name _____

Since the effective date of your permit have there been:	NO	YES (Describe in Comments)
1. changes in the number or types of non-domestic wastes contributed directly or indirectly to the wastewater treatment works that may **increase** the toxicity of the discharge?		
2. changes in the operation of the treatment works that may **increase** the toxicity of the discharge?		
3. changes in industrial manufacturing processes contributing wastewater to the treatment works that may **increase** the toxicity of the discharge?		

COMMENTS:

Name(print) _____

Signature _____ Date _____

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

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

ATTACHMENT G

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

MEMORANDUM

DATE: October 2008

TO: Interested Parties

FROM: Dennis Merrill, DEP

SUBJECT: DEP's system for evaluating toxicity from multiple discharges

****

Following the requirements of DEP's rules, Chapter 530, section 4(F), the Department is evaluating discharges of toxic pollutants into a freshwater river system in order to prevent cumulative impacts from multiple discharges. This is being through the use of a computer program known internally as "DeTox". The enclosed package of information is intended to introduce you to this system.

Briefly, the DeTox program evaluates each wastewater facility within a watershed in three different ways in order to characterize its effluent: 1) the facility's past history of discharges, 2) its potential toxicity at the point of discharge on an individual basis, and 3) the facility's contribution to cumulative toxicity within a river segment in conjunction with other facilities. The value that is most protective of water quality becomes the value that is held in the DeTox system as an allocation for the specific facility and pollutant.

The system is not static and uses a five-year "rolling" data window. This means that, over time, old test results drop off and newer ones are added. The intent of this process is to maintain current, uniform facility data to estimate contributions to a river's total allowable pollutant loading prior to each permit renewal.

Many facilities are required to do only a relatively small amount of pollutant testing on their effluent. This means, statistically, the fewer tests done, the greater the possibility of effluent limits being necessary based on the facility's small amount of data. To avoid this situation, most facilities, especially those with low dilution factors, should consider conducting more than the minimum number of tests required by the rules.

Attached you will find three documents with additional information on the DeTox system:

- Methods for evaluating the effects of multiple discharges of toxic pollutants
- Working definitions of terms used in the DeTox system
- Reviewing DeTox Reports
- Prototype facility and pollutant reports

If you have questions as you review these, please do not hesitate to contact me at Dennis.L.Merrill@maine.gov or 287-7788.

Maine Department of Environmental Protection

Methods for evaluating the effects of multiple discharges of toxic pollutants.

Reference: DEP Rules, Chapter 530, section 4(F)

To evaluate discharges of toxic pollutants into a freshwater river system and prevent cumulative impacts from multiple discharges, DEP uses a computer program called "DeTox that functions as a mathematical evaluation tool.

It uses physical information about discharge sources and river conditions on file with the Department, established water quality criteria and reported effluent test information to perform these evaluations. Each toxic pollutant and associated water quality criterion for acute, chronic and/or human health effects is evaluated separately.

Each facility in a river drainage area has an assigned position code. This "address" is used to locate the facility on the river segment and in relation to other facilities and tributary streams. All calculations are performed in pounds per day to allow analysis on a mass balance. Pollutants are considered to be conservative in that once in the receiving water they will not easily degrade and have the potential to accumulate.

The process begins with establishing an assimilative capacity for each pollutant and water quality criterion at the most downstream point in the river segment. This calculation includes set-aside amounts for background and reserve quantities and assumed values for receiving water pH, temperature and hardness. The resulting amount of assimilative capacity is available for allocation among facilities on the river.

Each facility is evaluated to characterize its past discharge quantities. The historical discharge, in pounds per day, is figured using the average reported concentration and the facility's permitted flow. As has been past practice, a reasonable potential (RP) factor is used as a tool to estimate the largest discharge that may occur with a certain degree of statistical certainty. The RP factor is multiplied by the historical average to determine an allocation based on past discharges. The RP factor is also multiplied by the single highest test to obtain a maximum day estimate. Finally, the direct average without RP adjustment is used to determine the facility's percent contribution to the river segment in comparison to the sum of all discharges of the pollutant. This percent multiplied by the total assimilative capacity becomes the facility's discharge allocation used in evaluations of the segment loadings.

