



STATE OF MAINE
Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

December 3, 2012

Mr. Donn Davis
Assistant Superintendent of Schools
RSU #14 - Windham Raymond School District
228 Windham Center Road
Windham, ME. 04062

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0102751
Maine Waste Discharge License (WDL) Application #W002510-5D-D-R
Final Permit

Dear Mr. Davis:

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

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

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

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

Enc.

cc: Stuart Rose, DEP/SMRO
Sandy Mojica, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507



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

DEPARTMENT ORDER

IN THE MATTER OF

REGIONAL SCHOOL UNION #14 (RSU #14)	)	MAINE POLLUTANT DISCHARGE
WINDHAM RAYMOND SCHOOL DISTRICT	)	ELIMINATION SYSTEM
WINDHAM, CUMBERLAND COUNTY, MAINE	)	
OVERBOARD DISCHARGE	)	AND
ME0102751	)	WASTE DISCHARGE LICENSE
W002510-5D-D-R	)	RENEWAL AND TRANSFER
APPROVAL		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq. and Maine Law 38 M.R.S.A., Section 414-A et seq., and applicable regulations, the Department of Environmental Protection (Department hereinafter) has considered the application of REGIONAL SCHOOL UNION #14 (RSU #14) (RSU #14/permittee hereinafter), with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

The RSU #14 has submitted a timely and complete application to the Department for the renewal and transfer of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102751/Maine Waste Discharge License (WDL) #W002510-5D-B-R, (permit hereinafter) which was issued on March 6, 2006, and expired on March 6, 2011. The previous permit was issued to the Windham School Department but with the consolidation of school systems statewide, RSU #14 was established and the Windham school was incorporated into the RSU. The March 6, 2006, permit approved the discharge of up to a monthly average flow of 25,000 gallons per day (gpd) of secondary treated waste water from a waste water treatment facility, to the Pleasant River, Class B, in Windham, Maine.

PERMIT SUMMARY

This permitting action is carrying forward all the terms and conditions of the previous permit except that this permit is;

1. Establishing technology based monthly average, weekly average and daily maximum mass and concentration limits for carbonaceous biochemical oxygen demand due to nitrification issues at the waste water treatment facility.
2. Eliminating the monitoring requirements for total phosphorus and ortho-phosphorus given the permittee has submitted five years of data which the Department has determined to be sufficient to support future water quality modeling efforts.

PERMIT SUMMARY (cont'd)

3. Requiring the submission of Discharge Monitoring Reports (DMRs) on a 1/Month basis given the significant non-compliance demonstrated over the past three-year period.
4. Authorizing the facility to receive and treat up to 5,000 gallons per day of transported wastes in the waste water treatment facility to aide in the biological stability of the treatment system during periods of time when the school is not in session.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated September 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 MRSA Section 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding natural resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.

CONCLUSIONS (cont'd)

4. The discharges will be subject to effluent limitations that require application of best practicable treatment (BPT) as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).
5. The overboard discharge system was in continuing existence for the 12 months preceding June 1, 1987.
6. The permittee has determined that there is sufficient information indicating that a subsurface wastewater disposal system can not be installed in compliance with the Maine Subsurface Waste Water Disposal Rules or alternative method of waste water disposal without the surface water discharge to the Pleasant River at the time the renewal application was accepted by the Department.
7. A publicly owned sewer line is not located on or abutting land owned or controlled by the permittee or is not available for the permittee's use.
8. The discharge is not located within the boundaries of a sanitary district or sewer district.

ACTION

THEREFORE, the Department APPROVES the above noted application of the REGIONAL SCHOOL UNION #14, to discharge up to 25,000 gallons per day of secondary treated wastewater to the Pleasant River, Class B, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations:

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 becomes effective upon the date of signature below and expires at midnight five (5) years after that date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of the this permit, the terms and conditions of the this permit and all subsequent 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)].

