STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

June 3, 2013

Mr. Jay Beaudoin
Woodland Pulp LLC
144 Maine Street
Baileyville, ME 04694

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0022063
Maine Waste Discharge License (WDL) Application #W000508-5O-I-R
Final Permit

Dear Mr. Beaudoin:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL **renewal** which was approved by the Department of Environmental Protection. Please read this permit/license renewal 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 215-1579.

Sincerely,

Yvette Meunier

Yvette M. Meunier
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.
cc: Stacy Beyer, DEP/EMRO
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

web site: www.maine.gov/dep

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

WOODLAND PULP LLC	)	MAINE POLLUTANT DISCHARGE
BAILEYVILLE, WASHINGTON COUNTY,	)	ELIMINATION SYSTEM PERMIT
MAINE	)	AND
NON- CONTACT COOLING WATER		
#ME0022063	)	WASTE DISCHARGE LICENSE
#W000508-5O-I-R **APPROVAL**	)	**RENEWAL**

Pursuant to the provisions of the *Federal Water Pollution Control Act*, Title 33 USC, § 1251, *Conditions of licenses*, 38 M.R.S.A. § 414-A, *Regulations Relating to Temperature,* 06-096 CMR 582 (effective date February 18, 1989), and applicable regulations, the Department of Environmental Protection (Department) has considered the application of WOODLAND PULP LLC (WP) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

APPLICATION SUMMARY

WP has submitted a timely and complete application to the Department for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0022063/ Maine Waste Discharge License (WDL) #W000508-5O-G-M, which was issued on September 3, 2008 and is scheduled to expire on September 3, 2013. The 9/3/08 permit authorized the discharge of up to a monthly average flow of 15.0 million gallons per day (MGD) of non-contact cooling water and a monthly average flow of up to 0.160 MGD of miscellaneous non-process waste waters (primarily boiler blowdown and water softener backwash) from the Woodland Pulp North (WPN) site from two outfalls to the St. Croix River, Class C, in Baileyville, Maine.

It is noted that the natural gas associated wood fired boiler and associated turbine which supply wastewaters to Outfalls #001 and #002, respectively, have been shut down for over five years. As a result monitoring requirements for Outfalls #001 and #002 were suspended. The facility has been put on notice by the Department that if and when the facility commences operations in the future, the Department will review said operations to determine if this permit should be modified to establish terms and conditions consistent with the activities performed at the facility. See Special Condition G, Commencement of Operations, of this permit. In addition, the permittee has requested and has been approved the transfer of the discharge from the former Outfall #003 (a stormwater outfall) from their U.S. Environmental Protection Agency (USEPA) Multi-Sector General Permit into this individual MEPDES permit.

PERMIT SUMMARY

This permitting action carries forward all the terms and conditions established in the previous permitting action except:

1. Incorporating former Outfall #003 (a stormwater outfall) from their U.S. Environmental Protection Agency (USEPA) Multi-Sector General Permit into this permit;

PERMIT SUMMARY (cont'd)

2. Revising the minimum monitoring frequency requirements for flow at Outfalls #001 and #002, and temperature at Outfall #002 based on the results of facility testing;

3. Revising the regulated river low flow based on the results flow monitoring data from the USGS gauge at Baring (#10121000); and

4. Revising the pH range limits for Outfall #001 considering this discharge meets the definition of a "low volume waste source" pursuant 40 CFR 423.11(b).

It is noted that reporting estimated values ("J" flags) is no longer acceptable and these values will be rejected by the Department.

CONCLUSIONS

Based on the findings summarized in the attached Fact Sheet dated June 3, 2013, 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, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:

   (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;

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

   (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;

   (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and

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

4. The discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of the WOODLAND PULP LLC to discharge an average monthly flow of 15.0 MGD of non-contact cooling waters and an average monthly flow of 0.160 MGD of miscellaneous non-process wastewaters and stormwater discharge (from Outfall #003) to the St. Croix River, Class C, SUBJECT TO THE FOLLOWING CONDITIONS, and all applicable standards and regulations including:

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

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

3. This permit 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 3RD DAY OF June, 2013.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
for PATRICIA W. AHO, Commissioner

Filed
JUN 4 2013
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection: _____

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: February 28, 2013
Date of application acceptance: March 1, 2013
This Order prepared by Yvette Meunier, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. The permittee is authorized to discharge from **OUTFALL #001** to the St. Croix River. Such discharges are limited and shall be monitored by the permittee as specified below[(1)].

OUTFALL #001 - Boiler blowdown, softener backwash, cooling waters and miscellaneous non-process wastewaters.

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow *[50050]*	0.160 MGD *[03]*	Report (MGD) *[03]*	---	---	5/Week *[05/07]*	Measured *[MS]*
Biochemical Oxygen Demand (BOD5) *[00310]*	67 lbs/day *[26]*	---	---	50 mg/L *[19]*	1/Month *[01/30]*	Grab *[GR]*
Total Suspended Solids (TSS) *[00530]*	80 lbs/day *[26]*	---	---	60 mg/L *[19]*	1/Month *[01/30]*	Grab *[GR]*
Settleable Solids *[00545]*	---	---	---	0.5 ml/L *[25]*	1/Month *[01/30]*	Grab *[GR]*
Oil & Grease *[00556]*	---	---	---	15 mg/L *[19]*	1/Month *[01/30]*	Grab *[GR]*
pH (Std. Units) [(3)] *[00400]*	---	---	---	6.0-9.0 SU *[12]*	1/Month *[01/30]*	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 Pages 7 through 8 of this permit for applicable footnotes.

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

2. The permittee is authorized to discharge from **OUTFALL #002** to the St. Croix River. Such discharges are limited and shall be monitored by the permittee as specified below [(1)].

OUTFALL #002 - Non-contact cooling waters

Effluent Characteristic	Discharge Limitations					Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Weekly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow (MGD) *[50050]*	15.0 MGD *[03]*	Report MGD *[03]*	---	---	---	5/Week *[05/07]*	Calculate *[CA]*
Temperature *[00011]* *June 1 – September 30* *October 1 – May 31*	--- ---	--- ---	--- ---	--- ---	110°F *[15]* 110°F *[15]*	5/Week*[05/07]* 1/Week *[01/07]*	Grab*[GR]* Grab*[GR]*
Thermal Load *June 1 – September 30* *[00017]*	---	---	---	2.29EE9[(1)] BTUs/Day *[34]*	2.29 EE9[(2)] BTUs/Day *[34]*	5/Week *[05/07]*	Calculate *[CA]*
Temperature Difference *June 1 – September 30* *[70013]*	---	---	---	---	0.5°F[(2)] *[15]*	5/Week *[05/07]*	Calculate *[CA]*
pH (Std. Unit) [(3)] *[00400]*	---	---	---	---	6.0 – 8.5 SU *[12]*	1/Month *[01/30]*	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.
The pH of the effluent shall not be less than or greater than standard units unless exceedences are due to natural causes in the ambient receiving waters or precipitation. In such cases, the effluent discharge shall not be more than 0.5 standard units outside the background pH. Background sampling shall be conducted at the facility's intake sampling station on the same day as sampling of the effluent is conducted.

FOOTNOTES: See Pages 7 through 8 of this permit for applicable footnotes.

SPECIAL CONDITIONS

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

FOOTNOTES:

Sampling Locations:

Outfall #001 – Sampling for all parameters in Special Condition A(1) of this permit MUST be conducted at the terminus of the culvert from the East sedimentation pond.