Additionally, individual facility discharges are evaluated as single sources, as they have been in the past to determine if local conditions are more limiting than a segment evaluation.

With all of this information, facilities are evaluated in three ways. The methods are:

1. The facility's past history. This is the average quantity discharged during the past five years multiplied by the applicable RP factor. This method is often the basis for an allocation when the discharge quantity is relatively small in comparison to the water quality based allocation.
2. An individual evaluation. This assumes no other discharge sources are present and the allowable quantity is the total available assimilative capacity. This method may be used when a local condition such as river flow at the point of discharge is the limiting factor.
3. A segment wide evaluation. This involves allocating the available assimilative capacity within a river segment based on a facility's percent of total past discharges. This method would be used when multiple discharges of the same pollutant to the same segment and the available assimilative capacity is relatively limited.

The value that is most protective of water quality becomes the facility's allocation that is held in the system for the specific facility and pollutant. It is important to note that the method used for allocation is facility and pollutant specific and different facilities on the same segment for the same pollutant can have different methods used depending on their individual situations.

Discharge amounts are always allocated to all facilities having a history of discharging a particular pollutant. This does not mean that effluent limits will be established in a permit. Limits are only needed when past discharge amounts suggest a reasonable potential to exceed a water quality based allocation, either on an individual or segment basis. Similar to past practices for single discharge evaluations, the single highest test value is multiplied by a RP factor and if product is greater than the water quality allowance, an effluent limit is established. It is important to remember an allocation is "banking" some assimilative capacity for a facility even if effluent limits are not needed.

Evaluations are also done for each tributary segment with the sum of discharge quantities in tributaries becoming a "point source" to the next most significant segment. In cases where a facility does not use all of its assimilative capacity, usually due to a more limiting individual water quality criterion, the unused quantity is rolled downstream and made available to other facilities.

The system is not static and uses a five-year rolling data window. Over time, old tests drop off and newer ones are added on. These changes cause the allocations and the need for effluent limits to shift over time to remain current with present conditions. The intent is to update a facility's data and relative contribution to a river's total assimilative capacity prior to each permit renewal. Many facilities are required to do only minimal testing to characterize their effluents. This creates a greater degree of statistical uncertainty about the true long-term quantities. Accordingly, with fewer tests the RP factor will be larger and result in a greater possibility of effluent limits being necessary. To avoid this situation, most facilities, especially those with relatively low dilution factors, are encouraged to conduct more that a minimum number of tests. It is generally to a facility's long-term benefit to have more tests on file since their RP factor will be reduced.

Maine Department of Environmental Protection

Working Definitions of Terms Used in the DeTox System.

Allocation. The amount of pollutant loading set aside for a facility. Separate amounts are set for each *water quality criterion.* Each pollutant having a history of being discharged will receive an allocation, but not all allocations become *effluent limits.* Allocation may be made in three ways: *historical allocation, individual allocation* or *segment allocation.*

Assimilative capacity. The amount of a pollutant that river segment can safely accept from point source discharges. It is determined for the most downstream point in a river segment using the *water quality criterion* and river flow. Separate capacities are set for acute, chronic and human health criteria as applicable for each pollutant. Calculation of this capacity includes factors for *reserve* and *background* amounts.

Background. A concentration of a pollutant that is assumed to be present in a receiving water but not attributable to discharges. By rule, this is set as a rebuttable presumption at 10% of the applicable *water quality criterion.*

Effluent limit. A numeric limit in a discharge permit specifically restricting the amount of a pollutant that may be discharged. An effluent limit is set only when the highest discharge, including an adjustment for *reasonable potential,* is greater than a facility's water quality based *allocation* for a pollutant.