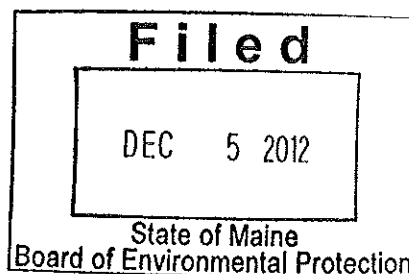
DONE AND DATED AT AUGUSTA, MAINE, THIS 4th DAY OF DECEMBER, 2012.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
For Patricia W. Aho, Commissioner

Date of initial receipt of application: January 3, 2011

Date of application acceptance: January 3, 2011



Date filed with Board of Environmental Protection: _____

This Order prepared by Gregg Wood, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning the effective date of this permit and lasting through permit expiration, the permittee is authorized to discharge secondary treated sanitary wastewater from **Outfall #001** to the Pleasant River. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Discharge Limitations (as specified)						Minimum Monitoring Requirements (as specified)	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
Flow [50050]	25,000 gpd [07]	--	Report, gpd [07]	--	--	--	Continuous [99/99]	Metered [MT]
Carbonaceous Biochemical Oxygen Demand (CBOD₅) [80082]	3.1 lbs./day [26]	5.0 lbs./day [26]	5.6 lbs./day [26]	25 mg/L [19]	40 mg/L [19]	45 mg/L [19]	2/Month [02/30]	8-Hour Composite ⁽²⁾ [08]
CBOD₅ % Removal ⁽¹⁾ [81010]	---	---	---	65% [23]	---	---	1/Month [01/30]	Calculate [CA]
TSS [00530]	3.7 lbs./day [26]	5.6 lbs./day [26]	6.3 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	2/Month [02/30]	8-Hour Composite ⁽²⁾ [08]
TSS Percent Removal ⁽³⁾ [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 ⁽⁴⁾ May 15 th - Sept 30 th [31633]	--	---	--	64/100 ml ⁽⁵⁾ [13]	--	427/100 ml [13]	2/Month [02/30]	Grab [GR]
Total Residual Chlorine ⁽⁶⁾ [50060]	--	--	--	0.95 mg/L [19]	--	1.0 mg/L [19]	5/Week [05/07]	Grab [GR]
pH [00400]	--	--	--	--	--	6.0 – 9.0 SU [12]	5/Week [05/07]	Grab [GR]

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

FOOTNOTES: See Page 6 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

Footnotes:

1. **Influent and Effluent Monitoring** – Influent monitoring shall be conducted at the effluent side of the influent screen. Effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process as to be representative of end-of-pipe effluent characteristics. The Department has determined that the discharge line sampling port (located after the introduction of disinfection liquid) is the appropriate and representative location from which to collect effluent samples on a year-round basis.

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

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

2. **CBOD₅ and TSS Sample Type** – Eight-hour composite samples for CBOD₅ and TSS shall consist of a minimum of four flow-proportioned grab samples collected at equally spaced intervals over an eight-hour period which are combined prior to analysis. Other composite aliquots may be acceptable with written Department approval.
3. **Percent Removal** – The treatment facility shall maintain a minimum of 65% removal of CBOD₅ and 85% removal of TSS for all flows receiving secondary treatment. The percent removal shall be calculated based on influent and effluent concentration values. The percent removal shall be waived when the monthly average influent concentration for CBOD is 167 mg/L and 200 mg/L for TSS, and the permittee shall report "NODI-9" for this parameter on the monthly Discharge Monitoring Report (DMR).

SPECIAL CONDITIONS

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

Footnotes:

4. **Bacteria Limits** – *Escherichia coli* (*E. coli*) bacteria limits and monitoring requirements are in effect on a seasonal basis (May 15th to September 30th). The Department reserves the right to require disinfection on a year-round basis to protect the health, safety and welfare of the public.
5. **Bacteria Reporting** – The monthly average *E. coli* bacteria limitation is a geometric mean limitation and sample results shall be reported as such.
6. **TRC Monitoring** – Monitoring for TRC is required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. The permittee shall use approved test methods that are capable of bracketing the limits established in this permit. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility shall report "NODI-9" for this parameter on the monthly DMR.

B. ANNUAL DISCHARGE FEES

Pursuant to Maine law, 38 M.R.S.A. §353-B, the permittee is required to pay an applicable annual fee for discharges authorized by this permit. Failure to pay an annual fee within 30 days of the anniversary date of a license/permit is sufficient grounds for revocation of the license/permit or privilege under Maine law, 38 M.R.S.A. §341-D, subsection 3.

