STATE OF MAINE

Department of Environmental Protection

Paul R. LePage
GOVERNOR

Patricia W. Aho
COMMISSIONER

May 6, 2013

Mr. Bryan J. Woods
Palom Aquaculture LLC
P.O. Box 12
Old Saybrook, CT. 06475

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037311
Maine Waste Discharge License (WDL) Application #W009080-6F-A-N
Final Permit

Dear Mr. Woods:

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

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

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

Sincerely,

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

Enc.

cc: Matt Young, DEP/EMRO
Sandy Mojica, USEPA
Mary Colligan, NMFS

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, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

PALOM AQUACULTURE LLC	)	MAINE POLLUTANT DISCHARGE
GOULDSBORO, HANCOCK COUNTY	)	ELIMINATION SYSTEM PERMIT
FISH REARING FACILITY	)	AND
ME0037311	)	WASTE DISCHARGE LICENSE
W009080-6F-A-N **APPROVAL**	)	**NEW**

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

APPLICATION SUMMARY

Palom has submitted an application to the Department for a new combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037311/Maine Waste Discharge License (WDL) #W009080-6F-A-N. Palom is seeking authorization to discharge up to a monthly average flow of 1.7 million gallons per day (MGD) and a daily maximum flow of 8.5 MGD of treated waste waters from a land based Atlantic salmon fish rearing facility to Prospect Harbor (Sand Cove), Class SB, in Gouldsboro, Maine.

PERMIT SUMMARY

This permitting action is establishing technology based mass limitations for biochemical oxygen demand (BOD), total suspended solids (TSS) and a pH pH range limitation and is requiring the permittee to monitor and report mass of fish on hand at the facility and mass and concentration of nitrate nitrogen, nitrite-nitrogen and total kjeldahl nitrogen (TKN) during the summer months June – September inclusively, and conduct whole effluent toxicity (WET), priority pollutant and analytical chemistry testing during the first year of operation.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated January 28, 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, 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 discharge will be subject to effluent limitations that require application of best practicable treatment as defined in Maine law, 38 M.R.S.A., §414-A(1)(D).

ACTION

THEREFORE, the Department APPROVES the above noted application of PALOM AQUACULTURE LLC to discharge a monthly average flow of 1.7 MGD and daily maximum flow of 8.5 MGD of treated waste waters from a land based Atlantic salmon fish rearing facility to Prospect Harbor (Sand Cove), Class SB, in Gouldsboro, Maine, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

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

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

3. This permit 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 9th DAY OF May, 2013.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhns
For Patricia W. Aho, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial receipt of application: May 7, 2012.

Date of application acceptance: May 21, 2012

Filed
MAY 10 2013
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection _____

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

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge **treated process waste waters from** a land-based fish rearing facility to Prospect Harbor (Sand Cove) via **Outfall #001**. Such discharges shall be limited and monitored by the permittee as specified below[(1)]:

Effluent Characteristic	**Discharge Limitations and Reporting Requirements**				**Minimum Monitoring Requirements**	
	Monthly Average	**Daily Maximum**	**Monthly Average**	**Daily Maximum**	**Measurement Frequency**	**Sample Type**
Flow *[50050]*	1.7 MGD *[03]*	8.5 MGD*[03]*	---	---	Continuous *[99/99]*	Metered *[MT]*
BOD_5 *[00310]*	425 lbs/day *[26]*	709 lbs/day *[26]*	30 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	Composite[2] *[CP]*
TSS *[00530]*	425 lbs/day *[26]*	709 lbs/day *[26]*	30 mg/L *[19]*	50 mg/L *[19]*	1/Week *[01/07]*	Composite[2] *[CP]*
Total Kjeldahl Nitrogen *[00625]* ***(June 1 – September 30)***	Report lbs/day *[26]*	Report lbs/day*[26]*	Report mg/L *[19]*	Report mg/L*[19]*	1/Week *[01/07]*	Grab *[GR]*
Nitrate-Nitrogen *[71850]* ***(June 1 – September 30)***	Report lbs/day *[26]*	Report lbs/day*[26]*	Report mg/L *[19]*	Report mg/L*[19]*	1/Week *[01/07]*	Grab *[GR]*
Nitrite-Nitrogen *[00615]* ***(June 1 – September 30)***	Report lbs/day *[26]*	Report lbs/day*[26]*	Report mg/L *[19]*	Report mg/L*[19]*	1/Week *[01/07]*	Grab *[GR]*
Fish on Hand*[45604]*	Report lbs/day*[26]*	Report lbs/day*[26]*	---	---	1/Week *[01/07]*	Calculated *[CA]*
pH *[00400]*	---	---	---	6.0-8.5 S.U[(3)] *[12]*	1/Week *[01/07]*	Grab *[GR]*

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Beginning 60 days after the commencement of the discharge and lasting through four consecutive calendar quarters, the permittee shall monitor the discharge as follows:

SCREENING LEVEL TESTING

Effluent Characteristic	Discharge Limitations				Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Whole Effluent Toxicity[4] **Acute – NOEL** *Mysidopsis bahia* [TDM3E] *(Mysid Shrimp)*	---	---	---	Report % [23]	1/Quarter [01/90]	Composite [24]
Chronic – NOEL *Arbacia punctulata* [TBH3A] *(Sea urchin)*	---	---	---	Report % [23]	1/Quarter [01/90]	Composite [24]
Priority pollutant[5,7] [50008]	---	---	---	Report ug/L [28]	1/Year [01/YR]	Composite/Grab [24]
Analytical chemistry[6,7] [51477]	---	---	---	Report ug/L [28]	1/Quarter [01/90]	Composite/Grab [24]

SURVEILLANCE LEVEL TESTING – Pursuant To Special Condition N, *Reopening of Permit For Modifications*, of this permit, surveillance level testing and or water quality based effluent limits (if applicable) may be established after the permittee has completed the screening level testing requirements of this permit and the Department has conducted a statistical evaluation in accordance with the statistical approach outlined in the Section 3.3.2 and Table 3-2 of USEPA's "*Technical Support Document for Water Quality-Based Toxics Control*" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.).

SPECIAL CONDITIONS

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

Footnotes:

1. **Sampling** – Effluent samples for all parameters shall be collected after the last treatment process prior to discharge to the receiving water. Any change in sampling location(s) must be reviewed and approved by the Department in writing. Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Human Services. Laboratory facilities that analyze compliance samples in-house are subject to the provisions and restrictions of *Maine Comprehensive and Limited Environmental Laboratory Certification Rules*, 10-144 CMR 263 (last amended February 13, 2000).

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

2. **Composite Samples**: Composite sample means a sample consisting of a minimum of four grab samples collected at two-hour intervals during the working day at the facility. Alternatively, upon approval by the Department's compliance inspector, the permittee may use 24-hour composites collected with an automatic composite sampler.

3. **pH** - Excursions of the pH range limitation shall be considered permit violations unless due to natural causes. At no time shall the effluent pH exceed 0.5 standard units outside of the pH levels in Sand Cove at the point of discharge. If effluent pH falls outside of 6.0-8.5 s.u., the permittee shall provide corresponding ambient pH values with the appropriate monthly DMR.

4. **Whole Effluent Toxicity (WET) Testing** – Definitive WET testing is a multi-concentration testing event (a minimum of five dilutions bracketing the critical acute and chronic water quality thresholds of 50% and 16%, respectively), which provides an estimate of toxicity in terms of No Observed Effect Level, commonly referred to as NOEL or NOEC. A-NOEL is defined as the acute no observed effect level with survival as the end point. C-NOEL is defined as the chronic no observed effect level with survival, reproduction and growth as the end points.

SPECIAL CONDITIONS

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

Footnotes:

a. **Screening level testing** - Beginning 60 days after the commencement of the discharge and lasting through four consecutive calendar quarters, the permittee shall conduct screening level WET testing at a minimum frequency of once per calendar quarter (1/Quarter). Acute tests shall be conducted on the mysid shrimp (Mysidopsis bahia) and chronic tests shall be conducted on the sea urchin (Arbacia punctulata).

b. **Surveillance level testing** - Surveillance level testing may be established after the permittee has completed the screening level testing requirements of this permit and the Department has conducted a statistical evaluation in accordance with the statistical approach outlined in the Section 3.3.2 and Table 3-2 of USEPA's *"Technical Support Document for Water Quality-Based Toxics Control"* (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.).

WET test results must be submitted to the Department no later than the next Discharge Monitoring Report (DMR) required by the permit, provided, however, that the permittee may review the toxicity reports for up to 10 business days after their availability before submitting them. The permittee shall evaluate test results being submitted and identify to the Department possible exceedences of the critical acute and chronic water quality thresholds specified above.

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

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

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

See **Attachment B** of this permit for the Department's WET report form. The permittee is also required to analyze the effluent for the parameters specified in the WET chemistry section, and the parameters specified in the analytical chemistry section of the form in **Attachment A** of this permit each time a WET test is performed.

SPECIAL CONDITIONS

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

Footnotes:

5. **Priority pollutant testing** – Refers to a suite of chemical tests in **Attachment A** of this permit.

   a. **Screening level testing** - Beginning 60 days after the commencement of the discharge and lasting through four consecutive calendar quarters, the permittee shall conduct screening level priority pollutant testing at a minimum frequency of once per calendar quarter (1/Quarter). It is noted Chapter 530 does not require routine surveillance level priority pollutant testing during the term of this permit.

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

   a. **Screening level testing** – Beginning 60 days after the commencement of the discharge and lasting through four consecutive calendar quarters and every five years thereafter, the permittee shall conduct screening level analytical chemistry testing at a minimum frequency of once per calendar quarter (1/Quarter).

   b. **Surveillance level testing** - Surveillance level testing will be established after the permittee has completed the screening level testing requirements of this permit and the Department has conducted a statistical evaluation in accordance with the statistical approach outlined in the Section 3.3.2 and Table 3-2 of USEPA's "Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.).

7. **Analytical chemistry and priority pollutant testing** - Shall be conducted on samples collected at the same time as those collected for whole effluent toxicity tests when applicable. Priority pollutant and analytical chemistry testing shall be conducted using methods that permit detection of a pollutant at existing levels in the effluent or that achieve minimum reporting levels of detection as specified by the Department. See **Attachment A** of this permit for a list of the Department's reporting levels (RLs) of detection.

   Priority pollutant and analytical chemistry test results must be submitted to the Department no later than the next DMR required by the permit provided, however, that the permittee may review the toxicity reports for up to 10 business days after receiving the test results from the laboratory before submitting them. The permittee shall evaluate test results being submitted and identify to the Department, possible exceedences of the acute, chronic or human health AWQC as established in Department rule Chapter 584. For the purposes of Discharge Monitoring Report (DMR) reporting, enter a "1" for yes, testing done this monitoring period or "NODI-9" monitoring not required this period.

SPECIAL CONDITIONS

B. NARRATIVE EFFLUENT LIMITATIONS

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

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

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

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

C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with; 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on May 21, 2012; 2) the terms and conditions of this permit, and 3) only from Outfall #001 of this permit. Discharges of wastewater from any other point source are not authorized under this permit, and shall be reported in accordance with Standard Condition B(5), Bypasses, of this permit.