Outfall #002 - Sampling for all parameters in Special Condition A(2) of this permit must be conducted at the outfall of the non-contact cooling water pump station. Sampling for upstream and downstream receiving water temperature to comply with Special Conditions E and F of the permit must be conducted as follows: Upstream (intake for the WPN site turbine) and downstream (intake for the Woodland mill).

Any change in the sampling locations must be approved by the Department in writing.

Sampling – The permittee shall conduct sampling and analysis in accordance with; a) methods approved by 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 must be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a POTW licensed pursuant to *Waste discharge licenses*, 38 M.R.S.A. § 413 are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000). 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 this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.

All analytical test results must be reported to the Department including results which are detected below the respective reporting limits (RLs) specified by the Department or as specified by other approved test methods. See **Attachment A** of this permit for a list of the Department's current RLs. If a non-detect analytical test result is below the respective RL, the concentration result shall be reported as <Y where Y is the RL achieved by the laboratory for each respective parameter. Reporting a value of <Y that is greater than an established RL or reporting an estimated value ("J" flagged) is not acceptable and will be rejected by the Department. Reporting analytical data and its use in calculations must follow established Department guidelines specified in this permit or in available Department guidance documents.

SPECIAL CONDITIONS

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

FOOTNOTES:

(1) **Thermal Load** - This is a weekly rolling average thermal load limitation that becomes effective when the weekly rolling average temperature of the intake water from the St. Croix River is greater than or equal to 66°F and less than 73°F. For Discharge Monitoring Report (DMR) reporting purposes, report the thermal load associated with the highest seven (7) consecutive days during a calendar month. **See Special Condition E of this permit for the equation to calculate the thermal load.** If the weekly rolling average receiving water temperature is not ≥66°F during a month between June and September (inclusive) the permittee shall report "NODI-9" on the applicable monthly DMR.

(2) **Thermal Load** - This is a daily maximum thermal load limitation that becomes effective when the temperature of the intake water from the St. Croix River is greater than or equal to 73°F. For DMR reporting purposes, report the highest daily thermal load (expressed as BTUs/Day) during a calendar month. When the receiving water temperature is ≥73°F and the flow is below the regulated low flow of 850 cfs (549 MGD), the permittee is limited to a predicted river temperature increase (PRTI or ΔT) of 0.5°F. **See Special Condition E of this permit for the equation to calculate the PRTI.**

(3) **pH** - Pursuant to *Effluent Guidelines and Standards*, 06-096 CMR 525(4)(VIII)(a)(effective January 12, 2001) the permittee may conduct continuous pH monitoring. The permittee shall specify on the monthly DMRs the sample type method for pH reporting (i.e. grab sample or continuous monitoring).

B. NARRATIVE EFFLUENT LIMITATIONS

1. The permittee shall not discharge wastewater that contains a visible oil sheen, foam, or floating solids at any time that would impair the designated uses or habitat characteristics of the receiving waters or would otherwise lower the quality of the receiving water below its assigned classification.

2. The permittee shall not discharge wastewater that imparts color, taste, turbidity, toxicity, or other properties that would impair the designated uses or habitat characteristics of the receiving waters or would otherwise lower the quality of the receiving water below its assigned classification.

3. The permittee shall notify the Department immediately of the discharge of any pollutants other than heat from the facility. The permittee shall also notify the Department of any changes in facility design, operation or generating capacity that may affect the flow or temperature of the cooling water discharge.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS (cont'd)

4. All miscellaneous facility leakage and lubrication waters that may become contaminated with oil or grease are subject to Best Management Practices (BMPs) designed to prevent the release of contaminants to the waters of the State. **Within 90 days of permit issuance**, the permittee shall review and revise as necessary its written BMPs and shall make the BMPs available to the Department for review and comment upon request. BMPs must consist of, but not be limited to, the following, as appropriate: development and implementation of a spill prevention plan; use of oil absorbent pads or booms and/or physical berms to contain spills or leaks of hydraulic and lubrication oils; and the treatment of water collected in floor drains and sumps through an oil/grease trap or oil-water separator. Where bearing cooling water is used, BMPs must include the maintenance of a written log or record of bearing oil levels and maintenance activities. Where floor drains and sumps are used, BMPs must include (1) written procedures for the cleaning and maintenance of any oil-grease trap, oil skimmer or oil-water separator and (2) maintenance of a written log or record of visual inspections of sumps for oil and grease and of actions taken to prevent the discharge of oil or grease from the facility.

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with the terms and conditions of this permit and only from Outfall #001, Outfall #002 and Outfall #003. Discharges of wastewater from any other point source(s) are not authorized by this permit, and must be reported by the permittee in accordance with Standards Condition B(5)(*Bypass*) of this permit.

D. NOTIFICATION REQUIREMENT

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

E. THERMAL LOAD

During the period June 1 to September 30, the permittee is limited to a <u>weekly rolling average</u> thermal load of 2.29×10^9 BTUs/Day when the weekly rolling average receiving water temperature is $\geq$66°F and <73°F, and limited to a <u>daily maximum</u> thermal load of 2.29×10^9 BTUs/Day when the receiving water temperature is $\geq$73°F. For each operating day during the applicable limitation period, the permittee shall calculate the thermal load discharged from Outfall #002 to the receiving waters according to the following equation:

Thermal Load (BTUs/Day) = $[(Qe_{002})\ (Te_{002}\text{-}Tr)]$ (8.34 lbs/gal) where,
Qe = Effluent flow in gallons
Te = Effluent temperature in °F
Tr = Upstream river water (intake for WPN mill) temperature in °F

SPECIAL CONDITIONS

E. THERMAL LOAD (cont'd)

When the receiving water temperature is ≥73°F and the flow is below the regulated low flow of 850 cfs (549 MGD), the permittee is limited to a daily thermal load that will not increase the receiving water temperature (ΔT) by more than 0.5°F. The permittee shall monitor the discharge from Outfall #002 and the receiving water for the parameters in the equations below.

For each operating day during the applicable limitation period, the permittee shall calculate the Predicted River Temperature Increase (PRTI) from Outfall #002 to the receiving waters according to the following equation:

$$PRTI\ (^{\circ}F) = \frac{(Qe_{002})\ (Te_{002}-Tr)}{Qr}$$

where,

Qr = River flow as measured at the gauging station at the Woodland mill approximately two miles downstream of the WPN mill complex. (cfs or MGD, must be consistent with the Qe units)
Qe = Effluent flow in (cfs or MGD, must be consistent with the Qr units)
Te = Effluent temperature in °F
Tr = Upstream river water (intake for Woodland mill) temperature in °F

The daily recorded and calculated values shall be reported to the Department as an attachment to the Discharge Monitoring Reports (DMRs) for the months of June, July, August, and September of each year.

Example DMR Reporting Form Attachment

Date	Qr (MGD)	Qe (MGD)	Tr(°F)	Te(°F)	PRTI(°F)[1]	Heat(BTU)
6/1/02	405	11.5	75°F	91°F	0.45°F	1.5×10^9

Footnotes:
(1) Applicable only when the receiving water is ≥73°F and the flow is below the regulated flow of 850 cfs (549 MGD).

F. AMBIENT TEMPERATURE MONITORING

Between June 1 and September 30 of each year, the permittee shall monitor the upstream ambient temperature of the receiving water (intake for WPN site) and downstream receiving water temperature at the end of the zone of initial dilution (intake for the Woodland mill at the Woodland Dam) to verify the ΔT of ≤0.5° F is being achieved.