C. 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.

SPECIAL CONDITIONS

D. TREATMENT PLANT OPERATOR

The person that has direct responsibility for the operation of the treatment facility must hold a minimum of a **Grade II** certificate (or Registered Maine Professional Engineer) pursuant to *Sewerage Treatment Operators*, 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.

E. NOTIFICATION REQUIREMENT

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

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

F. AUTHORIZED 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 January 3, 2011; 2) the terms and conditions of this permit; and 3) only from Outfall #001. 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), *Bypasses*, of this permit.

G. CONNECTION TO MUNICIPAL SEWER

All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system within 180 days of the system becoming available, unless this time is extended by the Department in writing.

SPECIAL CONDITIONS

H. SITE EVALUATION FOR TRANSFERRED AND RENEWED PERMITS

The Department may not grant approval for a **permit transfer** if a site evaluation concludes that a non-discharging wastewater disposal system designed in compliance with the Maine Subsurface Waste Water Disposal Rules administered by the Maine Department of Health and Human Services, Division of Environmental Health can be installed as a replacement system for the overboard discharge.

The Department may not grant approval for a **permit renewal** if the site evaluation concludes that a non-discharging wastewater disposal system can be installed as a replacement system for the overboard discharge and the Department has offered the permittee funding for the removal of the discharge.

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, or 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. WET WEATHER FLOW MANAGEMENT PLAN

The treatment facility staff shall maintain a current written Wet Weather 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. A specific objective of the plan shall be to maximize the volume of wastewater receiving secondary treatment under all operating conditions. The revised 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 at least annually and record any necessary changes to keep the plan up to date.** The Department may require review and update of the plan as it is determined to be necessary.

SPECIAL CONDITIONS

K. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY

During the effective period of this permit, the permittee is authorized to receive and introduce **a daily maximum of 5,000 gallons per day of transported wastes** into the treatment process or solids handling stream, 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.
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;
 - (b) 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.

SPECIAL CONDITIONS

K. DISPOSAL OF TRANSPORTED WASTES IN WASTEWATER TREATMENT FACILITY (cont'd)

5. The addition of transported wastes into the treatment process or solids handling stream shall not cause the treatment facility's 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.
7. During wet weather events, transported wastes may be added to the treatment process or solids handling facilities only in accordance with a current Wet Weather Flow Management Plan approved by the Department 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 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 Chapter 555 of the Department's rules and the terms and conditions of this permit.

L. REOPENING OF PERMIT FOR MODIFICATIONS

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

SPECIAL CONDITIONS

M. 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 submitted to the Department's compliance inspector (unless otherwise specified) at the following address:

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

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

N. SEVERABILITY

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

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

FACT SHEET

Date: September 27, 2012

PERMIT NUMBER: ME0102751
LICENSE NUMBER: W002510-5D-D-R

NAME AND ADDRESS OF APPLICANT:

**REGIONAL SCHOOL UNIT #14
Windham Raymond School District
228 Windham Center Road
Windham, Maine 04062**

COUNTY: Cumberland County

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**406 Gray Road
Windham, Maine 04062**

RECEIVING WATER/CLASSIFICATION: Pleasant River/Class B

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**Mr. Donn S. Davis,
Assistant Superintendent
(207) 892-1800
e-mail: ddavis@windham.k12.me.us**

1. APPLICATION SUMMARY

- a. Application - The RSU #14 has submitted a timely and complete application to the Department for the renewal and transfer of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0102751/Maine Waste Discharge License (WDL) #W002510-5D-B-R, (permit hereinafter) which was issued on March 6, 2006, and expired on March 6, 2011. The previous permit was issued to the Windham School Department but with the consolidation of school systems statewide, Regional School Unit #14 (RSU #14) was established and the Windham school was incorporated into the RSU. The March 6, 2006, permit approved the discharge of up to a monthly average flow of 25,000 gallons per day (gpd) of secondary treated waste water from a waste water treatment facility, to the Pleasant River, Class B, in Windham, Maine.