Historical allocation (or *RP history*). One of three ways of developing an *allocation.* The facility's average history of discharges, in pounds at design flow, is multiplied by the appropriate *reasonable potential* factor. An allocation using this method does not become an *effluent limit.*

Historical discharge percentage. For each pollutant, the average discharge concentration for each facility in a segment is multiplied by the permitted flow (without including a *reasonable potential* factor). The amounts for all facilities are added together and a percent of the total is figured for each facility. When a facility has no detectable concentrations, that pollutant is assumed to be not present and it receives no percentage.

Individual allocation. One of three ways of developing an *allocation.* The facility's single highest discharge on record multiplied by the appropriate *reasonable potential* factor is compared to a water quality based quantity with an assumption that the facility is the only point source to that receiving water. If the RP-adjusted amount is larger, the water quality amount may become an *effluent limit.*

Less than. A qualification on a laboratory report indicating the concentration of a pollutant was below a certain concentration. Such a result is evaluated as being one half of the Department's reporting limit in most calculations.

Reasonable potential (RP). A statistical method to determine the highest amount of a pollutant likely to be present at any time based on the available test results. The method produces a value or RP factor that is multiplied by test results. The method relies on an EPA guidance document, and considers the coefficient of variation and the number of tests. Generally, the fewer number of tests, the higher the RP factor.

Reserve. An assumed concentration of a pollutant that set aside to account for non-point source of a pollutant and to allow new discharges of a pollutant. By rule this is set at 15% of the applicable *water quality criterion.*

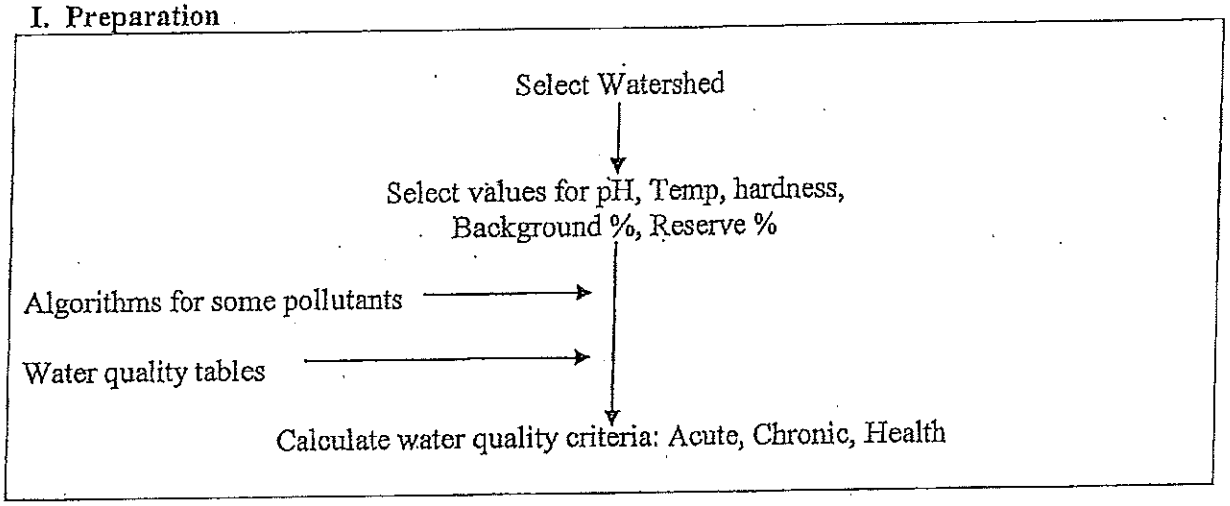
Segment allocation. One of three ways of developing an *allocation.* The amount is set by multiplying a facility's *historical discharge percentage* for a specific pollutant by the *assimilative capacity* for that pollutant and criterion. A facility will have different allocation percentages for each pollutant. This amount may become an *effluent limit.*

Tributary. A stream flowing into a larger one. A total pollutant load is set by adding the all facilities *allocations* on the tributary and treating this totaled amount as a "point source" to the next larger segment.