D. NOTIFICATION REQUIREMENTS

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

1. Any substantial change in the volume or character of pollutants being introduced into the waste water collection and treatment system by a source introducing pollutants to the system at the time of permit issuance.

2. For the purposes of this section, adequate notice shall include information on:

   a. The quality and quantity of waste water introduced to the waste water collection and treatment system; and

   b. Any anticipated impact of the change in the quantity or quality of the waste water to be discharged from the treatment system.

SPECIAL CONDITIONS

E. COMMENCEMENT OF OPERATIONS

At a minimum of ninety (90) 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 May 7, 2012, application materials, the Department may require the permittee to submit a revised application to the Department.

F. BEST MANAGEMENT PLAN/OPERATION & MAINTENANCE PLAN

On or before August 1, 2013, ***(ICIS Code 05899)*** the permittee shall submit to the Department for review and comment, a Best Management Practices (BMP) Plan for the fish rearing operation. The content of BMP plan must be consistent with the outline in the template and checklist prepared by the EPA and is included as **Attachment D** of the Fact Sheet of this permit.

On or before August 1, 2013, the permittee shall submit to the Department for review, ***(ICIS Code 09699)*** a written comprehensive Operation & Maintenance (O&M) Plan. The plan shall provide a systematic approach by which the permittee shall at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

The O&M Plan shall establish Best Management Practices (BMP) to be followed in operating the facility, cleaning the raceways/culture tanks, screens, and other equipment and disposing of any solid waste. The purpose of the BMP portion of the plan is to identify and to describe the practices which minimize the amounts of pollutants (biological, chemical, and medicinal) discharged to surface waters. Among other items, the plan shall describe in detail efficient feed management and feeding strategies to minimize discharges of uneaten feed and waste products, how and when the accumulated solids are to be removed, dewatered, and methods of disposal. The plan shall also describe where the removed material is to be placed and the techniques used to prevent it from re-entering the surface waters from any onsite storage. The plan shall document the recipients and methods of any offsite waste disposal.

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

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

SPECIAL CONDITIONS

G. DISEASES, PATHOGENS, AND THERAPEUTIC AGENTS:

The permittee must comply with Maine Department of Inland Fisheries and Wildlife (MDIFW) (freshwater facilities) and Maine Department of Marine Resources (MEDMR) (salmon & marine facilities) fish health rules (12 MRSA, §6071; 12 MRSA, §§7011, 7035, 7201, and 7202, or revised rules). The cited rules include requirements for notification to the appropriate agency within 24-hours of pathogen detection. In addition to the requirements of the MDIFW and MEDMR rules, **the permittee shall notify the Department in writing within 24 hours following pathogen detection**, with information on the disease/pathogen, necessary control measures, and the veterinarian involved.

All medicated fish feeds, drugs, and other fish health therapeutants shall be registered with US Environmental Protection Agency (USEPA) as appropriate, approved by the US Food and Drug Administration (USFDA), and applied according to USFDA accepted guidelines and manufacturer's label instructions or used as prescribed by a Maine licensed veterinarian as authorized in the Maine Veterinary Practice Act (31 MRSA, §4852) and the Maine Animal Welfare Act (7 MRSA, §3901). Proper veterinary records of all such materials used are to be maintained at the facility for a period of five years. This permitting action does not authorize routine off-label or extra-label drug use. Such uses shall only be permitted in emergency situations and under the authority of a Maine licensed veterinarian. **The permittee shall notify the Department in writing within 24-hours following such use**, with information on the conditions necessitating off-label or extra-label drug use, necessary control measures, and the veterinarian involved.

For either reporting requirement outlined, the permittee must provide information on: the proposed treatment(s) including materials/chemicals/agents used, material/chemical/agent toxicity to aquatic life, the mass and concentrations of materials/chemicals/agents as administered, and the concentrations to be expected in the effluent. For any off-label or extra-label use, the permittee shall also provide a description of how the use constitutes off-label or extra-label use, the necessity for the use in terms of the condition to be treated and the inability to utilize accepted drugs or approved methods, the duration of the use, and the likely need of repeat treatments. If, upon review of information regarding a treatment pursuant to this section, the Department determines that significant adverse effects are likely to occur, it may restrict or limit such use. Additionally, **the permittee is required to provide notification to the Department for review and approval prior to the use and discharge of any drug pursuant to the USEPA Investigational New Animal Drug (INAD) program.** The permittee is required to submit information as described in Fact Sheet Section 6, incorporated herein by reference.

This permitting action only authorizes the discharge of those materials applied for, evaluated by the Department, and either regulated or determined to be deminimus in this permitting action or in subsequent Department actions. **The use and discharge of therapeutic agents is subject to the conditions described in Permit Special Condition C, Unauthorized Discharges and Fact Sheet Section 6, Diseases, Pathogens, and Therapeutic Agents.**

SPECIAL CONDITIONS

H. DISINFECTING/SANITIZING AGENTS

Disinfectants and/or sanitizing agents shall be registered with USEPA as appropriate and applied according to manufacturer's label instructions. Records of all disinfectants and/or sanitizing agents used that have the potential to enter the waste-stream or receiving water, their volumes and concentrations as used and concentrations at the point of discharge, shall be maintained at the facility for a period of five years. This permitting action only authorizes the discharge of those materials applied for, evaluated by the Department, and either regulated or determined to be *de minimis* in this permitting action or in subsequent Department actions. The use and discharge of disinfecting/sanitizing agents is subject to the conditions described in Permit Special Condition C, *Authorized Discharges* and Fact Sheet Section 8, *Disinfecting/Sanitizing Agents.*

I. SALMON GENETIC TESTING

Maine's Aquaculture General Permit (#MEG130000, Part II, Section I) and individual MEPDES Permits for marine aquaculture facilities contain requirements to address the genetic integrity of Atlantic salmon raised in Maine for aquaculture. The genetic requirements are implemented at the marine sites as well as at the hatchery and rearing facilities that raise and supply salmon for marine aquaculture. As the permittee does not raise salmon for marine aquaculture, it is not subject to these requirements. **The use of Atlantic salmon originating from non-North American stock is prohibited at the permittee's facility.**

J. CONTAINMENT MANAGEMENT SYSTEM (CMS)

On or before July 1, 2013, the permittee shall submit to the Department for review and approval ***(ICIS Code 73205),*** a CMS plan that documents the facility is designed, constructed, and operated so as to prevent the accidental or consequential escape of fish to open water. The CMS plan must be approved by the Department prior to fish being introduced into the facility.

The permittee shall develop and utilize a CMS consisting of management and auditing methods to describe or address the following: site plan description, inventory control procedures, predator control procedures, escape response procedures, unusual event management, severe weather procedures and training. The CMS shall contain a facility specific list of critical control points (CCP) where escapes have been determined to potentially occur. Each CCP must address the following: the specific location, control mechanisms, critical limits, monitoring procedures, appropriate corrective actions, verification procedures that define adequate CCP monitoring, and a defined record keeping system.

SPECIAL CONDITIONS

J. CONTAINMENT MANAGEMENT SYSTEM (CMS)

The CMS plan shall include a site plan or schematic with specifications of the particular system. The permittee shall develop and utilize a CMS consisting of management and auditing methods to describe or address the following: site plan description, inventory control procedures, predator control procedures, escape response procedures, unusual event management, severe weather procedures and training. The CMS shall contain a facility specific list of critical control points (CCP) where escapes have been determined to potentially occur. Each CCP must address the following: the specific location, control mechanisms, critical limits, monitoring procedures, appropriate corrective actions, verification procedures that define adequate CCP monitoring, and a defined record keeping system.

The CMS site specific plan shall describe the use of effective containment barriers appropriate to the life history of the fish. The facility shall have in place both a three-barrier system for fish up to 5 grams in size and a two barrier system for fish 5 grams in size or larger. The three-barrier system shall include one barrier at the incubation/rearing unit, one barrier at the effluent from the hatch house/fry rearing area and a third barrier placed in-line with the entire effluent from the facility. Each barrier shall be appropriate to the size of fish being contained. The two-barrier system shall include one barrier at the individual rearing unit drain and one barrier in-line with the total effluent from the facility. Each barrier shall be appropriate to the size of fish being contained. Barriers installed in the system may be of the screen type or some other similarly effective device used to contain fish of a specific size in a designated area. Barriers installed in the system for compliance with these requirements shall be monitored daily. Additional requirements include:

1. The CMS shall be audited **at least once per year and within 30 days of a reportable escape** (more than 50 fish) by a party other than the facility operator or owner qualified to conduct such audits and approved by the Department. A written report of these audits shall be provided to the permittee and the Department for review and approval **within 30 days of the audit being conducted.** If deficiencies are identified during the audit, the report shall contain a corrective action plan, including a timetable for implementation and re-auditing to verify deficiencies are addressed as in the corrective action plan approved by the Department. Additional third party audits to verify correction of deficiencies shall be conducted in accordance with the corrective action plan or upon request of the Department. The permittee shall notify the Department upon completion of corrective actions.

2. Facility personnel responsible for routine operation shall be properly trained and qualified to implement the CMS. **Prior to any containment system assessment** associated with this permit, the permittee shall provide to the Department documentation of the employee's or contractor's demonstrated capabilities to conduct such work.

SPECIAL CONDITIONS

J. CONTAINMENT MANAGEMENT SYSTEM (CMS) (cont'd)

3. The permittee shall maintain complete records, logs, reports of internal and third party audits and documents related to the CMS on site for a period of 5 years.

The permittee shall report any known or suspected escapes of more than 50 fish within 24 hours to the Maine Dept of Marine Resources Bureau of Sea-Run Fisheries and Habitats, Maine Department of Inland Fisheries and Wildlife, USFWS Maine Field Office and NOAA Fisheries Maine Office.

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

By December 31 of each calendar year, the permittee shall provide the Department with a certification describing any of the following that have occurred since the effective date of this permit *[ICIS Code 95799]*: See **Attachment D** of the Fact Sheet for an acceptable certification form to satisfy this Special Condition.

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

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

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

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

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

(e) Increases in the type or volume of off-site process waste waters accepted by the facility.

The Department reserves the right to modify toxicity testing if new information becomes available that indicates the discharge may cause or have a reasonable potential to cause exceedences of ambient water quality criteria/thresholds or if it determines that there have been changes in the character of the discharge or if annual certifications described above are not submitted.

SPECIAL CONDITIONS

L. REOPENING OF PERMIT FOR MODIFICATION

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

M. MONITORING AND REPORTING

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

Department of Environmental Protection
Bureau of Land and Water Quality
Division of Water Quality Management
106 Hogan Road
Bangor, Maine 04401

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

N. SEVERABILITY

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

ATTACHMENT A

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

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

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

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

Date Sample Collected _____ Date Sample Analyzed _____

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.

MARINE AND ESTUARY VERSION

Please see the footnotes on the last page.