1. APPLICATION SUMMARY (cont'd)

- b. Source Description: The facility receives sanitary waste water from an elementary, junior high, and high school complex that serves approximately 1,150 students and an additional number of school staff. The majority of the site is developed either with school buildings, parking areas, or athletic fields. The schools are served by the Portland Water District providing potable water and water for irrigation and fire protection.
- c. Waste Water Treatment: All waste water flows from the different sources on the school campus are conveyed to the waste water treatment facility by gravity sewer lines. The facility treats waste water by first measuring and conveying the flow past a flow recorder and ultrasonic flow meter, then to an influent screen (CE Bauer hydrosieve) where large solids are physically removed. The waste water is then directed to the oxidation ditch where it is aerated within an oval shaped channel that is 12 feet wide and 3 feet deep with a footprint of 80 feet long and 36 feet wide (volume = 36,800 gallons). The waste water is then directed to a mixed liquor transfer tank and then to a clarifier with an 11 foot depth and a capacity of 21,000 gallons. The treated, clarified waste water is then directed past a disinfection feed line (where sodium hypochlorite is added to the waste stream to disinfect the waste water) and then is conveyed to the Pleasant River by an outfall pipe that has a single port orifice near the center of the river bottom. File information indicates that the outfall pipe discharges from the river bottom to achieve rapid and complete mixing.

2. PERMIT SUMMARY

- a. Terms and conditions - This permitting action is carrying forward all the terms and conditions of the previous permit except that this permit is;
 - 1. Establishing technology based monthly average, weekly average and daily maximum mass and concentration limits for carbonaceous biochemical oxygen demand due to nitrification issues at the waste water treatment facility.
 - 2. Eliminating the monitoring requirements for total phosphorus and ortho-phosphorus given the permittee has submitted five years of data which the Department has determined to be sufficient to support future water quality modeling efforts.
 - 3. Requiring the submission of Discharge Monitoring Reports (DMRs) on a 1/Month basis given the significant non-compliance demonstrated over the past three-year period.

2. PERMIT SUMMARY

- b. Regulatory history: The most recent licensing/permitting actions include the following:

March 12, 1975 – The Department issued Waste Discharge License (WDL) #677 that authorized the discharge of up to 55,375 gallons per day (gpd) of treated sanitary wastewater from the school complex to the Pleasant River. WDL #677 had an expiration date of March 12, 1978.

November 14, 1978 – The Department issued a renewal license to the school for the discharge of up to 55,375 gpd with a WDL number of #2510 and a term of five years.
May 24, 1984 – The Department issued WDL #W002510-45-A-R, a renewal of the WDL issued in 1978 with a term of five years.

August 14, 1995 – The Department issued a renewal of the 1984 WDL with a license number of #W002510-ZC-B-R. The WDL was issued for a term of ten (10) years and established a flow limitation of 15,000 gpd.

May 14, 2002 – The Department issued Site Location of Development permit that approved the construction of expansions to the existing school complex including a 122,000 square foot addition to the existing high school building, an 800-seat auditorium, tennis courts, upgrades to the existing sewage treatment plant and other ancillary improvements. The Department found that the resulting complex would accommodate 1,150 students in the existing elementary, junior high, and expanded high school. The Department found that the expanded school complex is located on a 110 acre site and the cost of the expansion was \$35 million.

March 6, 2005 – The department issued combination MEPDES permit ME0102751/(WDL) W school 002510-5D-B-R for a five (5) year term. Due to construction of the new school, the flow limit was established at 25,000 gpd, up from 15,000 gpd in the August 14, 1995 WDL.

January 3, 2011 – RSU #14 submitted a timely and complete application to the Department to renew and transfer the March 6, 2005 MEPDES permit/WDL from the Windham School Department to RSU #14.

3. CONDITIONS OF PERMIT

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

4. RECEIVING WATER QUALITY STANDARDS

Maine law, 38 M.R.S.A. §467(9)(B)(1) classifies the Pleasant River, as a tributary to the Presumpscot River below the outlet of Sebago Lake, which includes the point of discharge, as Class B waters. Maine law, 38 M.R.S.A. §465(3) describes the standards for Class B waters as follows:

Class B waters must be of such quality that they are suitable for the designated uses of drinking water supply after treatment; fishing; agriculture; recreation in and on the water; industrial process and cooling water supply; hydroelectric power generation, except as prohibited under Title 12, section 403; navigation; and as habitat for fish and other aquatic life. The habitat must be characterized as unimpaired.