The permittee shall supplement the reporting format cited above with additional columns to record Tr (intake for the Woodland mill at the Woodland Dam) and the ARTI (actual river temperature increase).

SPECIAL CONDITIONS

G. COMMENCEMENT OF OPERATIONS

No later than forty five (45) days prior to commencing production/operations that will result in a discharge of wastewater, the permittee shall meet with the Department's permitting and compliance inspection staff to review applicability of the permit limitations, monitoring requirements and reporting requirements. Should the Department determine the proposed production/operations are significantly different than what has been presented in the 3/1/13 application materials, the Department may require the permittee to submit a application to modify the permit. All procedural requirements for processing applications, including public notice and availability of a draft decision, apply.

H. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and postmarked on or before the thirteenth (13^{th}) day of the month or hand-delivered to a Department Regional Office such that the DMRs are received by the Department on or before the fifteenth (15^{th}) day of the month following the completed reporting period. A signed copy of the 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
Bureau of Land & Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, ME 04401

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

SPECIAL CONDITIONS

I. REOPENING OF PERMIT FOR MODIFICATIONS

In accordance with 38 M.R.S.A. § 414-A(5) and 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 monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

J. STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS

1. Stormwater Pollution Prevention Plan (SWPPP)

   a. With respect to areas of the facility contributing stormwater flow subject to this permit, the permittee shall develop, implement, maintain and annually update a Stormwater Pollution Prevention Plan (SWPPP) for the facility that is consistent with the SWPPP requirements established in Part IV Sections A-O of the Department's *Multi-Sector General Permit Maine Pollutant Discharge Elimination System Stormwater Discharge Associated with Industrial Activity*, dated April 26, 2011. The permittee shall maintain a copy of the SWPPP on-site for Department or USEPA staff inspection.

   b. **Within 60 days of any change** in design, construction, operation, maintenance, or any chemical spill at the facility which has or may have a significant effect on the amount of pollutants present in stormwater, the permittee shall amend the SWPPP and note all changes.

2. Monitoring Requirements

   At a minimum frequency of once per calendar quarter, the permittee shall perform and document a visual examination of a stormwater discharge at the end of the stormwater conduit for each outfall (Outfalls #003) in accordance with Department guidance document #DEPLW0768, *Standard Operating Procedure Guidelines for Visual Monitoring of Stormwater Associated with Industrial Activities*, including associated attachments (*Instructions for Completing the Visual Monitoring Form)* and (*Visual Monitoring Form*) (all included as Attachment B of this permit). The permittee shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of stormwater pollution. The permittee must maintain the visual examination reports on-site with the SWPPP for a minimum of three years from the observation date.

SPECIAL CONDITIONS

J. STORMWATER ASSOCIATED WITH INDUSTRIAL ACTIVITY – PLANS AND MONITORING REQUIREMENTS (cont'd)

3. Authorized stormwater discharge points.

Outfall No.	Description	Receiving Water and Location
#003	Discharge from South Sedimentation Pond #2 south end of WPN site	St. Croix River/Class C, in Baileyville

K. SEVERABILITY

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **June 3, 2013**

PERMIT NUMBER: **#ME0022063**

WASTE DISCHARGE LICENSE: **#W000508-5O-I-R**

NAME AND ADDRESS OF APPLICANT:

WOODLAND PULP LLC
WOODLAND PULP NORTH SITE
144 MAINE STREET
BAILEYVILLE, MAINE 04694

COUNTY: **WASHINGTON**

NAME AND ADDRESS WHERE DISCHARGE(S) OCCUR(S):

WOODLAND PULP NORTH SITE
187 TRACK ROAD
BAILEYVILLE, MAINE 04694

RECEIVING WATER AND CLASSIFICATION: **ST. CROIX RIVER/ CLASS C**

COGNIZANT OFFICIAL AND TELEPHONE #: **MR. JAY BEAUDOIN**
(207) 427-4005
Jay.Beaudoin@woodlandpulp.com

1. APPLICATION SUMMARY

Application: WP has submitted a timely and complete application to the Department for renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0022063/ Maine Waste Discharge License (WDL) #W000508-5O-G-M, which was issued on September 3, 2008 and is scheduled to expire on September 3, 2013. The 9/3/08 permit authorized the daily maximum discharge of 15.0 million gallons per day (MGD) of non-contact cooling water, and the daily maximum discharge of 0.160 MGD of miscellaneous non-process wastewaters (primarily boiler blowdown and water softener backwash) from the Woodland Pulp North (WPN) site from two outfalls to the St. Croix River, Class C, in Baileyville, Maine.

1. APPLICATION SUMMARY (cont'd)

It is noted that the natural gas associated wood fired boiler and associated turbine which supply wastewaters to Outfalls #001 and #002, respectively, have been shut down for over five years. As a result monitoring requirements for Outfalls #001 and #002 were suspended. The facility has been put on notice by the Department that if and when the facility commences operations in the future, the Department will review said operations to determine if this permit should be modified to establish terms and conditions consistent with the activities performed at the facility. See Special Condition G, Commencement of Operations, of this permit. In addition, the permittee has requested and has been approved the transfer of the discharge from the former Outfall #003 (a stormwater outfall) from their U.S. Environmental Protection Agency (USEPA) Multi-Sector General Permit into this individual MEPDES permit.

2. PERMIT SUMMARY

a. Terms and Conditions - This permitting action carries forward all the terms and conditions established in the previous permitting actions except:

1. Incorporating former Outfall #003 (a stormwater outfall) from their U.S. Environmental Protection Agency (USEPA) Multi-Sector General Permit into this permit;

2. Revising the minimum monitoring frequency requirements for flow at Outfalls #001 and #002, and temperature at Outfall #002 based on the results of facility testing;

3. Revising the regulated river low flow based on the results flow monitoring data from the USGS gauge at Baring (#10121000); and

4. Revising the pH range limits for Outfall #001 considering this discharge meets the definition of a "low volume waste source" pursuant to 40 CFR 423.11(b).

b. Source Description –When the Georgia Pacific Corporation (GPC) owned and operated the Baileyville mill, the facility was comprised of two separate manufacturing operations on a common site. One manufacturing facility was a stud mill that produced approximately 70 million board feet per year of spruce and fir 2" x 4" studs, while another facility manufactured 4' x 8' sheets of oriented strand board (OSB) a product similar to plywood. A centrally located wood fired boiler and turbine operated continually supplying steam, compressed air and electricity to both mills. The electrical output of the power plant and the electrical demand of the complex are balanced with excess electricity consumed by the Woodland pulp mill two miles downstream.

Both facilities have been shut down for the past twelve years. The Louisiana Pacific Corporation (LPC) proposed to reopen the OSB plant in June of 2003 but did not and subsequently sold both manufacturing facilities to Woodland Pulp LLC (WP) in October of 2011, renaming the site Woodland Pulp North. At this time the entire OSB facility was dismantled and the stud mill was partially dismantled.

2. PERMIT SUMMARY (cont'd)

Currently the former OSB and warehouse buildings are leased to a natural gas compressing and delivery business which began operations at the site in January 2013. Future plans may include expanding the natural gas processing operations at this site, opening the site to other business opportunities, and operating the natural gas fired boiler and associated turbine to produce power for use on site as well as export.