	WHOLE EFFLUENT TOXICITY		Effluent Limits, %			Receiving Water or Ambient	Effluent Concentration (ug/L or as noted)		Possible Exceedence [7]		
			Acute	Chronic			WET Result, % Do not enter % sign	Reporting Limit Check	Acute	Chronic	
	Mysid Shrimp										
	Sea Urchin										
	WET CHEMISTRY										
	pH (S.U.) (9)					(8)					
	Total Organic Carbon (mg/L)					NA					
	Total Solids (mg/L)					NA					
	Total Suspended Solids (mg/L)					NA					
	Salinity (ppt.)										

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

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	PRIORITY POLLUTANTS [4]		Effluent Limits					Reporting Limit Check	Possible Exceedence [7]		
		Reporting Limit	Acute[6]	Chronic[6]	Health[6]				Acute	Chronic	Health
M	ANTIMONY	5									
M	BERYLLIUM	2									
M	MERCURY (5)	0.2									
M	SELENIUM	5									
M	THALLIUM	4									
A	2,4,6-TRICHLOROPHENOL	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									

Maine Department of Environmental Protection
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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									

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

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
WHOLE EFFLUENT TOXICITY REPORT
MARINE WATERS

Facility Name _____ MEPDES Permit # _____

Pipe # _____

Facility Representative _____ Signature _____

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

Facility Telephone # _____ Date Collected _____ mm/dd/yy Date Tested _____ mm/dd/yy

Chlorinated? _____ Dechlorinated? _____

Results **% effluent**

	mysid shrimp	sea urchin
A-NOEL		
C-NOEL		

Effluent Limitations

A-NOEL	
C-NOEL	

Data summary

	mysid shrimp	sea urchin
	% survival	% fertilized
QC standard	>90	>70
lab control		
receiving water control		
conc. 1 (%)		
conc. 2 (%)		
conc. 3 (%)		
conc. 4 (%)		
conc. 5 (%)		
conc. 6 (%)		
stat test used		

place * next to values statistically different from controls

Salinity Adjustment

brine	
sea salt	
other	

Reference toxicant — mysid shrimp — sea urchin

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

Comments _____

Laboratory conducting test

Company Name _____ Company Rep. Name (Printed) _____

Mailing Address _____ Company Rep. Signature _____

City, State, ZIP _____ Company Telephone # _____

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

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: **January 28, 2013**

PERMIT NUMBER: **#ME0037311**
WASTE DISCHARGE LICENSE: **#W009080-6F-A-N**

NAME AND ADDRESS OF APPLICANT:

PALOM AQUACULTURE LLC
P.O. Box 12
Old Saybrook, CT. 06475

COUNTY: **Hancock County**

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

Palom Aquaculture LLC
Corea Road
Former Corea Naval Facility
Gouldsboro, Maine

RECEIVING WATER/CLASSIFICATION: **Sand Cove/Class SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Mr. Bryan J. Woods, Member**
(860) 402-4953
e-mail: bryanwoods@earthlink.net

1. APPLICATION SUMMARY

a. Application: Palom Aquaculture LLC (Palom hereinafter) has submitted an application to the Department for a new combination Waste Discharge License (WDL) #W009080-6F-A-N/ Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0037311. Palom is seeking authorization to discharge up to a monthly average and daily maximum flow of 1.7 million gallons per day (MGD) and 8.5 MGD respectively, of treated waste waters from a land based Atlantic salmon fish rearing facility to Prospect Harbor (Sand Cove), Class SB, in Gouldsboro, Maine. See **Attachment A** of this Fact Sheet for a location map.

b. Source Description and Waste Water Treatment: Palom is proposing to construct a land-based Atlantic salmon facility on the former Corea Naval Facility. The proposal is to construct a 55,000 ft^2 building with 10 grow-out tanks (18 meters in diameter, 5 meters deep) with the goal of raising an average of 45,000 fish per year with an average total mass of 1,000,000 pounds per year. The facility will be a re-circulating facility with a monthly average discharge of 1.7 million gallons which is approximately 2% of the total water circulated through the facility on a given day.

1. APPLICATION SUMMARY

New sea water will be withdrawn from Sand Cove and is mechanically filtered via rotating drum filters to remove parasites and other particulate matter. The water is introduced into the re-circulating system and is constantly being run through biofilters to remove excess food and fish excrement prior to discharge back to Sand Cove.

The 20-inch diameter intake pipe will be located in approximately 57 feet of water to minimize the intake of phytoplankton and zooplankton and to draw sea water that has a uniform temperature and salinity. The 24-inch diameter outfall pipe will be located in 18 feet of water at mean low water. See **Attachment B** of this Fact Sheet for drawings of the facility provided by the permittee.

2. CONDITIONS OF PERMIT

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

3. RECEIVING WATER QUALITY STANDARDS

Maine law 38 M.R.S.A., §469(8) classifies the Atlantic Ocean at the point of discharge as a Class SB waterway. Maine law, 38 M.R.S.A., §465-B(2) describes the standards for classification of Class SB waterways.

Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.

The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters. In determining human and domestic animal origin, the department shall assess licensed and unlicensed sources using available diagnostic procedures. The numbers of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration.

3. RECEIVING WATER QUALITY STANDARDS (cont'd)

Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for non-target species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.

4. RECEIVING WATER QUALITY CONDITIONS

A document entitled, State of Maine Department of Environmental Protection, 2010 Integrated Water Quality Monitoring and Assessment Report, published by the Department indicates Sand Cove, Class SB, at the points of intake and discharge is meeting the standards of its assigned classification. See **Attachment C** for a Maine Department of Marine Resources map indicating status of surrounding shellfish harvesting areas.

All estuarine and marine waters of the State are listed as, *"Category 5-D: Estuarine and Marine Waters Impaired by Legacy Pollutants."* Impairment in this context refers to the estuarine and marine waters partially supporting the designated use of fishing and harvesting of shellfish due to elevated levels of mercury, PCBs, dioxin, and other persistent bioaccumulating substances in tissues of some fish and in lobster tomalley. The Department has no reason to believe the proposed discharge from the permittee's facility will cause or contribute to aforementioned impairment.

5. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

a. Flow: This permitting action is establishing a monthly average flow of 1.7 MGD based on estimates provided by the permittee. The discharge of 1.7 MGD represents 2% of the re-circulated flow through the fish rearing facility on a daily basis.

b. Dilution Factors: Department Regulation (06-096 CMR) Chapter 530, *Surface Water Toxics Control Program*, October 2005, states, *"for discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model."* Based on the location and configuration of the facility outfall pipe as well as the limited information on the physical properties of Sand Cove, the

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

Department has determined the dilution factors for the discharge of a monthly average of 1.7 MGD from the permittee's facility are as follows:

Acute = 2:1 Chronic = 6:1 Harmonic mean [1] = 18:1

Footnote (1): The harmonic mean dilution factor is approximated by multiplying the chronic dilution factor by three (3). This multiplying factor is based on guidelines for estimation of human health dilution presented in the USEPA publication *"Technical Support Document for Water Quality-Based Toxics Control"* (Office of Water; EPA/505/2-90-001, page 88), and represents an estimation of harmonic mean flow on which human health dilutions are based.

c. Biochemical Oxygen Demand (BOD_5) and Total Suspended Solids (TSS): This permitting action is establishing monthly average and daily maximum concentration limits of 30 mg/L and 50 mg/L respectively for BOD_5 and TSS based on Department best professional judgment (BPJ) of best practicable treatment (BPT) for re-circulating facilities. These limits were based on recommendations included in USEPA's 2002 proposed draft National Effluent Guidelines for TSS from re-circulated fish hatchery wastewater receiving a secondary level of treatment, the Department's long-standing view of the relationship with and significance of BOD_5, and consideration of effluent quality from facilities utilizing the Department's BPJ of minimum treatment technology. Mass limits were calculated based on the monthly average flow limit of 1.7 MGD, the applicable concentration limits, and a conversion factor of 8.34 lbs/gal for water. The limits were calculated as follows:

Monthly average: (1.7 MGD)(30 mg/L)(8.34 lbs/gal) = 425 lbs/day

Daily maximum: (1.7 MGD)(50 mg/L)(8.34 lbs/gal) =709 lbs/day

d. Total Kjeldahl Nitrogen (TKN) and Total Nitrogen (TN) – Nitrogen is the limiting nutrient in marine waters. Discharges of excess quantities of nitrogen can cause algal blooms in the receiving waters which can lead to negative impacts to dissolved oxygen levels in the receiving water. TKN is the sum of organic nitrogen, ammonia (NH_3), and ammonium (NH_4^+). To calculate Total Nitrogen (TN), the concentrations of nitrate-nitrogen and nitrite-nitrogen are determined and added to TKN. The permittee is required to monitor and report both the mass and concentration of TKN, nitrate-nitrogen and nitrate nitrogen.

e. Fish on Hand: This permitting action is establishing a reporting requirement for monthly average and daily maximum mass of fish on hand. This parameter is intended to enable both the Department and the permittee in evaluating management practices at the facility and trends in effluent quality and receiving water impacts. A minimum monitoring frequency of once per week is based on the Department's BPJ of the monitoring frequency necessary to accurately characterize facility effluent conditions.

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

h. pH – This permitting action is establishing a pH range limit of 6.0 – 8.5 standard units (su), considered by the Department as a best practicable treatment standard for fish hatcheries and rearing facilities and consistent with the pH limit established in discharge permits for these facilities. Based on Department BPJ, as a portion of the influent water consists of water extracted from the receiving water, this permitting action further specifies "*Excursions of the pH range limitation shall be considered permit violations unless due to natural causes. At no time shall the effluent pH exceed 0.5 standard units outside of the pH levels in Sand Cove at the point of discharge. If effluent pH falls outside of 6.0-8.5 s.u., the permittee shall provide corresponding ambient pH values with the appropriate monthly DMR.*". This permitting action establishes a minimum pH monitoring frequency requirement of once/week to provide for more accurate characterization of facility effluent conditions.

i. Whole Effluent Toxicity (WET) & Chemical-Specific Testing: Maine law, 38 M.R.S.A., Sections 414-A and 420, prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. Department Rules, 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, and Chapter 584, *Surface Water Quality Criteria for Toxic Pollutants* set forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters.

WET, priority pollutant and analytical chemistry testing, as required by Chapter 530, is included in this permit in order to fully characterize the effluent. This permit also provides for reconsideration of effluent limits and monitoring schedules after evaluation of toxicity testing results. The monitoring schedule includes consideration of results currently on file, the nature of the wastewater, existing treatment and receiving water characteristics.

WET monitoring is required to assess and protect against impacts upon water quality and designated uses caused by the aggregate effect of the discharge on specific aquatic organisms. Acute and chronic WET tests are performed on invertebrate and vertebrate species. Priority pollutant and analytical chemistry testing is required to assess the levels of individual toxic pollutants in the discharge, comparing each pollutant to acute, chronic, and human health water quality criteria as established in Chapter 584.