*The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of *Escherichia coli* bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures.*

Discharges to Class B waters may not cause adverse impact to aquatic life in that the receiving waters must be of sufficient quality to support all aquatic species indigenous to the receiving water without detrimental changes in the resident biological community.

5. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, prepared pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists an 8.8-mile segment of the Pleasant River from Thayer Brook to its confluence with the Presumpscot River in a table entitled, "*Category 5-A: Rivers and Streams Impaired By Pollutants Other Than Those Listed in 5-B Through 5-D (TMDL Required)*". The report indicates Class B *E. coli* bacteria and dissolved oxygen standards are not being attained according to water quality data collected by the Presumpscot River Watch, in a report entitled 2002 Water Quality Monitoring Data Report. To complete a total maximum daily load (TMDL) for this segment of the Pleasant River, the Department will need to compile more up-to-date ambient water quality data. Until the TMDL is completed this permit is carrying forward the technology based mass and concentration limits for CBOD and TSS as well as the water quality based limits for *E. coli* bacteria. Should the results of the TMDL indicate the discharge from the RSU is causing or contributing to the impairment(s), this permit may be reopened pursuant to Special Condition L, *Reopening of Permit For Modifications*, to establish more stringent limitations to bring the Pleasant River into attainment with water quality standards.

6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Best Practicable Treatment (BPT) - Overboard discharges may be permitted only where no technologically proven alternative exists. Overboard discharge treatment systems must be capable of meeting secondary treatment standards as described in CMR Chapter 525, Section 3 unless the Department finds that alternate limits are appropriate.
 - (1) The permittee has demonstrated that connection to a municipal sewerage system is not possible because one is not located on or abutting land owned or controlled by the applicant.
 - (2) The permittee has demonstrated that a subsurface wastewater system is not practicable on land owned or controlled by the applicant in conformance with the State of Maine Subsurface Wastewater Disposal Rules at this time. In correspondence in the application for permit renewal, the applicant's Licensed Site Evaluator conducted an inspection of the permittee's property in October 2002 and determined that there is not a subsurface option because of the shallow depth to bedrock.
 - (3) The existing treatment system is capable of meeting secondary treatment standards and is appropriate technology for the wastewater being discharged.

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

- b. Flow: The previous permitting action established a monthly average discharge flow limitation of 25,000 gpd based on the dry weather design capacity of the treatment system along with a daily maximum reporting requirement.

A review of the monthly average flow data as reported on the Discharge Monitoring Reports (DMRs) submitted to the Department for the period January 2008 – March 2012 indicates the permittee has reported values as follows:

Flow (DMRs = 15)

Value	Limit (gpd)	Range (gpd)	Mean (gpd)
Monthly Average	25,000	11,500 – 19,428	14,108
Daily maximum	Report	22,100 – 141,4000	44,018

- c. Dilution Factors - In accordance with Department Regulation Chapter 530, *Surface Water Toxics Control Program*, the Department has determined that the following dilution factors are applicable for the discharge from the RSU facility. With a permitted flow of 25,000 gpd (0.025 MGD), the dilution factors can be calculated:

$$\text{Dilution Factor} = \frac{(\text{River Flow in cfs})(\text{Conversion Factor}) + \text{Plant Flow in MGD}}{\text{Plant Flow in MGD}}$$

$$\text{Acute: 1Q10} = 2.8 \text{ cfs} \Rightarrow \frac{(2.8 \text{ cfs})(0.6464) + 0.025 \text{ MGD}}{0.025 \text{ MGD}} = 74 : 1$$

$$\text{Chronic: 7Q10} = 3.3 \text{ cfs} \Rightarrow \frac{(3.3 \text{ cfs})(0.6464) + 0.025 \text{ MGD}}{0.025 \text{ MGD}} = 87 : 1$$

$$\text{Harmonic Mean}^{(1)} = 9.9 \text{ cfs} \Rightarrow \frac{(9.9 \text{ cfs})(0.6464) + 0.025 \text{ MGD}}{0.025 \text{ MGD}} = 259 : 1$$

Footnotes:

- (1) The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the U.S. EPA publication, *Technical Support Document for Water Quality-Based Toxics Control* (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based in a riverine 7Q10 flow situation. The acute 1Q10 has not been quantified at this time due to a lack of empirical data, therefore the default (0.85) of the 7Q10 is used.