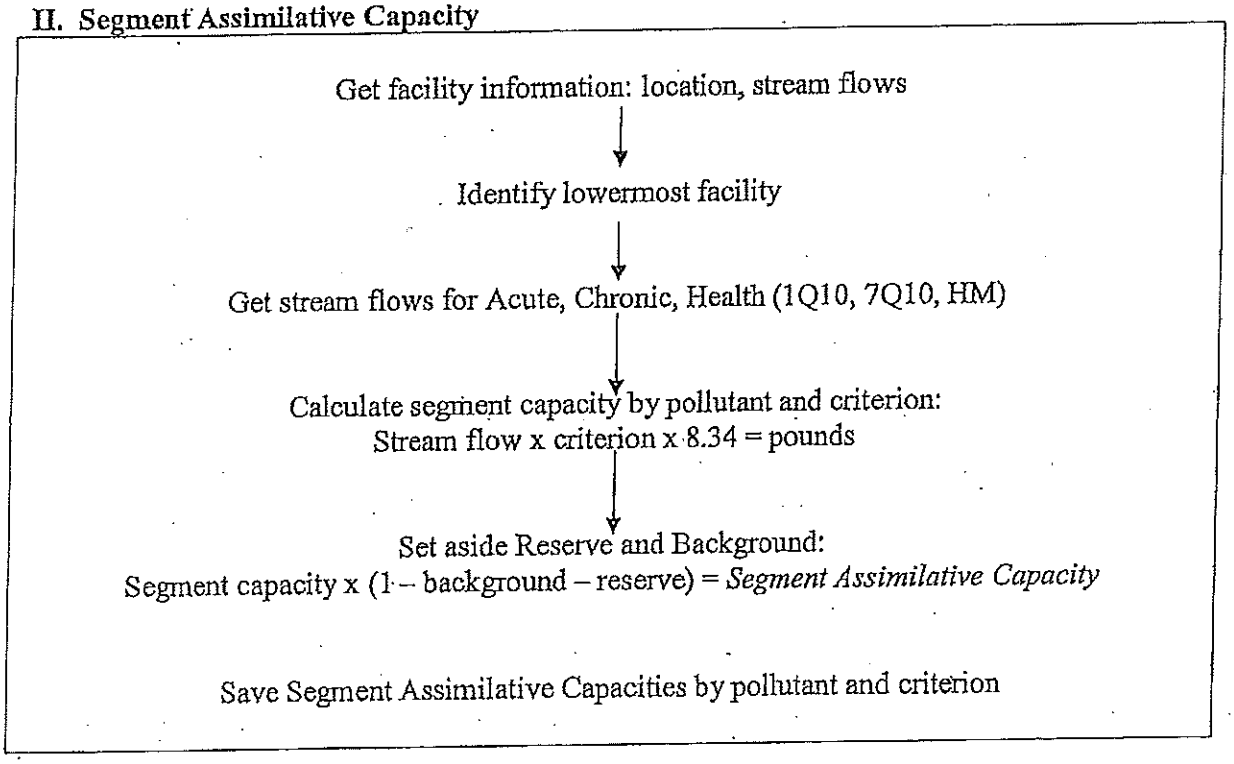
Water quality criteria. Standards for acceptable in-stream or ambient levels of pollutants. These are established in the Department's Chapter 584 and are expressed as concentrations in ug/L. There may be separate standards for acute and chronic protection aquatic life and/or human health. Each criterion becomes a separate standard. Different stream flows are used in the calculation of each.

Maine Department of Environmental Protection
General Processing Steps in "DeTox"

I. Preparation



II. Segment Assimilative Capacity



Maine Department of Environmental Protection
General Processing Steps in "DeTox"

III. Evaluate History by Pollutant

Select each facility effluent data for each facility

Data input and edits →

Identify "less than" results and assign at ½ of reporting limit

Bypass pollutants if all results are "less than"

Average concentrations and calculate pounds:
Ave concentration x license flow x 8.34 = *Historical Average*

Determine reasonable potential (RP) using algorithm

Calculate RP adjusted pounds:
Historical Average x RP factor = *RP Historical Allocation*