The former yard wood storage and processing area remain and are used to cover wood that is used for chips and fuel. Processing equipment includes stationary and portable chippers and grinders.

The site has three outfalls that discharge to the St. Croix River. A process flow diagram, which includes the locations of the outfalls, was submitted by the permittee and is included as Fact Sheet Attachment B.

Outfall #001 wastewaters are directly related to the operation of the boiler, which include boiler blowdown, sand filter and softener backwashes, floor rinses, graywater from sinks and drinking water sources within the boiler building. Minor contributions to Outfall #001 include air compressor coils and runoff from occasional use of water spray on the saw log decks and adjacent storage area. The water spray wetted the logs during dry periods and minimized saw blade wear. The average daily flow associated with the aforementioned sources has been approximately 60,000 gallons per day but can be as high as 160,000 gpd.

Outfall #002 wastewaters consist of non-contact cooling water used to condense low pressure steam from the outlet of the turbine back to water before being returned to the boiler. The cooling water source is the St. Croix River and the discharge flow has historically been reported to be approximately 14 MGD but can be as high as 15 MGD. Also contributing to this outfall are small sump pumps within pump-houses which discharge infiltration/seepage water, pump packing, seal water, and other miscellaneous minor water from the pump-house interior.

Former Outfall #003 is a stormwater outfall. Stormwater is generated from 29 acres of unpaved area which is comprised of lawn areas, wooded areas, log and wood chip storage areas, a boiler fuel pile and adjacent fields. Also contributing to this outfall is stormwater associated with 6 acres of impervious area including building roofs, facility parking, a paved access road and salable lumber storage. This discharge was previously authorized under the Department's Multi-Sector General Permit and is now being incorporated into this individual MEPDES permit.

2. PERMIT SUMMARY (cont'd)

Other minor discharges at the facility include stormwater and ground water from a vehicle scale pit. The permittee has indicated the discharge does not come into contact with any pollutants, such as lubricating fluids or oil and grease, as the purpose of the discharge is to remove groundwater and stormwater from the pit to prevent corrosion of the springs for the scale. The intermittent flow is discharged to the surface of the land, a grassy area adjacent to the facility's sub-surface wastewater disposal system. It is noted the Department considered these minor discharges as being *de minimis* in nature and did not establish limitations or monitoring requirements for these waste streams.

c. Wastewater Treatment - Boiler building wastewaters discharge through Outfall #001 receive a primary level of treatment. Wastewaters exit the boiler building and pass through an oil/water separator before being conveyed to a settling/stabilization pond. The pond is approximately four feet deep with a surface area of approximately 3,000 square feet. The final outfall pipe is a 12-inch diameter corrugated metal pipe with a grease trapped outlet. The pipe outlets three feet above the surface of the receiving waters and meanders through a vegetated channel to the river.

Outfall #002 receives no treatment as the wastewaters are non-contact cooling waters that are uncontaminated except for heat, which is regulated in the permit. The outfall pipe is a 24-inch diameter steel pipe equipped with a stilling basin. The pipe outlets two feet above the surface of the receiving waters.

Outfall #003 receives treatment via settling. Wastewaters pass through an inverted outlet which acts as an oil exclusion skimmer before being conveyed to a settling/stabilization pond, any residual oil sheen found in the pond is abated using oil booms and pads. The final outfall pipe is no greater than 24-inches in diameter. The pipe outlets below the normal high water line of the receiving waters.

Sanitary wastewaters generated at the mill complex are disposed of in a conventional on-site subsurface disposal system.

d. History - The most current relevant regulatory actions include:

January 12, 2001 – The Department received authorization from the U. S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permitting program in Maine, excluding areas of special interest to Maine Indian Tribes. From this point forward, the program has been referred to as the Maine Pollutant Discharge Elimination System (MEPDES) program, and MEPDES permit #ME0022063 has been utilized for this facility. On March 26, 2011, the USEPA authorized the Department to administer the MEPDES program in Indian territories of the Penobscot Nation and Passamaquoddy Tribe.

September 13, 2002 – GPC sold the Baileyville OSB/stud mill to the LPC.

2. PERMIT SUMMARY (cont'd)

January 28, 2003 – The LPC filed an application with the Department to transfer all licenses and permits for the mill complex. Licenses and permits issued to date have been issued in the name of the former owner of the facility, the GPC. The "global" transfer of the licenses and permits (other than this permit) were issued under a separate Department order.

September 3, 2008 – The Department issued combination MEPDES permit #ME0022603/WDL #W000508-5O-G-R for a five-year term. The September 3, 2008 permit superseded previous WDLs issued on June 10, 2003, September 13, 1999, October 21, 1976, and November 3, 1994.

October 21, 2011 – The Department issued a global transfer of Department permits and licenses from Louisiana Pacific Corp. to Woodland Pulp LLC.

February 28, 2013 – WP submitted a timely and complete application to Department to renew the MEPDES permit. The application was accepted for processing on March 1, 2013, and was assigned WDL #W000508-5O-I-R / MEPDES #ME0022063.

3. RECEIVING WATER QUALITY STANDARDS

Classification of major river basins, 38 M.R.S.A. § 467(13)(A)(3) classifies the Woodland Lake impoundment of the St. Croix River main stem as a Class C waters. *Standards for classification of fresh surface waters,* 38 M.R.S.A. § 465(4) describes the standards for Class C waters.

4. RECEIVING WATER QUALITY CONDITIONS

The State of Maine 2010 Integrated Water Quality Monitoring and Assessment Report, prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists 5.5 mile reach of the St. Croix River which includes the Woodland Impoundment, (ABD Assessment Unit ID ME0105000108_505R01) in the following category.

"Category 3: Rivers and Streams with Insufficient Data or Information to Determine if Designated Uses are Attained (One or More Uses may be Impaired)." The 5.5 mile reach of the St. Croix River which includes the Woodland Impoundment, ABD Assessment Unit ID ME0105000108_505R01) has insufficient data to determine if the Woodland Impoundment is attaining the designated uses of its assigned classification. A long term study to determine if designated uses are attained is scheduled for the near future.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. **Outfall #001** - Boiler blowdown, softener backwash, cooling waters and miscellaneous non-process wastewaters.

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

The monthly average and daily maximum mass and or concentration limits established for flow, biochemical oxygen demand, total suspended solids, settleable solids oil & grease and pH in the previous licensing action are being carried forward in this permitting action. These limits were based on best professional judgment of best practicable treatment for the sources of wastewaters being generated.

Being that the facility has been shut down since the mid 2000's, and the WP does not intend to resume operations of the oriented strand board operation and stud mill in the foreseeable future, not all sources of wastewaters previously regulated will be realized. Therefore, the Department may re-evaluate the applicability of the parameters, limitations and monitoring requirements for this outfall based on changes in operation of the mill complex.

b. **Outfall #002** – Non-contact cooling waters

1. Flow- The daily average flow limitation of 15.0 MGD in the previous licensing action is being carried forward in this permitting action. The WP has indicated that the flow limitation should be representative of future operations of the Woodland Pulp North site turbine.

2. Temperature/Thermal Load – The previous permitting action established, and this permitting action is carrying forward, a non-summer (October 1st – May 31st) and summer (June 1st – September 30th) daily maximum temperature limit of 110°F, based on a Department best professional judgment of effluent temperatures that are representative of the facility operating at full capacity. This permit is also carrying forward weekly and daily thermal load limitations of 2.29 x 10^9 BTUs/Day and a daily maximum temperature difference limitation of 0.5°F during the summer months to comply with ***Regulations Relating to Temperature,* 06-096 CMR 582 (effective date February 18, 1989).**

06-096 CMR 582 (1) states in part that:

> No discharge shall cause the ambient temperature of any freshwater body, as measured outside a mixing zone, to be raised more than 5° F. In no event shall any discharge cause the temperature of any freshwater body to exceed 85° F at a point outside a mixing zone.