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

- d. **BOD₅ & TSS** - The previous permitting action established monthly average, weekly average and daily maximum BOD₅ and TSS best practicable treatment (BPT) concentration limits of 30 mg/L, 45 mg/L and 50 mg/L, respectively along with a 2/Month monitoring requirement. The monthly average BOD₅ and TSS concentration limits are based on secondary treatment requirements of Department rule, 06-096 CMR Chapter 525(3)(III). The maximum daily BOD₅ and TSS concentration limits of 50 mg/L are based on a Department best professional judgment of BPT. The concentration limits for TSS are being carried forward in this permitting action.

As for mass limitations, the previous permitting action establish monthly average, weekly average and daily maximum limitations based on the daily maximum flow limit of 15,000 gpd (0.015 MGD) and the applicable concentration limits. The Fact Sheet of the previous permit indicated that though the treatment facility was capable of accepting flows of up to 25,000 gpd, the BOD and TSS mass limits were being held to "pre-existing" levels due to the non-attainment of dissolved oxygen standards. The limitations were calculated as follows:

Monthly Average Mass Limit: $(30 \text{ mg/L})(8.34 \text{ lbs./gallon})(0.015 \text{ MGD}) = 3.7 \text{ lbs./day}$

Weekly Average Mass Limit: $(45 \text{ mg/L})(8.34 \text{ lbs./day})(0.015 \text{ MGD}) = 5.6 \text{ lbs./day}$

Daily Maximum Mass Limit: $(50 \text{ mg/L})(8.34 \text{ lbs./day})(0.015 \text{ MGD}) = 6.2 \text{ lbs./day}$

A review of the monthly average flow data as reported on the DMRs submitted to the Department for the period January 2008 – March 2012 indicates the permittee has reported values as follows:

BOD Mass (DMRs = 15)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	3.7	0.6 - 17	6.2
Weekly Average	5.6	1.1 - 14	8.0
Daily Maximum	6.2	1.1 - 18	9.6

BOD Concentration (DMRs = 15)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	9.2 - 88	45
Weekly Average	45	16 - 111	60
Daily Maximum	50	16 - 130	71

TSS mass (DMRs = 15)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly Average	3.7	2.6 - 9.9	4.3
Weekly Average	5.6	2.9 - 18	6.2
Daily Maximum	6.2	3.5 - 16	7.8

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

TSS concentration (DMRs = 15)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly Average	30	19 – 78	36
Weekly Average	45	25 – 88	52
Daily Maximum	50	38 - 260	73

BOD % Removal (DMRs=15)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	42 - 97	81

TSS % Removal (DMRs=15)

Value	Limit (%)	Range (%)	Average (%)
Monthly Average	85	72 - 97	90

- e. Carbonaceous Biochemical Oxygen Demand (CBOD₅): This permitting action is establishing technology based monthly average, weekly average and daily maximum mass and concentration limits for CBOD₅. Typically, the Department establishes effluent limitations for BOD₅ for facilities that do not nitrify or complete the nitrification process through internal process control measures. BOD₅ is the measure of the total oxygen demand from both nitrogenous and carbonaceous components in a wastewater. Because the permittee's facility has such dramatic seasonal swings in loadings, the treatment process does not give the operator(s) of the facility the flexibility to control the nitrification process once it begins. Department rule Chapter 525(3)III authorizes the permitting authority to substitute CBOD₅ limitations for BOD₅ and the Department is doing so in this permitting action based on the facility-specific conditions outlined herein and BPJ.