Chapter 530 establishes four categories of testing requirements based predominately on the chronic dilution factor. The categories are as follows:

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

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

Department rule Chapter 530 (2)(D) specifies the criteria to be used in determining the minimum monitoring frequency requirements for WET, priority pollutant and analytical chemistry testing. Based on the Chapter 530 criteria, the permittee facility falls into the Level I frequency category as the facility has a chronic dilution factor ≤20:1. Chapter 530(2)(D)(1) specifies that routine surveillance and screening level testing requirements are as follows:

Screening level testing

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

Surveillance level testing

Level	WET Testing	Priority pollutant testing	Analytical chemistry
II	2 per year	None required	4 per year

Department rule Chapter 530(D)(3)(C) states dischargers in Level I may reduce surveillance level testing from four per year (4/Year) to once per year (1/Year) for individual WET species or chemicals provided that testing in the preceding 60 months does not indicate any reasonable potential for exceedences.

This permitting action establishes screening level testing requirements beginning 60 days after the commencement of the discharge and lasting through four consecutive calendar quarters. Surveillance level testing may be established after the permittee has completed the screening level testing requirements of this permit and the Department has conducted a statistical evaluation in accordance with the statistical approach outlined in the Section 3.3.2 and Table 3-2 of USEPA's "*Technical Support Document for Water Quality-Based Toxics Control*" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.).

6. DISEASE AND PATHOGEN CONTROL AND REPORTING

Maine Department of Inland Fisheries and Wildlife (MDIFW) Rules (Chapter 2.03-A) and Maine Department of Marine Resources (MeDMR) Rules (Chapter 24.21) state that *"the transfer and/or introduction of organisms fall within the jurisdiction of the Department of Marine Resources (12 MRSA, §6071) into coastal waters within the State of Maine and the Department of Inland Fisheries and Wildlife (12 MRSA, §§7011, 7035 and 7201, 7202) into public and/or private waters within the State of Maine. These rules are intended to protect wild and farmed salmonid fish populations and shall be applicable to all individuals involved in the culture and movement of live salmonids and gametes."* Further, both agencies' rules define Diseases of Regulatory Concern as *"...infectious agents that have been demonstrated to cause a significant increase in the risk of mortality among salmonid populations in the State of Maine. Diseases of Regulatory Concern are classified by the Commissioner into three (3) disease categories: exotic, endemic (limited distribution) and endemic based on an annual review and analysis of epidemiological data."*

6. DISEASE AND PATHOGEN CONTROL AND REPORTING (cont'd)

This permit establishes a requirements that the permittee must comply with MDIFW and MeDMR salmonid fish health rules (12 MRSA, §6071; 12 MRSA, §§7011, 7035, 7201, and 7202, or revised rules). The cited rules include requirements for notification to the appropriate agency within 24-hours of pathogen detection. In the event of a catastrophic pathogen occurrence, in addition to the requirements of the rules, the permittee shall notify the Department in writing within 24-hours of detection, with information on necessary control measures and the veterinarian involved. The permittee shall submit to the Department for review and approval, information on the proposed treatment including materials/chemicals to be used, material/chemical toxicity to aquatic life, the mass and concentrations of materials/chemicals as administered, and the concentrations to be expected in the effluent. If, upon review of information regarding a treatment pursuant to this section, the Department determines that significant adverse effects are likely to occur, it may restrict or limit such use.

7. THERAPEUTIC AGENTS

In the June 30, 2004, USEPA Effluent Limitations Guidelines and New Source Performance Standards for the Concentrated Aquatic Animal Production Point Source Category (National Effluent Guidelines), EPA requires proper storage of drugs, pesticides and feed and requires facilities to report use of any investigational new animal drug (INAD), extra-label drug use, and spills of drugs, pesticides or feed that results in a discharge to waters of the U.S. This permit requirements that all medicated fish feeds, drugs, and other fish health therapeutants shall be approved by the US Food and Drug Administration (USFDA) and applied according to USFDA accepted guidelines and manufacturer's label instructions and that therapeutic agents must also be registered with USEPA, as appropriate. Further, records of all such materials used must be maintained at the facility for five years.

This permitting action does not authorize routine off-label or extra-label drug use. Such uses shall only be permitted in emergency situations when they are the only feasible treatments available and only under the authority of a veterinarian. The permittee shall notify the Department in writing within 24-hours of such use. This notification must be provided by the veterinarian involved and must include the agent(s) used, the concentration and mass applied, a description of how the use constitutes off-label or extra-label use, the necessity for the use in terms of the condition to be treated and the inability to utilize accepted drugs or approved methods, the duration of the use, the likely need of repeat treatments, and information on aquatic toxicity. If, upon review of information regarding the use of a drug pursuant to this section, the Department determines that significant adverse effects are likely to occur, it may restrict or limit such use.

This permitting action does not authorize the discharge of drugs authorized by the USFDA pursuant to the Investigational New Animal Drug (INAD) program. As the INAD program typically involves the long-term study of drugs, their benefits and effects, the permittee is anticipated to be able to notify the Department of its intent to conduct, and provide information related to, such study. The permittee is required to provide notification to the Department for

7. THERAPEUTIC AGENTS (cont'd)

review and approval prior to the use and discharge of any drug pursuant to the INAD program. This notification must include information to demonstrate that the minimum amount of drug necessary to evaluate its safety, efficacy, and possible environmental impacts will be used. Notifications must also include an environmental monitoring and evaluation program that at a minimum describes sampling strategies, analytical procedures, evaluation techniques and a timetable for completion of the program. The program must consider the possible effects on the water column, benthic conditions and organisms in or uses of the surrounding waters. INAD related uses and discharges will be subject to Department review and approval.

The use and discharge of the materials described above or incorporated in the future are subject to the conditions described in permit Special Condition C, *Authorized Discharges* of this permit.

8. DISINFECTING/SANITIZING AGENTS

In this permitting action, the Department carries forward the requirement that the permittee must maintain records of all sanitizing agents and/or disinfectants used that have the potential to enter the waste-stream or receiving water, their volumes and concentrations as used and concentrations at the point of discharge, at the facility for a period of five years. This permitting action only authorizes the discharge of those materials applied for, evaluated by the Department, and either regulated or determined to be *deminimus* in this permitting action or in subsequent Department actions. The discharges of any other agents or waste products not specifically included in this permitting action are considered unauthorized discharges pursuant to permit Special Condition C of this permit.

9. ANTI-DEGREDATION - IMPACT ON RECEIVING WATER QUALITY

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

Based on the information provided in the referenced section, the Department has made the determination that the discharge approved by this permit will not result in a significant lowering of water quality. As permitted, the Department has determined the existing and designated water uses will be maintained and protected and the discharge will not cause or contribute to the failure of the Sand Cove to meet standards for Class SB classification.

10. PUBLIC COMMENTS

Public notice of this application was made in the Bangor Daily News newspaper on or about March 10, 2012. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

11. DEPARTMENT CONTACTS

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

Gregg Wood
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 287-7693 Fax: (207) 287-3435
e-mail: gregg.wood@maine.gov

12. RESPONSE TO COMMENTS

During the period of January 25 2013, through the issuance date of this permit, the Department solicited comments on the proposed draft permit to be issued for the discharge from the permittee's facility. The Department received written comments from the National Marine Fisheries Service (commenter hereinafter) in a letter dated February 4, 2013. Responses to NMFS's comments are as follows:

Comment #1: The commenter has stated "Aside from the tabular information contained in Special Condition A, *Effluent Limitations and Monitoring Requirements*, the permit summary makes minimal reference to testing, testing standards or test frequency for the above listed categories. While the Permit Summary mentions the requirement to "monitor and report" the mass and concentration of nitrate nitrogen, nitrite nitrogen and total kjeldahl nitrogen (TKN) thresholds for nitrogenous compounds were not established. As a newly permitted facility, it is important that these types of tests, test standards and testing frequencies be clearly stated."

Response #1: Special Condition A of the permit clearly establishes the parameters monitoring frequencies, numeric limitations or reporting requirements for each parameter, sample type and options for test methods. More specifically, the permit establishes numeric monthly average mass and concentration limits for biochemical oxygen demand (BOD) and total suspended solids (TSS) along with monitoring frequency of 1/Week on a year-round basis. Special Condition A also establishes numeric monthly average and daily maximum flow limitations with a continuous monitoring frequency (via metering) on a year-round basis. A numeric daily maximum pH limit range along with a 1/Week monitoring frequency has been established. Monthly average mass and concentration reporting requirements along

12. RESPONSE TO COMMENTS (cont'd)

with a monitoring frequency of 1/Week between June 1 and September 30 have been established for nitrate nitrogen, nitrite nitrogen and TKN. The Department's Division of Environmental Assessment (DEA) reviewed the nitrogen data provided in the application materials and made a best professional judgment the discharge would not have a reasonable potential to exceed ambient water quality standards. As a result, the DEA recommended "report" only requirements for said nitrogen compounds.

As for test methods, footnote #1 on page 5 of the permit states in part "Sampling and analysis must be conducted in accordance with; a) methods approved in 40 Code of Federal Regulations (CFR) Part 136, b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136, or c) as otherwise specified by the Department.

The Department believes the permit as written clearly states the types of tests, test standards and testing frequencies. Therefore, the permit remains unchanged.

Comment #2: The commenter has provided a number of comments surrounding chemicals and the potential for toxicity associated with the discharge. The comments are as follows:

> "The proposed permit does not include a comprehensive list of chemicals that may be used and/or discharged by the facility. We believe that a more complete list of chemicals likely to be used at the facility (e.g. chlorine) should be included in the permit along with thresholds and monitoring schedules if required by law."
>
> "We recommend the draft permit include a list of potential sanitizing agents and concentrations for our review."
>
> "We recommend that the facility engage in WET testing, priority pollutant and analytical chemistry testing for the duration of this initial permit so as to provide data that will accurately reflect the nature of the facility's effluent."

Response #2: 06-096 CMR Chapter 530, *Surface Water Toxics Control Program*, §Section 2(A) states in part "All licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have a reasonable potential to cause or contribute to exceedences of narrative or numerical water quality criteria. For the purposes of this rule, industrial process waste water is that which comes into contact with or results from a manufactured product, except for those processes that involve only washing and/or packing a raw material without addition of chemicals to the product."