Save for comparative evaluation

Calculate adjusted maximum pounds:
Highest concentration x RP factor x license flow x 8.34 = *RP Maximum Value*

IV. Determine Facility History Percentage

By pollutant, identify facilities with *Historical Average*

Sum all Historical Averages within segment

By facility, calculate percent of total:
Facility pounds / Total pounds = *Facility History %*

Maine Department of Environmental Protection
General Processing Steps in "DeTox"

V. Segment Allocation

By pollutant and criterion, select *Segment Assimilative Capacity*

↓

Select individual *Facility History %*

↓

Determine facility allocation:
Assimilative Capacity x Facility History % = *Segment Allocation*

↓

Save for comparative evaluation

VI. Individual Allocation

Select individual facility and dilution factor (DF)

↓

Select pollutant and water quality criterion

↓

By pollutant and criterion, calculate individual allocations:
[DF x 0.75 x criterion] + [0.25 x criterion] = Individual Concentration

↓

Determine individual allocation:
Individual Concentration x license flow x 8.34 = *Individual Allocation*

↓

Save for comparative evaluation

VII. Make Initial Allocation

By facility, pollutant and criterion, get:
Individual Allocation, Segment Allocation, RP Historical Allocation

↓

Compare allocation and select the smallest

↓

Save as *Facility Allocation*

VIII. Evaluate Need for Effluent Limits

By facility, pollutant and criterion select
Segment Allocation, *Individual Allocation* and *RP Maximum value*

↓

If *RP Maximum value* is greater than either *Segment Allocation* or *Individual Allocation*, use lesser value as *Effluent Limit*

↓

Save *Effluent Limit* for comparison

IX. Reallocation of Assimilative Capacity

Starting at top of segment, get *Segment Allocation*, *Facility Allocation* and *Effluent Limit*

↓

If *Segment Allocation* equals *Effluent Limit*, move to next facility downstream

↓

If not, subtract *Facility Allocation* from *Segment Allocation*

↓

Save difference

↓

Select next facility downstream

↓

Figure remaining *Segment Assimilative Capacity* at and below facility, less tributaries

↓

Add saved difference to get an adjusted *Segment Assimilative Capacity*

↓

Reallocate *Segment Assimilative Capacity* among downstream facilities per step V

↓

Repeat process for each facility downstream in turn

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

CONTENTS

A. GENERAL PROVISIONS

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

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

(a) They are not

(i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
(ii) Known to be hazardous or toxic by the licensee.

(b) The discharge of such materials will not violate applicable water quality standards.

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

(b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.

(c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.

(d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.

(e) The permittee shall install flow measuring facilities of a design approved by the Department.

(f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

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

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

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

5. Bypasses.

(a) Definitions.

(i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

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

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

(c) Notice.

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

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).

(d) Prohibition of bypass.

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The permittee submitted notices as required under paragraph (c) of this section.

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

6. Upsets.

(a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;
(ii) The permitted facility was at the time being properly operated; and
(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
(iv) The permittee complied with any remedial measures required under paragraph B(4).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(c) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;
(ii) The individual(s) who performed the sampling or measurements;
(iii) The date(s) analyses were performed;
(iv) The individual(s) who performed the analyses;
(v) The analytical techniques or methods used; and
(vi) The results of such analyses.

(d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.

(e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

D. REPORTING REQUIREMENTS

1. Reporting requirements.

(a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).

(iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

(b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(f) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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

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

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.
(B) Any upset which exceeds any effluent limitation in the permit.
(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

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

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

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

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

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

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

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

(i) One hundred micrograms per liter (100 ug/l);
(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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

(i) Five hundred micrograms per liter (500 ug/l);
(ii) One milligram per liter (1 mg/l) for antimony;
(iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

5. Publicly owned treatment works.

(a) All POTWs must provide adequate notice to the Department of the following:

(i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
(ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
(iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

E. OTHER REQUIREMENTS

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

(a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.

(b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012 **Contact: (207) 287-2811**

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

Other Considerations in Appealing a Decision to the Board

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

What to Expect Once You File a Timely Appeal with the Board

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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.