This permitting action establishes technology based monthly and weekly average CBOD₅ concentration limitations of 25 mg/L and 40 mg/L respectively, pursuant to Department rule Chapter 525(3)III. The daily maximum CBOD₅ concentration limit of 45 mg/L is considered a Department BPJ of best practicable treatment (BPT) limitation. The respective mass limitations are based on the "pre-existing" flow limit of 15,000 gpd (0.015 MGD) and the applicable concentration limits, and are calculated as follows:

Monthly average: $(0.015 \text{ MGD})(8.34 \text{ lbs/gal})(25 \text{ mg/L}) = 3.1 \text{ lbs/day}$
 Weekly average: $(0.015 \text{ MGD})(8.34 \text{ lbs/gal})(40 \text{ mg/L}) = 5.0 \text{ lbs/day}$
 Daily maximum: $(0.015 \text{ MGD})(8.34 \text{ lbs/gal})(45 \text{ mg/L}) = 5.6 \text{ lbs/day}$

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

- f) Settleable Solids: The previous permitting action established a daily maximum technology based concentration limit of 0.3 ml/L along with a monitoring frequency of 5/Week that are being carried forward in this permitting action.

A review of the monthly average flow data as reported on the DMRs submitted to the Department for the period January 2008 – March 2012 indicates the permittee has reported values as follows:

Settleable solids (DMRs=14)

Value	Limit (ml/L)	Range (ml/L)	Average (ml/L)
Daily maximum	0.3	<0.1 – 8.0	1.0

- g) E. Coli Bacteria - The previous permitting action established seasonal (May 15 – September 30) monthly average and daily maximum concentration limit of 64 colonies per 100 ml and 427 colonies per 100 ml, respectively along with a 2/Month monitoring requirement. The limitation and season in which they apply are consistent with Maine law 38 M.R.S.A. §465(3)(B). The Department reserves the right, at any time, to require year-round disinfection to protect the health, safety and welfare of the public.

A review of the DMRs for the period June 2008 – September 2011 indicates values have been reported as follows:

E. coli. bacteria (DMRs=8)

Value	Limit (col/100 ml)	Range (col/100 ml)	Mean (col/100 ml)
Monthly Average	64	11 – 72,419	12,142
Daily Maximum	427	61 - 72419	12,614

- h) Total Residual Chlorine (TRC): The previous permitting action established a water quality-based monthly average limit of 0.95 mg/L and a technology based daily maximum concentration limit of 1.0 mg/L for TRC that are being carried forward in this permitting action. Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is being applied to the discharge. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined in Section 6(c) of this Fact Sheet, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows:

		Calculated		
Acute (A) Criterion	Chronic (C) Criterion	A / C Dilution Factors	Acute Threshold	Chronic Threshold
0.019 mg/L	0.011 mg/L	74 : 1 (A) 87 : 1 (C)	1.4 mg/L	0.95 mg/L

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

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that dechlorinate the discharge in order to meet water quality based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. RSU #14 currently does not dechlorinate the effluent prior to discharge.

The chronic water quality based threshold of 0.95 mg/L is more stringent than the technology-based standards and therefore the water quality based limit of 0.95 mg/L is established as a monthly average limit and 1.0 mg/L is established as a daily maximum limit.

A review of the monthly DMR data for the period May 2008 – September 2011 indicates the permittee has reported values as follows:

Total residual chlorine (DMRs=8)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	0.95	0.42 – 0.96	0.56
Daily Maximum	1.0	0.94 – 5.5	1.7

- i) pH: The previous permitting action established a pH range limit of 6.0 – 9.0 standard units (SU), considered by the Department at the time as BPT for secondary treated wastewater pursuant to Department rule found at Chapter 525(3)(III)(c) along with a 5/Week monitoring requirement. The limitation and monitoring frequency are being carried forward in this permitting action.

A review of the monthly DMR data for the period January 2008 – September 2011 indicates the permittee has reported values as follows:

pH (DMRs=14)

Value	Limit (su)	Low (su)	High (su)
Range	6.0 – 9.0	4.7	8.3

- j. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: The previous permitting action did not establish whole effluent toxicity (WET) testing or chemical specific testing requirements pursuant to Chapter 530. Maine law, 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. Department rule, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program* (toxics rule) sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and

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

protected and narrative and numeric water quality criteria are met. Department rule 06-096 CMR Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants*, sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

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

Chapter 530(2)(A) specifies the criteria for exemption of certain discharges from toxics testing as follows:

- (1) Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility;*
- (2) Discharges from residential overboard discharge systems; or*
- (3) Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program.*

This permitting action limits the discharge to 25,000 gpd of solely domestic wastewater and has a chronic dilution factor of 87:1. Therefore, the facility qualifies for an exemption from toxics testing and this permitting action is not establishing toxics testing requirements.