In addition the rule limits thermal discharges to an in-stream temperature increase (Δ T) of 0.5° F above the ambient receiving water temperature when the weekly average temperature of the receiving water is greater than or equal to 66° F or when the daily maximum temperature is greater than or equal to 73° F.

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

The temperature thresholds are based on USEPA water quality criterion for the protection of brook trout and Atlantic salmon (both species indigenous to the St. Croix River). The weekly average temperature of 66° F was derived to provide for normal growth of the brook trout and the daily maximum threshold temperature of 73° F protects for the survival of juveniles and adult Atlantic salmon during the summer months.

As a point of clarification, the Department interprets the term "weekly average temperature" to mean a seven (7) day rolling average. To promote consistency, the Department also interprets the ΔT of 0.5° F as a weekly rolling average criterion when the receiving water temperature is ≥66° F and <73° F. When the receiving water temperature is ≥73° F compliance with the ΔT of 0.5° F is evaluated on a daily basis.

Compliance with the weekly rolling average and daily maximum ΔT of 0.5° F is determined by calculating the thermal load (expressed in BTUs/Day) associated with the regulated river flow (850 cfs = 549 MGD), actual river temperature, actual discharge flow and actual discharge temperature from the mill. It is noted the 850 cfs is considered the regulated low flow due to the fact the St. Croix River is, and has been for over ten years via the International Joint Commission (IJC), managed to provide 850 cfs at the USGS gauge at Baring (#10121000) as a minimum flow. When the receiving water temperature is ≥73° F and the receiving water flow is below the regulated low flow of 850 cfs, compliance with the ΔT of 0.5° F is evaluated on a daily basis using the actual receiving water flow, actual receiving water temperature, actual discharge flow and actual discharge temperature from the mill.

The calculations that follow are to determine the assimilative capacity of the receiving water during summer and non-summer seasons:

[Critical river flow (MGD)] x [Allowable temperature difference (°F)] x 8.34 = Allowable thermal load expressed in BTUs/Day.

Non-summer (October 1st – May 31st)

(549,000,000 gallons) (5.0°F)(8.34 lbs/gal) = 2.29×10^{10} BTUs/Day

Assuming the St. Croix River temperature is 35°F, the discharge temperature is at the full permitted flow of 15 MGD and 110°F, the thermal load discharged would be:

(15,000,000 gal)(110°F - 35°F)(8.34 lbs/gal) = 9.38×10^{9} BTUs/Day

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

The predicted river temperature increase (PRTI) at the full permitted flow and temperature and the regulated low flow conditions in the St. Croix River is:

$$PRTI\ (^{\circ}F) = \frac{Qe\ (Te - Tr)}{Qr} \text{ where,}$$

Qr = River flow in gpd
Qe = Effluent flow in gpd
Te = Effluent temperature in °F
Tr = Upstream river water (intake) temperature in °F

$$\frac{(15{,}000{,}000\ gal)(110^{\circ}F - 35^{\circ}F)}{549{,}000{,}000\ gal} = 2.0^{\circ}F$$

Therefore, during the non-summer months when the facility is discharging at full permitted flow and temperature, the Department has made the determination based on the calculations above that the discharge does not exceed or have a reasonable potential to exceed the water quality standard in 06-096 CMR 582. The technology based flow and daily maximum temperature limit comply with the water quality standard in 06-096 CMR582.

Summer (June 1st – September 30th)

The previous permitting action established, and this permitting action is carrying forward, a summer (June 1st – September 30th) thermal load limitation of 2.29×10^9 BTUs/Day based on the following calculation

Assuming the St. Croix River temperature is 78°F (August high), the discharge temperature is at the full permitted flow of 15 MGD and 110°F, the thermal load discharged would be:

$(15{,}000{,}000\ gal)(110^{\circ}F - 78^{\circ}F)(8.34\ lbs/gal) = 4.00 \times 10^9$ BTUs/Day

Therefore, during the summer months when the facility is discharging at full permitted flow and temperature, the Department has made the determination based on the calculations above that the discharge does exceed the water quality standard in 06-096 CMR 582.

Therefore, this permitting action is carrying forward a water quality based summertime thermal load limitation of 2.29×10^9 BTUs/Day that is to be calculated on a daily basis between June 1st and September 30th. The thermal load limitation is a weekly rolling average limitation when the receiving water is greater than or equal to 66°F and less than 73°F and is a daily maximum limitation when the receiving water is greater than or equal to 73°F.

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

Special Condition F, Ambient Temperature Monitoring, of this permit requires the permittee to monitor upstream and downstream receiving water temperature to verify that the ΔT of $\leq 0.5°$ F in 06-096 CMR 582 is being achieved during the summer months. The Department is utilizing the Woodland Dam spill way as the zone of initial dilution (mixing zone) where during low flow conditions approaching 850 cfs, most if not all the flow in the St. Croix River passes through the turbines of the Woodland Dam, which promotes further mixing.

Enforcement, 38 M.R.S.A. §451 states in part that :

> The purpose of a mixing zone is to allow a reasonable opportunity for dilution, diffusion or mixture of pollutants with the receiving waters before the receiving waters below or surrounding a discharge will be tested for classification violations. In determining the extent of any mixing zone to be established under this section, the department may require from the applicant testimony concerning the nature and rate of the discharge; the nature and rate of existing discharges to the waterway; the size of the waterway and the rate of flow therein; any relevant seasonal, climatic, tidal and natural variations in such size, flow, nature and rate; the uses of the waterways in the vicinity of the discharge, and such other and further evidence as in the department's judgment will enable it to establish a reasonable mixing zone for such discharge.

The two mile segment of river between the point of discharge to the spillway of the Woodland Dam is considered to be the area of reasonable opportunity for heat transfer to the atmosphere provided by 38 M.R.S.A. §451.

c. **Outfall #003** – Stormwater runoff

The water discharged from this outfall consists of stormwater runoff from the mill complex which is collected in the South sedimentation pond. Discharges from this point source were previously regulated under the Department's Multi-Sector General Permit, permit #MER05B608, issued on June 7, 2011. This outfall has been incorporated into this permitting action.

Being that WP and any potential interested parties have not finalized future development plans for the facility and it is unknown what process(es) will be brought back on line, Special Condition G, *Commencement of Operations* of this facility requires that:

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

At a minimum of forty five (45) days prior to commencing production/operations, the permittee must meet with the Department's permitting and compliance inspection staff to review applicability of the permit limitations, monitoring requirements and reporting requirements. Should the Department determine the proposed production/operations are significantly different than what has been presented in the 3/1/13 application materials, the Department may require the permittee to submit a revised application to modify the permit.

6. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

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

7. PUBLIC COMMENTS

Public notice of this application was made in the *Calais Advertiser* newspaper on or about March 15, 2013. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses,* 06-096 CMR 522 (effective January 12, 2001).