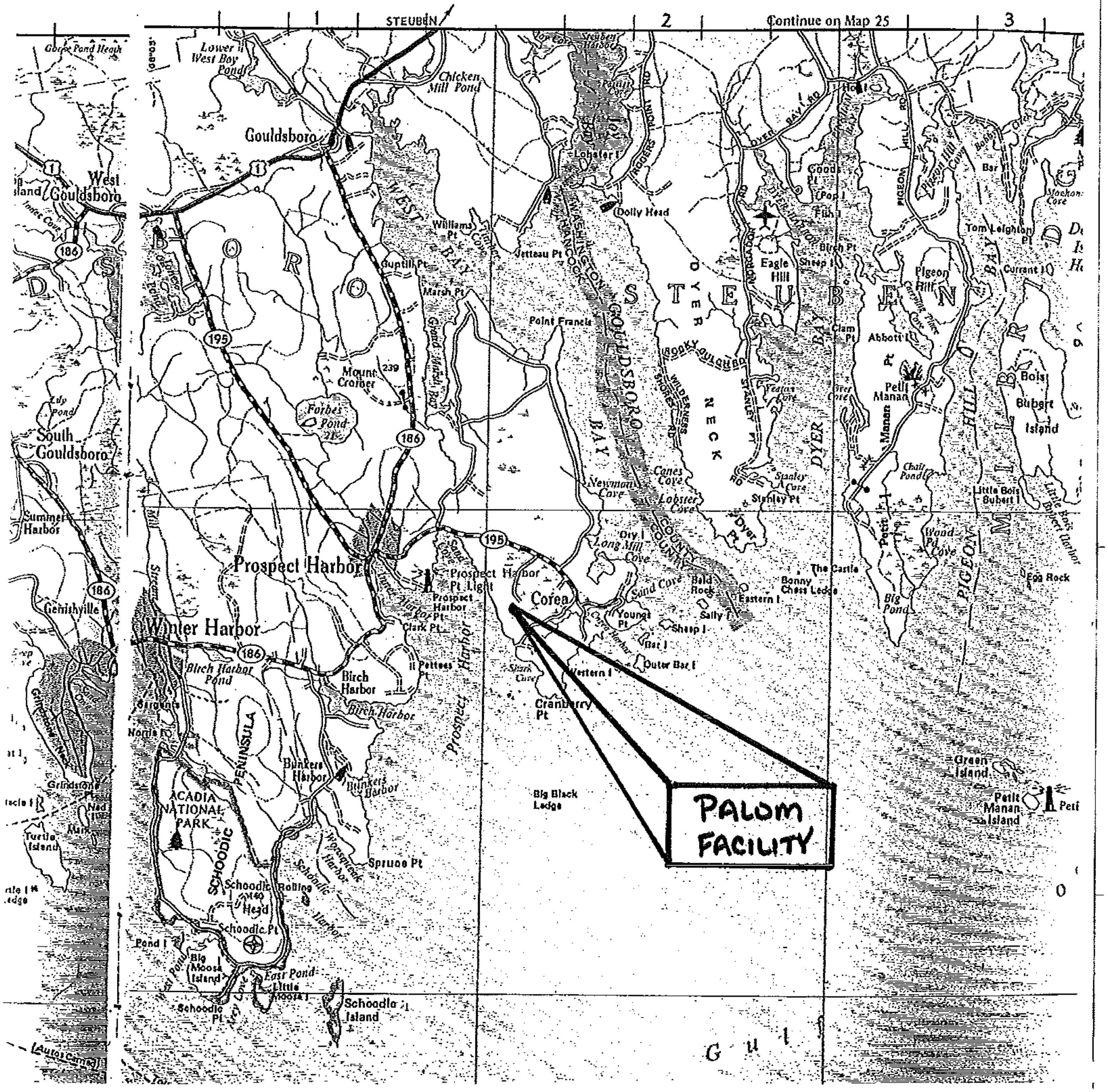
12. RESPONSE TO COMMENTS (cont'd)

The proposed discharge from the permittee's fish rearing facility is not considered by the Department to be an industrial process wastewater but falls into the category of "other types of wastewater." Given the permittee's lack of specificity of chemicals likely to be used at the facility as well as sanitizing agents, the permit is being revised to include Chapter 530 §2(D)(1) Level I screening level whole effluent toxicity testing, analytical chemistry and priority pollutant testing during the first year of operation beginning 60 days after the commencement of operations. Once the permittee has completed the screening level testing, the Department will conduct a statistical evaluation in accordance with the methodology in Section 3.3.2 and Table 3-2 of USEPA's *"Technical Support Document for Water Quality-Based Toxics Control" (USEPA Publication 505/2-90-001, March, 1991, EPA, Office of Water, Washington, D.C.)* on the test results to determine if the discharge exceeds or has a reasonable potential to exceed applicable ambient water quality criteria (AWQC). If the discharge exhibits toxicity, applicable numeric limitations will be established and surveillance level testing will be incorporated into the permit. If the discharge does not exhibit toxicity, surveillance level testing will be waived and the permittee will be required to file an annual written certification indicating there have been no changes in the process in which fish a reared at the facility that may increase the toxicity of the discharge. See new Special Condition K, *Annual 06-096 CMR 530(2)(D)(4) Statement for Reduced/Waived Toxics Testing*, of the permit .

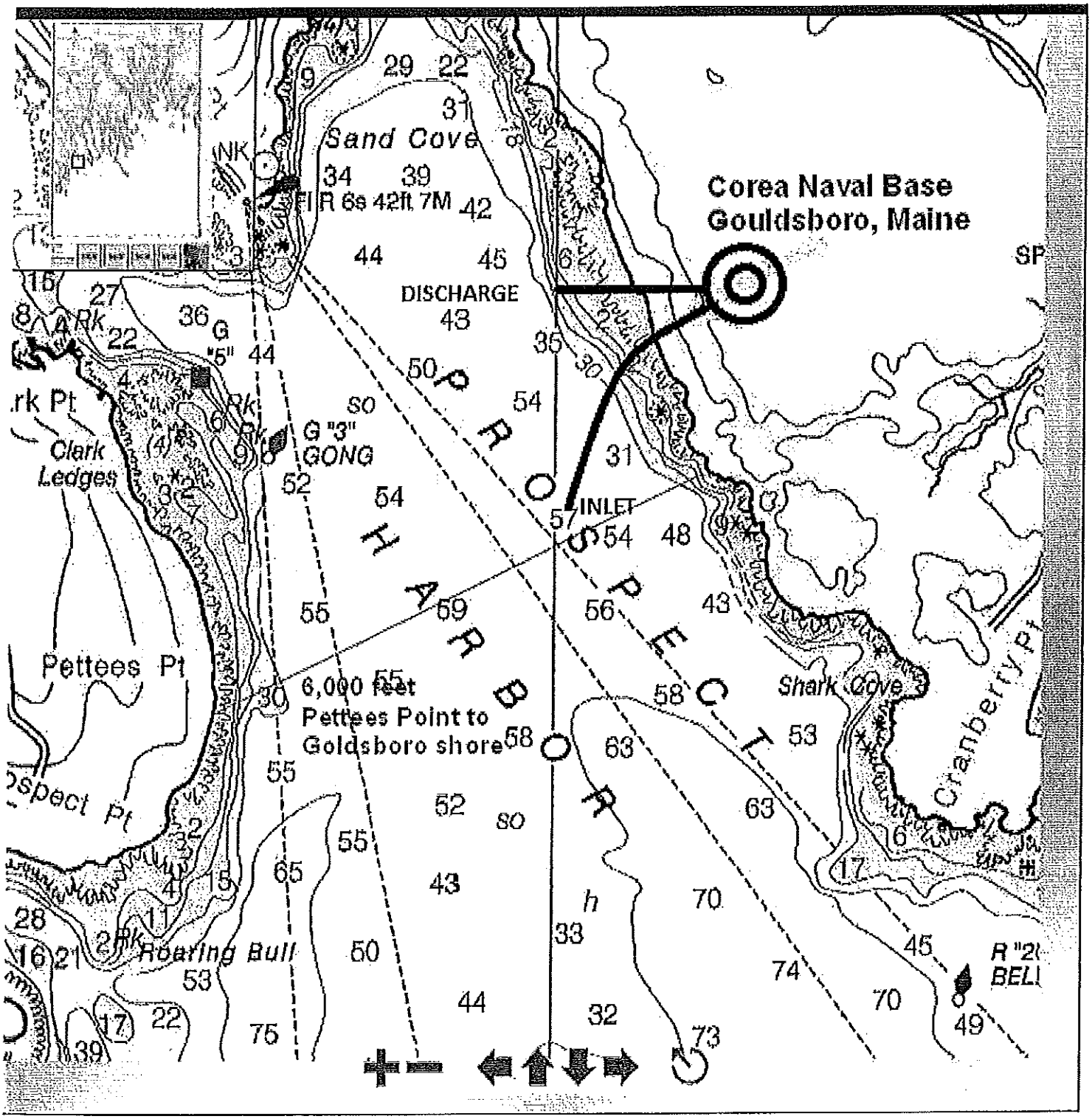
Comment #3: The commenter stated "Under the 2006 EPA document " *Compliance Guide for the Concentrated Aquatic Animal Production Source Catergory Receiving Water Quality Standards,*" the narrative requirements for flow-through and recirculating facilities state that the applicant must develop and maintain a Best Management Plan (BMP) that describes how the facility will achieve the following requirements: solids control, material storage, structural maintenance, record keeping and training. We understand that this plan can be made available upon request, and as such, we would like to review Palom's BMP to ensure adequate measures are taken to protect listed species."

Response #3: Special Condition F, *Operations and Maintenance (O&M) Plan*, of the draft permit requires the permittee to address most of the items in EPA's 2006 Compliance Guidance. However, Special Condition F has been re-written to specifically call out the 2006 Compliance Guidance to ensure nothing is left out. The 2006 Guidance has also been included as Attachment D of the Fact Sheet for the permittee's benefit. Pursuant to Special Condition F, *Best Management Plan/Operation & Maintenance Plan*, the plan(s) are scheduled to be submitted to the Department for review and comment on or before August 1, 2013. The Department will forward a copy of said plan(s) to the NMFS once submitted by the permittee.