- k. Total and Ortho Phosphorus: The previous permitting action established a seasonal, (June – September) 2/Month monitoring requirement for total and ortho-phosphorus. The permittee was required to report the monthly average and daily maximum mass and concentration values. The reporting requirements were established as the Department suspected nutrients discharged from the facility were causing or contributing to algal blooms in the Pleasant River which in turned caused dissolved oxygen levels to fall below the Class B dissolved oxygen standards.

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

A review of the monthly DMR data for the period May 2008 – September 2011 indicates the permittee has reported values as follows:

Mass**Total phosphorus (DMRs=8)**

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly average	Report	0.43 – 1.5	0.92
Daily Maximum	Report	0.47 – 1.8	1.1

Ortho phosphorus (DMRs=8)

Value	Limit (lbs/day)	Range (lbs/day)	Mean (lbs/day)
Monthly average	Report	0.33 – 1.09	0.8
Daily Maximum	Report	0.36 – 1.2	0.9

Concentration**Total phosphorus (DMRs=8)**

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	Report	3.2 – 12.8	9.4
Daily Maximum	Report	3.5 - 18	11

Other phosphorus (DMRs=8)

Value	Limit (mg/L)	Range (mg/L)	Mean (mg/L)
Monthly average	Report	2.5 - 10	7.1
Daily Maximum	Report	2.7 - 14	8.5

Based on the summary of the five years of test results submitted to date, the Department has determined it has sufficient information regarding levels of total and ortho-phosphorus discharged from the RSU #14 facility. Therefore, the requirement for sampling and reporting total and ortho-phosphorus is not being carried forward in this permitting action. This information along with future ambient water quality monitoring and modeling by the Department will enable the Department to prepare a TMDL as discussed in Section 5, *Receiving Water Conditions*, of this Fact Sheet.

1. Transported Wastes – On October 1, 2012, the permittee amended their January 2011 application to request the Department approve authorization to accept and treat up to 5,000 gpd of transported wastes. *Standards For The Addition of Transported Wastes to Wastewater Treatment Facilities*, 06-096 CMR 555 (effective March 9, 2009), limits the quantity of transported wastes received at a facility to 1% of the design capacity of the treatment facility if the facility utilizes a side stream or storage method of introduction into the influent flow, or 0.5% of the design capacity of the facility if the facility does not utilize the side stream or storage method of introduction into the influent flow. A facility may

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

receive more than 1% of the design capacity on a case-by-case basis. The permittee does not utilize a side stream storage method as transported wastes are introduced into the wetwell of the facility. With a design capacity of 25,000 gpd, 5,000 gpd represents 20% of said capacity. The Department has reviewed and approved the permittee's most current Septage Management Plan and determined that under normal operating conditions, the addition of 5,000 gpd via metered conditions of transported wastes into the facility will not cause or contribute to upset conditions of the treatment process.

7. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected, and that the discharge as permitted will not cause or contribute to the failure of the water body to meet standards for Class B waters.

8. PUBLIC COMMENTS

Public notice of this application was made in a newspaper with a circulation in the vicinity of the facility on or about January 3, 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 Chapter 522 of the Department's rules.

9. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7693
e-mail: gregg.wood@maine.gov

10. RESPONSE TO COMMENTS

During the period September 27, 2012 through the issuance date of the permit, the Department solicited comments on the proposed draft permit for the permittee's facility. The Department did not receive comments from the permittee, state or federal agencies or interested parties that resulted in any substantive change(s) in the terms and conditions of the permit. Therefore, the Department has not prepared a Response to Comments.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

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

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

B. OPERATION AND MAINTENANCE OF FACILITIES

1. General facility requirements.

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

(c) Notice.

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

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

(d) Prohibition of bypass.

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

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (c) of this section.

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

6. Upsets.

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

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

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

(i) An upset occurred and that the permittee can identify the cause(s) of the upset;

(ii) The permitted facility was at the time being properly operated; and

(iii) The permittee submitted notice of the upset as required in paragraph D(1)(f), below. (24 hour notice).

(iv) The permittee complied with any remedial measures required under paragraph B(4).

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

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C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



DEP INFORMATION SHEET

Appealing a 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.