8. DEPARTMENT CONTACTS

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

Yvette M. Meunier
Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 215-1579 Fax: (207) 287-3435
yvette.meunier@maine.gov

9. RESPONSE TO COMMENTS

During the period of April 16, 2013, through the issuance date of this permit, the Department solicited comments on the proposed draft Maine Pollutant Discharge Elimination System Permit to be issued to Woodland Pulp North for the proposed discharge. The Department received written comments from the EPA in an email written May 16, 2013. Therefore the Department has prepared a Response to Comments as follows:

9. RESPONSE TO COMMENTS (cont'd)

Comment #1
The commenter stated "Determine and support in the Fact Sheet whether the discharge has a reasonable potential to cause or contribute to an exceedance of State water quality standards (WQS) for pollutants of concern, including temperature."

Response #1
This has been addressed on page 8 of the Fact Sheet.

Comment #2
The commenter stated "The Fact Sheet indicates that this draft permit "is carrying forward, a year-round daily maximum temperature limit of 110°F." Explain how this limit is based on water quality, technology, or a 316(a) variance in this permit (and in the previous permit(s) that had this limit if it is being carried forward, consistent with anti-backsliding regulations)."

Response #2
This has been addressed on page 6 of the Fact Sheet.

Comment #3
The commenter stated "Explain how the thermal (or temperature) limits achieve the portion of the State WQS that, "...In no event shall any discharge cause the temperature of any fresh water body to exceed 85°F at a point outside the mixing zone." Is there modeling, analysis or calculations to support that the discharge achieves this WQS in various scenarios? If so, please provide such supporting documents."

Response #3
This has been addressed on page 9 of the Fact Sheet.

Comment #4
The commenter stated "Explain how the two mile segment of river downstream of the facility meets the requirements of a zone of initial dilution (and mixing zone if the terms are interchangeable) based on the State WQS. This needs to be in the fact sheet."

Response #4
This has been addressed on page 9 of the Fact Sheet.

ATTACHMENT A

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

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

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

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

Last Revision - April 25, 2012

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

FRESH WATER VERSION

Please see the footnotes on the last page.

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

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

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

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

Notes:

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

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

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

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

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

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

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

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

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

Comments:

ATTACHMENT B

Standard Operating Procedure
Bureau of Land and Water Quality
Date: April 20, 2006
Revised: February 3, 2012
Doc num: DEPLW0768

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

Standard Operating Procedures and Visual Monitoring Guidelines
for Stormwater Discharges Associated With Industrial Activities.

1. **APPLICABILITY.** This Standard Operating Procedure (SOP) applies to all industrial facilities covered under Maine's Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity. Permitted facilities are required to perform quarterly visual monitoring of their stormwater discharges and record and maintain the results in the facility's Stormwater Pollution Prevention Plans (SWPPP).

   Visual monitoring is not required if a facility is participating in a Department Approved Watershed Management Plan or if the facility is conducting Benchmark, Impaired Waters sampling and analysis, or Numeric monitoring for Total Suspended Solids (TSS). Visual monitoring must be resumed if Benchmark monitoring, Numeric monitoring, or Impaired Waters sampling is terminated.

2. **PURPOSE.** This document provides guidelines for standardized collection and visual examination of quarterly visual monitoring samples for indicators of stormwater pollution as defined in Part VI of the MSGP and to provide guidelines describing standardized methods of data recording and record keeping of all quarterly visual stormwater discharge monitoring data as described in Part VI of the MSGP.

3. **DEFINITIONS.**

   3.1. MULTI-SECTOR GENERAL PERMIT (MSGP). A general permit for Stormwater Discharges Associated with Industrial Activity. Authorizes the direct discharge or point source discharge of stormwater associated with industrial activity to waters of the State (other than groundwater) or to an MS4 (which discharges to waters of the State), provided the discharge meets the requirements stated in this permit. This permit is effective April 26, 2011 and expires April 25, 2016. It replaces Maine's 2005 MSGP for Industrial Activity issued October 11, 2005.

   3.2. SWPPP. Stormwater Pollution Prevention Plan. A written plan developed and implemented by each permitted facility to reduce or eliminate pollutants which come in contact with stormwater associated with industrial activity. This plan outlines sources of potential stormwater pollutants and the methods by which these pollutants will be reduced or prevented from entering waters of the State.

   3.3. GRAB SAMPLE. A single sample or collection of stormwater taken during a qualifying storm event from a single stormwater outfall. The sample may be collected manually or with an automatic sampler.

3.4. OUTFALL. The point at which any direct discharge of stormwater from an area of industrial activity enters waters of the state, an MS4, or leaves the property. Examples include discharges from ditches, swales, catch basins, culverts or pipes, rills, boat ramps, or treatment systems such as detention ponds where the discharge is a shallow concentrated flow of stormwater that leaves the property or enters waters of the State.

3.5. QUALIFYING STORM EVENT. A storm event that is either precipitation, ice or snow melt that produces a measureable discharge at an outfall that occurs at least 72 hours from a previous measureable storm event.

4. RESPONSIBILITIES.

4.1. MONITORING PROGRAM IMPLEMENTATION. The visual monitoring schedule listed below in this section is also outlined Maine's 2011 MSGP Part VI(H). Visual examinations must be clearly documented and maintained in the facility's SWPPP. The permittee shall perform and document a quarterly visual examination of industrial stormwater discharges from each outfall which discharges stormwater associated with industrial activity from the facility.

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

4.3. REPRESENTATIVE OUTFALLS. "Representative outfalls" mean two or more outfalls with a single drainage area that discharge substantially identical effluents, have like industrial activities and significant materials, or practices occurring within the outfalls' designated drainage area. If the facility contains representative outfalls, visual monitoring may be conducted at one of the outfalls during a given monitoring period provided that subsequent samples are taken from a different outfall within the representative outfalls' drainage area. The facility is not required to monitor more than one representative outfall within a designated drainage area per monitoring event as long as the site's SWPPP contains the required information as identified in Part VI (I) of the MSGP.

4.4. EMPLOYEE TRAINING. The permittee shall ensure that all facility personnel involved in stormwater sampling are properly trained. Staff involved in sampling shall:

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

Personnel involved in sampling should also be trained in all facility safety procedures as they apply to stormwater sampling. If possible, the same individual should carry out the

collection and examination of discharges for the entire permit term. Written documentation signed by the SWPPP team leader certifying that all personnel involved in sampling have been properly trained should be documented in the SWPPP.

4.5. SAMPLE COLLECTION FREQUENCY. Visual examination of industrial stormwater discharges must be performed once per monitoring quarter. If a qualifying storm event does not occur at the facility for a particular monitoring quarter, the permittee is excused from visual monitoring for that quarter, provided the permittee documents in the monitoring records that no qualifying event occurred. The Visual Monitoring Form shall be used to document both qualifying and non-qualifying storm events. Schedule of monitoring quarters is listed below.

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

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

4.6. RECORD KEEPING AND REPORTING. The permittee shall maintain all visual monitoring reports/records onsite with the SWPPP. The permittee is not required to submit visual monitoring results to DEP unless specifically requested to do so, or if the facility is required to submit an annual report as described in Part III (D)(1) of the MSGP. Requirements for recording visual examination data are outlined in the procedures section of this document.