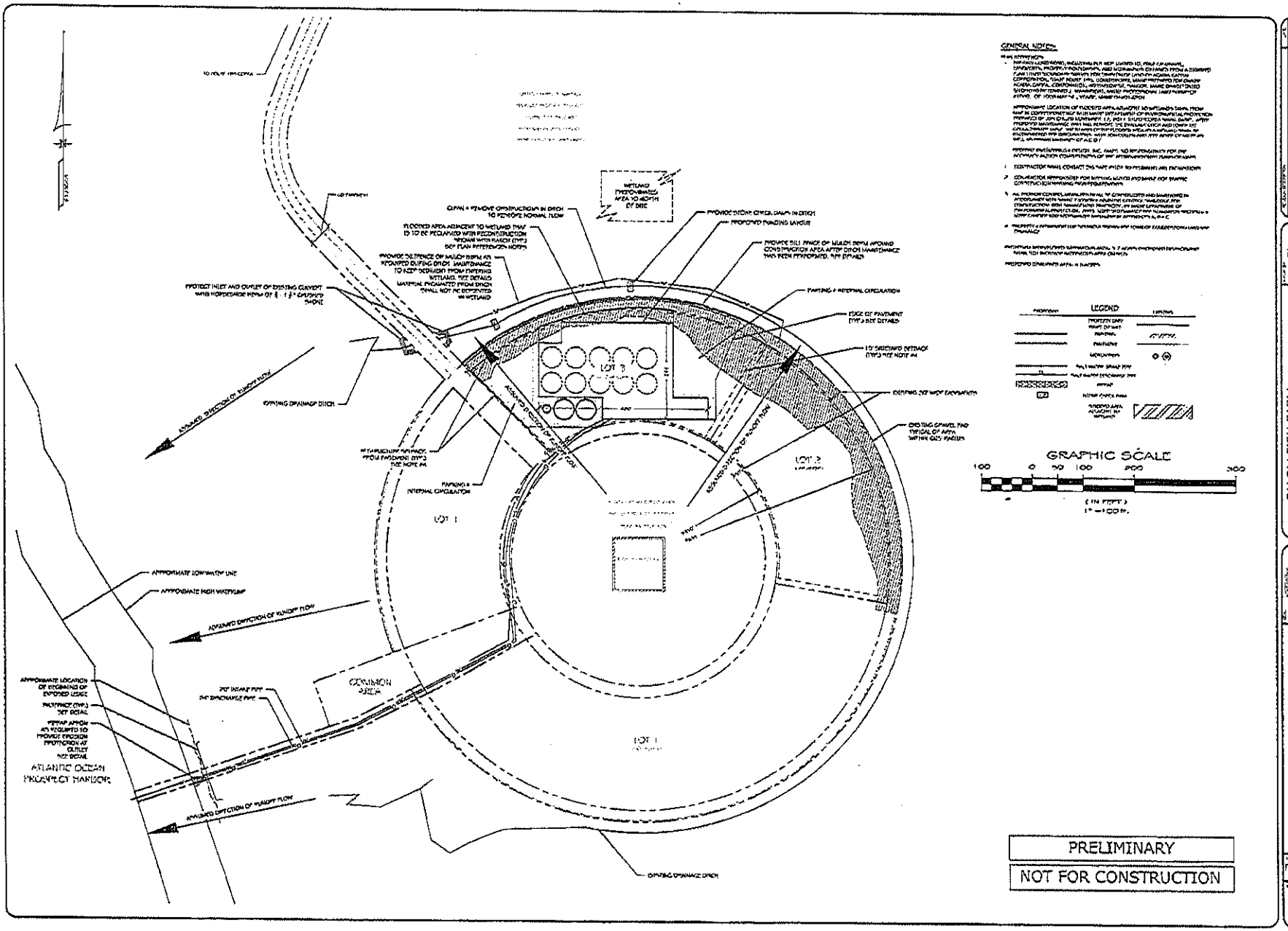
ATTACHMENT A



STEUBEN
Continue on Map 25
1
2
3
Lower West Bay Pond
Chicken Mill Pond
Gouldsboro
West Gouldsboro
South Gouldsboro
Summer Harbor
Gerrishville
Winter Harbor
Prospect Harbor
Prospect Harbor Pt Light
Corea
Birch Harbor
Birch Harbor Pond
Bunkers Harbor
Mount Cromer
Forbes Pond
Point Francis
Dolly Head
Lobster I
Jetteau Pt
Williams Pt
Guptill Pt
Marsh Pt
Newman Cove
Long Mill Cove
Young Pt
Sheep I
Bar I
Outer Bar I
Western I
Cranberry Pt
Sand Cove
Bald Rock
Eastern I
Sally I
The Castle
Bonny Chess Ledge
Big Black Ledge
Eagle Hill
Birch Pt
Sheep I
Clam Pt
Stanley Pt
Stanley Cove
Dyer Pt
Petit Manan
Petit Manan Island
Green Island
Egg Rock
Big Pond
Chair Pond
Pigeon Hill
Abbott I
Bois Bubert Island
Little Bois Bubert I
Tom Leighton Pt
Current I
Bar I
ACADIA NATIONAL PARK
SCHOODIC PENINSULA
Schoodic Head
Schoodic Pt
Schoodic Island
Big Moose Island
Little Moose I
East Pond
Pond I
Spruce Pt
Rolling Is
Sargent I
Norris I
Grindstone Neck
Turtle Island
Mark I
WEST BAY
GOULDSBORO BAY
DYER BAY
DYER NECK
PIGEON HILL BAY
Prospect Harbor
Schoodic Harbor
Wonsqueak Harbor
Gul
GOULDSBORO
STEUBEN
195
186
1
PALOM FACILITY


Corea Naval Base
Gouldsboro, Maine
Sand Cove
Fl R 6s 42ft 7M
DISCHARGE
PROSPECT HARBOR
INLET
6,000 feet
Pettees Point to
Goldsboro shore
Clark Ledges
Pettees Pt
Roaring Bull
Shark Cove
Cranberry Pt
G "5"
G "3"
GONG

ATTACHMENT B



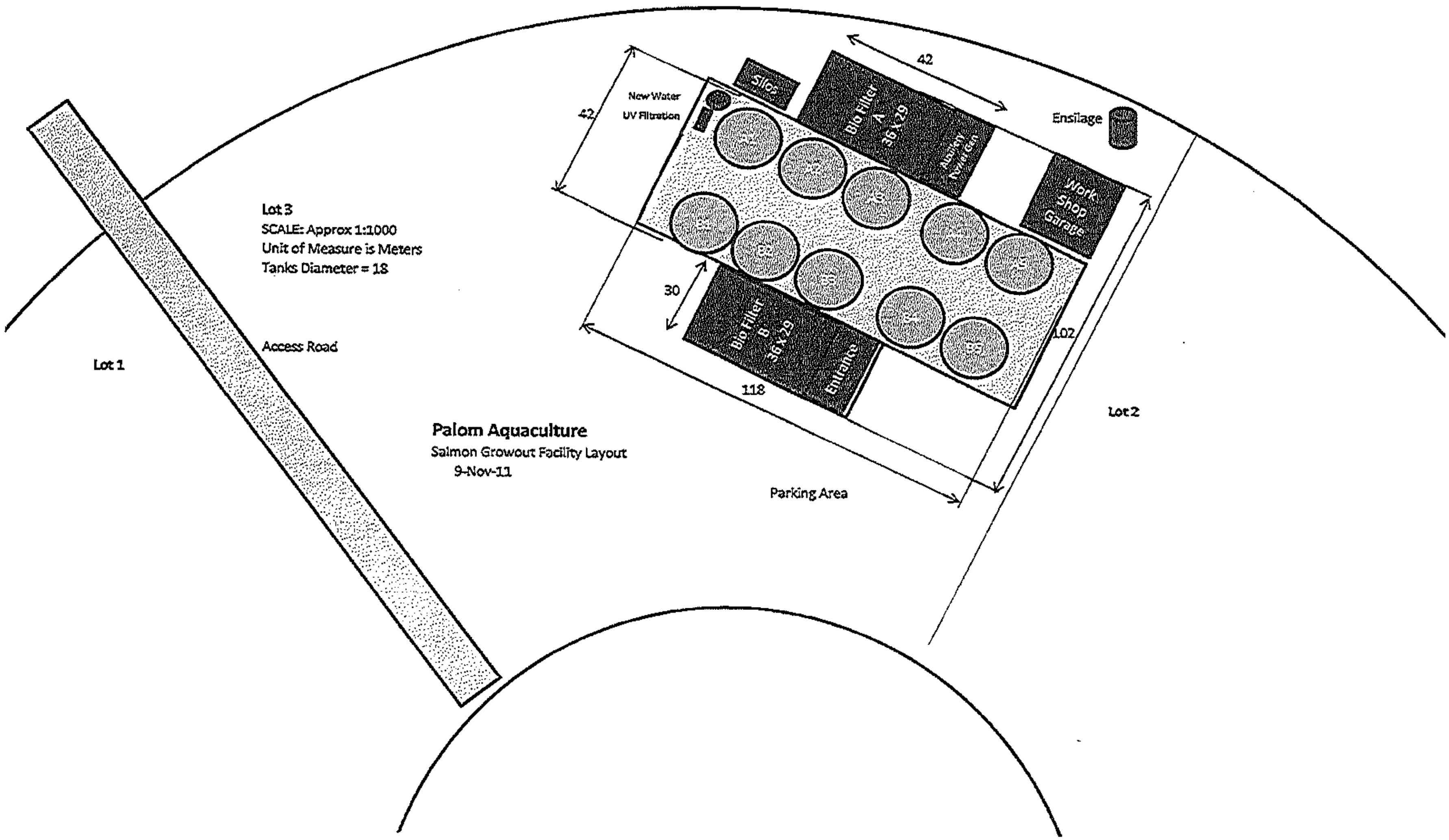
PALOM FISH FARM

GRADING, UTILITY AND EROSION CONTROL PLAN

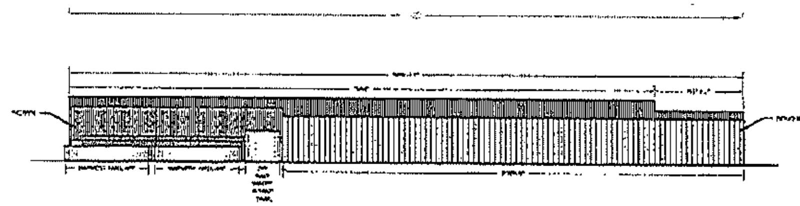
HEDEFINE ENGINEERING & DESIGN, INC.
PO BOX 668, 8 HANCOCK ST.
ELLSWORTH, ME 04605
(207) 664-0950

PERMITTING

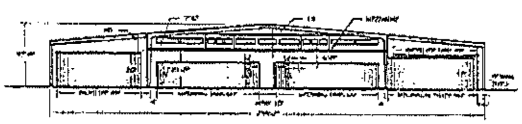
C-1


Palom Aquaculture
Salmon Growout Facility Layout
9-Nov-11
Lot 3
SCALE: Approx 1:1000
Unit of Measure is Meters
Tanks Diameter = 18
Lot 1
Lot 2
Access Road
Parking Area
New Water
UV Filtration
Silos
Bio Filter
A
36 X 29
Auxiliary Power Gen
Ensilage
Work Shop Garage
Bio Filter
B
36 x 29
Entrance
42
42
30
118
102