5. PROCEDURES

5.1. SAMPLE COLLECTION TIMING. A grab sample must be collected from each facility outfall (except representative outfalls) once per quarter during a qualifying storm event. During a qualifying storm event, a grab sample for visual examination should be collected during the first 60 minutes or as soon thereafter, but must not to exceed 2.25 hours of when runoff begins discharging from an outfall. During monitoring quarters when snow or icemelt represents the only stormwater discharge, a grab sample must also be collected during periods of significant snow or ice melt within the first 60 minutes or as soon thereafter, but not to exceed 2.25 hours of when snow or icemelt begins discharging from an outfall. Stormwater runoff from employee parking lots, administration buildings, and landscaped areas that is not mixed with stormwater associated with industrial activity, or stormwater discharges to municipal sanitary sewers does not need to be sampled.

5.2. SAMPLE CONTAINER CLEANING AND PREPARATION. The facility should have an adequate supply of containers prepared for collection of industrial stormwater samples

from each outfall prior to collecting samples for visual examination. All sample containers used for sampling for visual examination should be certified as clean and free of residue. After each use and for cleaning the Imhoff Settling Cone or graduated beaker. A bottle brush will aid in removing any fine sediment trapped in the bottom point of the Imhoff cone:

- Wash containers in a non-phosphate detergent and tap water wash.
- Thoroughly fill and rinse containers with tap water at least three (3) times.
- Store containers closed, and in an area free of dust and other potential sample contaminants.
- If additional containers are needed to collect samples from less accessible outfalls (e.g. buckets which are attached to poles for reaching outfalls), these containers should also be cleaned and prepared as indicated above.

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

MANUAL GRAB SAMPLE COLLECTION. Manual grab samples should be collected by inserting a container under or downstream of a discharge with the container opening facing upstream, and with the opening of the container completely immersed under water, whenever possible. A sample container at least 1000 ml should be used to collect the sample. The container must be able to be submersed so that the container opening is held under water while still collecting an adequate sample size to make a correct visual inspection. In most cases the sample container can be held in hand while the sample is collected. Less accessible outfalls may require the use of poles and buckets to collect grab samples. Take the grab from the horizontal and vertical center of the outfall. If sampling in a channel, (e.g., ditch, trench, rill) avoid stirring up bottom sediments. Avoid touching the inside of the container to prevent contamination. Transfer sample to a clear glass or plastic container if using another container such as a bucket to collect a sample from a less accessible location. If taking samples from multiple outfalls, label containers with outfall identification prior to taking samples. Make sure samples are securely capped until examination.

COLLECTION OF GRAB SAMPLES BY AUTOMATIC SAMPLER. Facilities which use automatic samplers for stormwater sampling may collect grab samples for visual examination by this method. Programming for collecting grab samples is specific to the type of automatic sampler. All facility personnel who collect stormwater samples using automatic samplers should be properly trained in operation of the sampler before doing so. Several different types of automatic samplers are available for stormwater sampling. However, the following guidelines should be followed when sampling regardless

of the type of sampler used. All equipment must be properly cleaned, particularly the tubing and sample containers. Deionized water should be drawn through the sampler to remove any residuals prior to taking samples. Tubing should also be periodically replaced to avoid algae or bacterial growth. Additionally, a distilled/deionized water blank sample should be taken at each outfall sampled to determine if contamination of stormwater samples by the sampling equipment has occurred. Samplers should be used in exact accordance with the manufacturers' instructions. All sampler calibration and maintenance data should be kept on site with the SWPPP.

5.4. SAMPLE EXAMINATION. Visual examination of all grab samples collected must be performed within the first sixty (60) minutes. Bring the collected samples to a well lit indoor area. Pour each sample into a separate 1 L polycarbonate plastic graduated Imhoff settling cone or 1000 ml graduated cylinder. The Imhoff settling cone or beaker should have graduations that allow volume measurement to the nearest milliliter. Record the total sample volume to the nearest milliliter on the visual monitoring form. Examine the samples for the following criteria according to the instructions provided with the visual monitoring form: Foam, odor, clarity, floating solids, suspended solids, color, oil sheen, settled solids, and any other obvious indicators of stormwater pollution. Read the settled solids 1 hour after pouring the sample into the cone, as this assures that all solids are settled out of the water. Settled solids in the bottom of the cone should be measured to the nearest milliliter.

*Note: Clear polycarbonate plastic Imhoff cones are available from several scientific supply companies. You may also purchase 1000 ml graduated beakers from various scientific supply companies.

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

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

- PROBLEM: Sampling where stormwater comingles with process water or other non-stormwater discharge.

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

- PROBLEM: Numerous small point channels make up an outfall from which it is difficult to collect a sample.

  RECOMMENDATION: Impound channels or join their flow together by building a weir or digging a ditch to collect discharge at a low point for sampling. This artificial collection point should be lined with plastic or filter fabric and stone to prevent infiltration and/or high levels of sediment.

- PROBLEM: Inaccessible discharge point. Examples include underwater discharges or unreachable discharges (e.g., out of a cliff, steep slope or bank of a stream).

  RECOMMENDATION: Go up the pipe to sample (e.g., to the nearest manhole or inspection point). If these are not available, tap into the pipe, or sample at several locations upstream of the pipe if the pipe is the only outfall for the facility.

- PROBLEM: Managing multiple sampling sites to collect grab samples during the first 60 minutes of a measurable storm event.

  RECOMMENDATION: Have a sampling crew ready to help when forecasts indicate that a measurable storm event is likely to occur. If this is not possible, sample the missed outfall locations during other measurable storm events and record this circumstance in the SWPPP.

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

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

- PROBLEM: Sampling in manholes.

  RECOMMENDATION: Sample with a collection device on the end of a pole to reach stormwater. Personnel sampling in manholes should have confined space safety training and ambient air monitoring sampling devices if manholes have to be entered.

- PROBLEM: Run-on from other property.