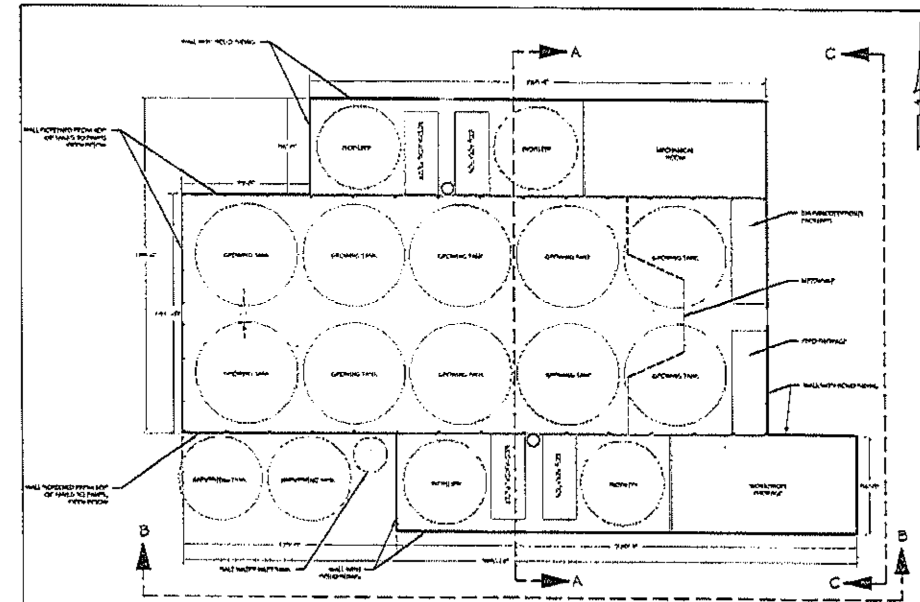
EAST ELEVATION
VIEW C-C



SOUTH ELEVATION
VIEW D-D



FLOOR SECTION A-A



FLOOR PLAN

GRAPHIC SCALE

NOT FOR CONSTRUCTION

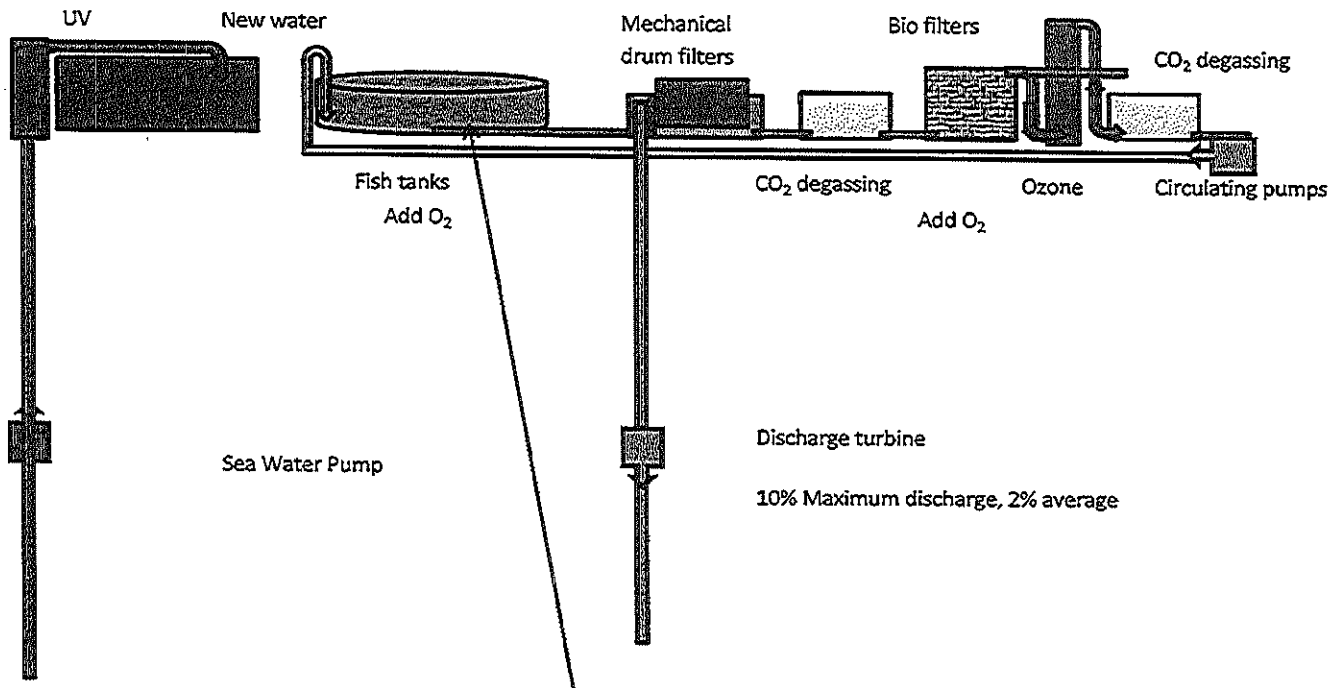
FLOOR PLAN, ELEVATIONS & SECTION

HEDEFINE ENGINEERING & DESIGN, INC.
PO BOX 663, 9 HANCOCK ST.
ELLSWORTH, ME 04605
(207) 664-0930

PERMITTING

A-1.0

Palom Aquaculture
Principle Flow Schema
November 1, 2011



Barriers To Prevent Escapes

1.) Outlet from fish tanks are perforated by 1/2" holes.
2.) No fish can escape through those holes, as the smolt of 50 grams are over 3/4" dia
3.) Palom will most likely receive smolt of 100 g with belly measuring 1" in diameter.
4.) Smaller fish than 1/2" inch belly are not adapted to sea water (smoltified) and are never transferred to grow-out tanks.

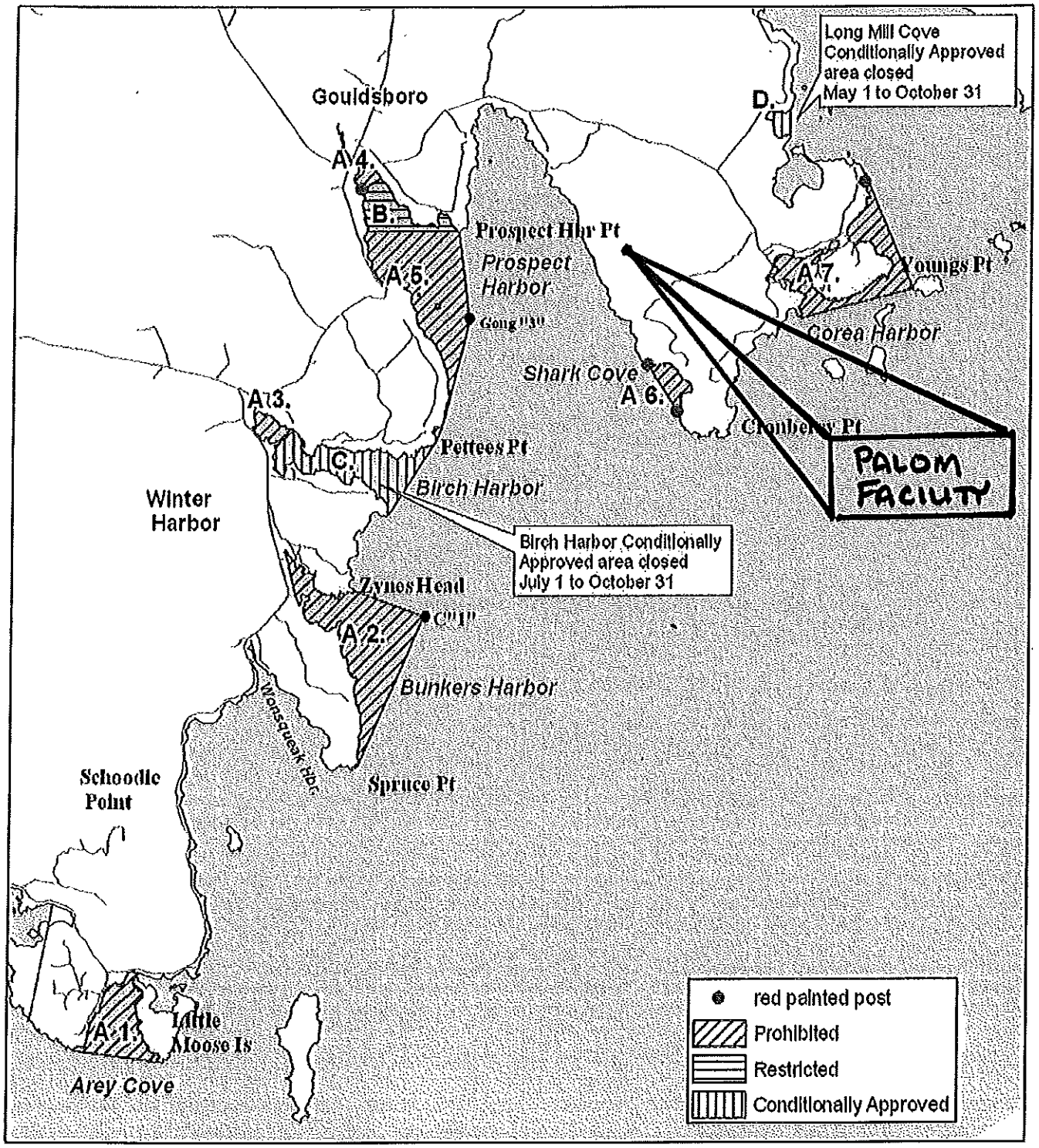
ATTACHMENT C

Maine Department of Marine Resources

Pollution Area No. 52

Schoodic Point to Corea (Winter Harbor-Gouldsboro)

2/3/12



0 4,000 8,000 Feet

ATTACHMENT D

EPA United States Environmental Protection Agency

EPA 821-B-05-001
March 2006

Compliance Guide for the Concentrated Aquatic Animal Production Point Source Category

Appendix E1: BMP Plan Template

Full document available at
http://www.epa.gov/waterscience/guide/aquaculture

Engineering and Analysis Division
Office of Science and Technology
U.S. Environmental Protection Agency

BMP Plan Template

You may want to use the following BMP plan template when writing your BMP plan. Fill in the sections marked in blue and/or italics.

Aquaculture Facility Name
Prepared: *Date*
NPDES Number: *# for your facility*
Facility Manager: *name, phone number*

A. Description of Facility

Provide a description of your facility. This description may include the following types of information:

- *Type of fish produced*
- *Annual amount of fish produced*
- *When the facility was constructed*
- *What type of systems (e.g., flow-through) are used at the facility*
- *Information about the systems (12 feet long raceways, etc.)*
- *Number of discharge points*

B. Water Source

Include a description of the source of the water at your facility. This description may include the following information:

- *Type of source – stream, ground, spring, etc.*
- *Name of the source (e.g., Upper Spring)*
- *If available, information about the quality of the water source (e.g., low in TSS)*
- *How the water arrives at the facility (e.g., ditch)*
- *Anything your facility does to treat incoming water (e.g., an inflow trash rack screen is used to catch vegetation from the spring and ditch prior to entering the facility. The trash rack screen is cleaned at least daily to prevent vegetation from affecting the water flow to facility)*

C. Treatment System(s) Used

Describe the treatment systems used at your facility. This description may include the following information:

- *Type of treatment system*
- *Design flow*
- *Normal operation*

- *Cleaning procedures*
- *Maintenance procedures*

D. Other Information

Provide any other additional information that might be useful to your permitting authority (e.g., additional information about how water flows into your facility or about oxygen recharge). In the following sections, describe in detail how you will achieve the specific requirements of the CAAP ELGs. Where helpful, you might attach example logs/forms used at your facility to physically show your permitting authority how you are complying with the CAAP ELGs.

E. Solids Control

FLOW-THROUGH AND/OR RECIRCULATING SYSTEMS 

1. Efficient feed management (to limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth).

   Describe the practices your facility uses to achieve efficient feed management. A form for tracking and calculating feed conversion ratios is available in Appendix N of the BMP Guidance.

2. Procedures for routine cleaning of rearing units and offline settling basins.

   Describe the cleaning procedures used. Also describe how your facility defines "routine." An example log to track cleaning is available in Appendix Q of the BMP Guidance.

3. Procedures for inventorying, grading, and harvesting aquatic animals (that minimize discharge of accumulated solids).

   Describe the procedures used.

4. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent discharge to waters of the United States (except where authorized by your permitting authority in order to benefit the aquatic environment).

   Describe the procedures for removal and disposal. A form for tracking carcass removal and disposal is available in Appendix T of the BMP Guidance.

F. Material Storage

FLOW-THROUGH, RECIRCULATING AND/OR NET PEN SYSTEMS 

A form for tracking spills and leaks at your facility is available in Appendix O of the BMP Guidance.

1. Proper storage of drugs, pesticides, and feed to prevent spills that may result in the discharge to waters of the United States.

   Describe the practices used.

2. Procedures for properly containing, cleaning, and disposing of any spilled materials.

   Describe the procedures used.

G. Maintenance

Forms for tracking inspection and maintenance are available in Appendix P of the BMP Guidance.

Flow-through and/or Recirculating Systems 

1. Routinely inspect production systems and wastewater treatment systems to identify and promptly repair damage.

   Describe the routine inspections performed. Also describe how your facility defines "routine."

2. Regularly conduct maintenance of production systems and wastewater treatment systems to ensure their proper function.

   Describe the regular maintenance performed. Also describe how your facility defines "regular."

Net Pen Systems 

1. Routinely inspect production systems to identify and promptly repair damage.

   Describe the routine inspections performed. Also describe how your facility defines "routine."

2. Regularly conduct maintenance of production systems to ensure their proper function.

   Describe the regular maintenance performed. Also describe how your facility defines "regular."

H. Record-keeping

Use the checklist in Appendix R of the BMP Guidance to ensure that you are meeting the record-keeping requirements of the CAAP ELGs.

FLOW-THROUGH AND/OR RECIRCULATING SYSTEMS 

1. Maintain records for aquatic animal rearing units documenting feed amounts and estimates of the numbers and weights of aquatic animals in order to calculate representative feed conversion ratios.

   Describe the records your facility keeps for documenting feed amounts and estimates of aquatic animals for calculating FCRs. A form for tracking and calculating FCRs is available in Appendix N of the BMP Guidance.

2. Keep records documenting frequency of cleaning, inspections, maintenance, and repairs.

   Describe the records your facility keeps to document this. Appendix P of the BMP Guidance contains forms for tracking inspection, maintenance, and repairs; Appendix Q of the BMP Guidance contains a form for tracking cleaning.

NET PEN SYSTEMS 

1. Maintain records for aquatic animal rearing units documenting feed amounts and estimates of the numbers and weights of aquatic animals in order to calculate representative feed conversion ratios.

   Describe the records your facility keeps for documenting feed amounts and estimates of aquatic animals for calculating FCRs. A form for tracking and calculating FCRs is available in Appendix N of the BMP Guidance.

2. Keep records documenting net pen changes, inspections, and repairs.

   Describe the records your facility keeps to document this. Appendix P of the BMP Guidance contains forms for tracking inspection, maintenance, and repairs.

I. Training

Appendix S of the BMP Guidance contains a log for tracking employee training.

Flow-through and/or Recirculating Systems 

1. Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled materials.

   Describe the procedures for training personnel in spill prevention and response.

2. Train personnel on proper operation and cleaning of production and wastewater treatment systems, including feeding procedures and proper use of equipment.

   Describe the procedures for training personnel on proper operation and cleaning.

Net Pen Systems 

1. Train all relevant personnel in spill prevention and how to respond in the event of a spill to ensure proper clean-up and disposal of spilled materials.

   Describe the procedures for training personnel in spill prevention and response.

2. Train personnel on proper operation and cleaning of production systems, including feeding procedures and equipment.

   Describe the procedures for training personnel on proper operation and cleaning.

J. Feed Monitoring

NET PEN SYSTEMS 

1. Employ efficient feed management and feeding strategies that limit feed input to the minimum amount reasonably necessary to achieve production goals and sustain targeted rates of aquatic animal growth.

   Describe the practices your facility uses to achieve efficient feed management. A form for tracking and calculating feed conversion ratios is available in Appendix N of the BMP Guidance.

2. Minimize accumulation of uneaten feed beneath the pens through active feed monitoring and management strategies approved by your permitting authority.

   Describe practices and management strategies to minimize uneaten feed beneath net pens.

K. Waste Collection and Disposal

NET PEN SYSTEMS 

1. Collect, return to shore, and properly dispose of all feed bags, packaging materials, waste rope, and netting.

   Describe practices to accomplish this.

L. Transport or Harvest Discharge

NET PEN SYSTEMS 

1. Minimize any discharge associated with the transport or harvesting of aquatic animals (including blood, viscera, aquatic animal carcasses, or transport water containing blood).

   Describe practices used to accomplish this.

M. Carcass Removal

NET PEN SYSTEMS 

1. Remove and dispose of aquatic animal mortalities properly on a regular basis to prevent their discharge into waters of the United States.

   Describe procedures for removing and disposing of aquatic animal mortalities. Appendix T of the BMP Guidance contains a log for tracking carcass removal and disposal.

N. Diagram or Map

A diagram/map of the facility is helpful to illustrate the layout of the operation.

O. Review and Endorsement of the BMP Plan

We, the facility manager and the individuals responsible for implementing the BMP plan, have reviewed and endorsed this BMP plan.

(Facility Name)	(NPDES #)
(Facility Manager – Printed Name)	(Facility Manager – Signature)
(Other Individual – Printed Name & Title)	(Other Individual – Signature)
(Other Individual – Printed Name & Title)	(Other Individual – Signature)
(Other Individual – Printed Name & Title)	(Other Individual – Signature)

P. Certifying the BMP Plan with the Permitting Authority

Once your BMP plan has been developed and the facility manager and individuals responsible for implementing the BMP plan have reviewed and endorsed the plan, you must do the following:

1. Keep a copy of the BMP plan in your records. The plan must be made available to the permitting authority upon request.

2. Send a signed letter/form to your permitting authority stating that you have developed a BMP plan. The letter/form should include your name and title, name of the facility, NPDES number, and date the BMP plan was developed. An example certification form that may be submitted to your permitting authority is available in Appendix F of the BMP Guidance.

BMP Plan Checklist for Flow-Through and Recirculating Facilities

This checklist may be used to ensure that all required components are included in your BMP plan.

FACILITY DESCRIPTION

- ☐ A short description of your facility.

SOLIDS CONTROL

- ☐ Description of feed management/feeding strategies that limit feed input to achieve production goals and sustain targeted rates of aquatic animal growth, while minimizing potential discharges of uneaten feed/waste products to waters of the U.S.
- ☐ Description of procedures for routine* cleaning of rearing units and offline settling basins.
- ☐ Description of procedures for inventorying, grading, and harvesting aquatic animals that minimize discharge of accumulated solids.
- ☐ Description of the process for removing and disposing of aquatic animal mortalities on a regular basis to prevent discharge to waters of the United States, except where authorized by the permitting authority in order to benefit the aquatic environment.

MATERIAL STORAGE

- ☐ Description of procedures/practices to ensure proper storage of drugs, pesticides, and feed in a manner designed to prevent spills that may result in the discharge of drugs, pesticides, and feed to waters of the United States.
- ☐ Procedures for properly containing, cleaning, and disposing of any spilled materials.

STRUCTURAL MAINTENANCE

- ☐ Description of routine* procedures for inspecting production systems and wastewater treatment systems to identify and promptly repair damage.
- ☐ Description of regular* procedures for conducting maintenance of production systems and wastewater treatment systems to ensure their proper function.

RECORD-KEEPING

- ☐ Description of how you will maintain records for aquatic animal rearing units documenting feed amounts and estimates of the numbers and weights of aquatic animals to calculate FCRs.
- ☐ Description of how you will keep records documenting frequency of cleaning, inspections, maintenance, and repairs.

TRAINING

- ☐ Description of procedures for training all relevant personnel in spill prevention and how to respond to a spill to ensure proper clean-up and disposal of spilled materials.
- ☐ Description of procedures for training personnel on proper operation/cleaning of production and wastewater treatment systems (includes feeding procedures and proper equipment use).

CERTIFICATION

- ☐ Sent a letter to your permitting authority, certifying that a BMP Plan was developed for your facility. Refer to Appendix F for an example of a certification letter.

* Be sure to define "routine" and "regular" (which can vary during the year) in your BMP Plan.

BMP Plan Checklist for Net Pen Facilities

This checklist may be used to ensure all required components are included in your BMP plan.

Facility Description

- ☐ A short description of your facility.

Feed Management

- ☐ Description of feed management/feeding strategies that limit feed input to achieve production goals and sustain targeted rates of aquatic animal growth, while minimizing potential discharges of uneaten feed/waste products to waters of the U.S.
- ☐ Description of using active feed monitoring and management strategies (approved by the permitting authority) to minimize accumulation of uneaten feed beneath the pens.

Waste Collection and Disposal, Transport or Harvest Discharge, Carcass Removal

- ☐ Description of how you will make sure to collect, return to shore, and properly dispose of all feed bags, packaging materials, waste rope, and netting.
- ☐ Description of practices to minimize discharge associated with transport or harvesting of aquatic animals (including blood, viscera, carcasses, or transport water containing blood).
- ☐ Description of procedures to ensure removal and disposal of aquatic animal mortalities properly on a regular basis to prevent their discharge into water of the U.S.

Material Storage

- ☐ Description of procedures/practices to ensure proper storage of drugs, pesticides, and feed to prevent spills that may result in discharge to waters of the U.S.
- ☐ Procedures for properly containing, cleaning, and disposing of any spilled materials.

Maintenance

- ☐ Description of routine* procedures for inspecting production systems to identify/repair damage.
- ☐ Description of regular* procedures for conducting maintenance of production systems to ensure their proper function.

Record-keeping

- ☐ Description of how you will maintain records documenting feed amounts and estimates of numbers and weights of aquatic animals to calculate FCRs.
- ☐ Description of how you will document net changes, inspections, and repairs.

Training

- ☐ Description of procedures for training all relevant personnel in spill prevention and how to respond to spills to ensure proper clean-up and disposal of spilled materials.
- ☐ Description of procedures for training personnel on proper operation and cleaning of production systems, including feeding procedures and proper use of equipment.

Certification

- ☐ Sent a letter to your permitting authority, certifying that a BMP Plan was developed for your facility. Refer to Appendix F for an example of a certification letter.

* Be sure to define "routine" and "regular" (which can vary during the year) in your BMP Plan.

BMP Certification Form

Facility Name:_____ NPDES Permit Number:_____

Printed Name:_____

Title (owner, operator, etc.):_____

Date the BMP Plan was developed:_____

I certify that a BMP plan was developed for:_____
(name of facility)

A copy of the BMP plan is available for inspection at the following address:

_____

_____

_____

Signature:_____ Date:_____

* Note: This is only an example of what a certification form could look like.

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.