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

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

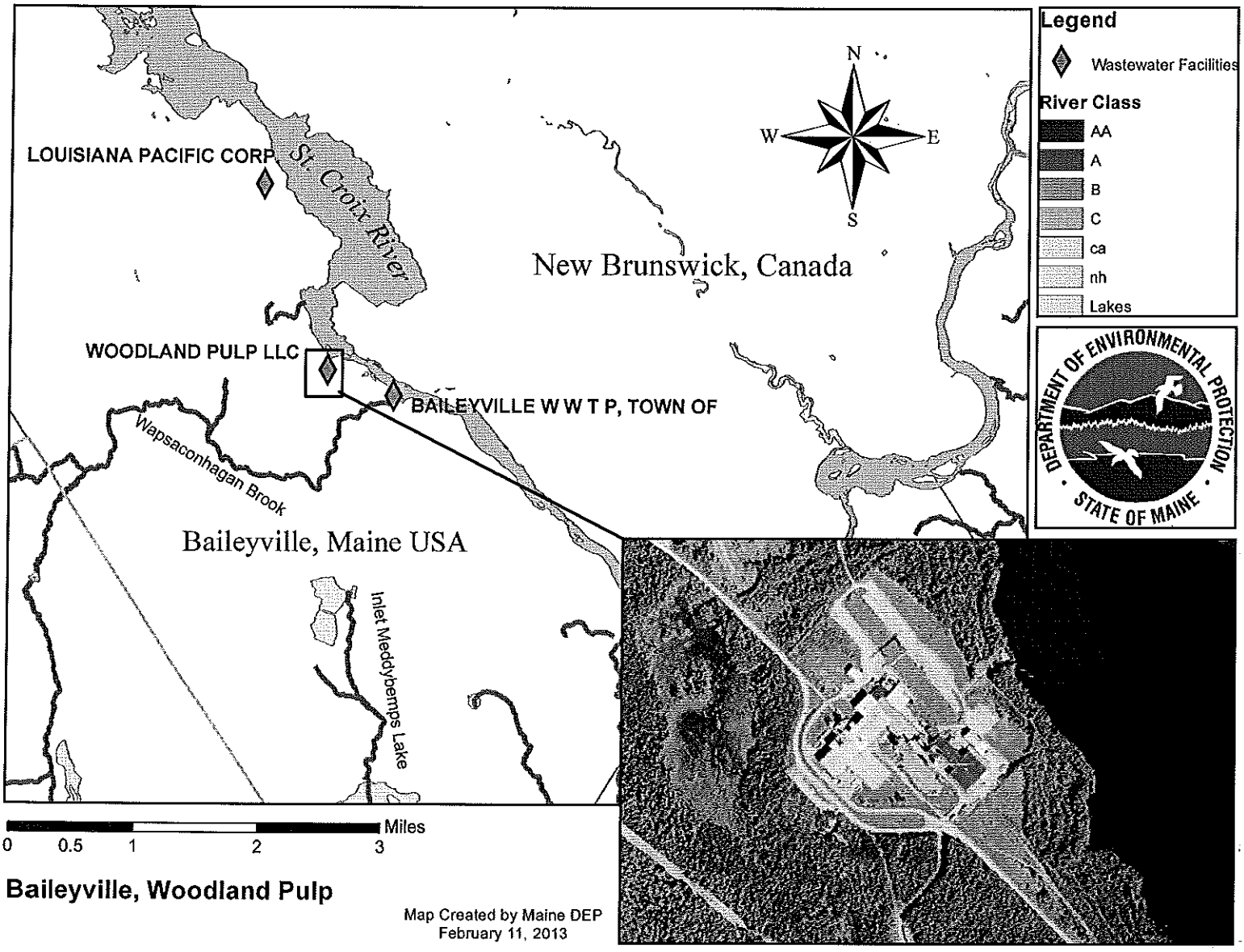
6. REFERENCES

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

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

6.3. STATE OF MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION MULTI-SECTOR GENERAL PERMIT MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY
Maine Department of Environmental Protection, Bureau of Land and Water Quality, Waste Discharge License # W-008227-5Y-B-R (April 25, 2011)

ATTACHMENT A

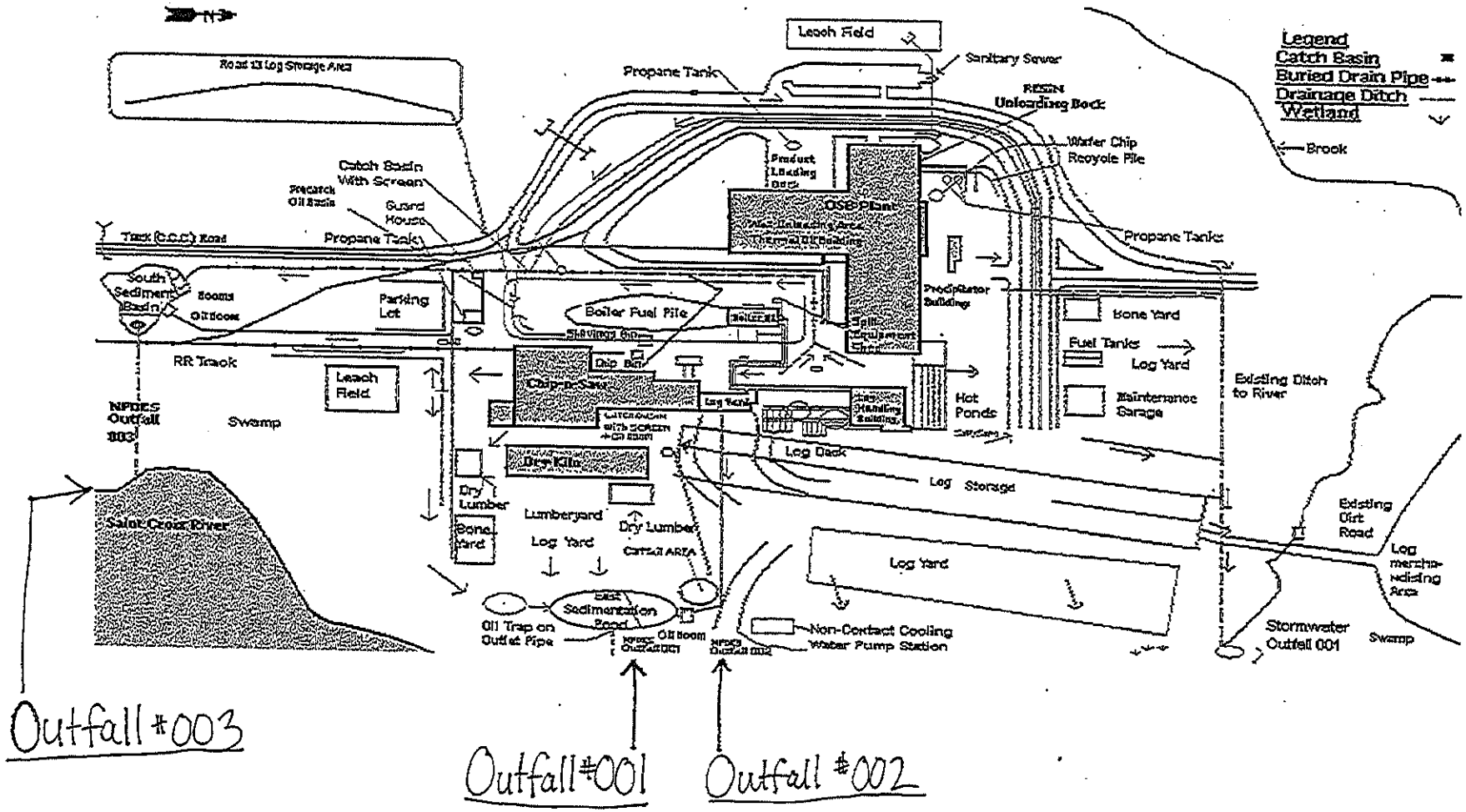


Baileyville, Woodland Pulp

Map Created by Maine DEP
February 11, 2013

ATTACHMENT B

Appendix B Site Lay of Oriented Strand Board and Chip n Saw Facilities



MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

CONTENTS

A. GENERAL PROVISIONS

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

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

(a) They are not

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. OPERATION AND MAINTENACE OF FACILITIES

1. General facility requirements.

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

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

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

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

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

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

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

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

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

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

5. Bypasses.

(a) Definitions.

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

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

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

(c) Notice.

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

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

(d) Prohibition of bypass.

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

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

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

6. Upsets.

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

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

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

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

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

C. MONITORING AND RECORDS

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

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

3. Monitoring and records.

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

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

(c) Records of monitoring information shall include:

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

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

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

D. REPORTING REQUIREMENTS

1. Reporting requirements.

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

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

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

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

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

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

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

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

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

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

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

(f) Twenty-four hour reporting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Publicly owned treatment works.

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

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

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

E. OTHER REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Maximum daily discharge limitation means the highest allowable daily discharge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEP INFORMATION SHEET

Appealing a Department Licensing Decision

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

SUMMARY

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

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

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

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

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

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

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

HOW TO SUBMIT AN APPEAL TO THE BOARD

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

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

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

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

Other Considerations in Appealing a Decision to the Board

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

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

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

II. JUDICIAL APPEALS

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

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

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

ADDITIONAL INFORMATION

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

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