Remediation General Permit under the National Pollutant Discharge Elimination System (NPDES) for Discharges in Massachusetts

Massachusetts General Permit, Permit No. MAG910000

In compliance with the provisions of the Federal Clean Water Act (CWA), as amended (33 U.S.C. §1251 et seq.), and the Massachusetts Clean Waters Act, as amended (M.G.L. Chap.21 § 2653), the following permit authorizes discharge of water from four general categories, including:

1. site remediation[1] primarily related to petroleum contamination;
2. site remediation[1] activities where petroleum is not the primary contaminant ("non-petroleum" sites);
3. contaminated construction site dewatering; and
4. miscellaneous contaminated discharges.

Such discharges are authorized at sites located in Massachusetts (including both Commonwealth and Indian Country lands) to all classes of waters designated in the Massachusetts Water Quality Standards, 314 CMR 4.00 et seq., unless otherwise restricted, in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

This permit shall become effective on September 10, 2010. If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect. However, Region I New England's Office of the U.S. Environmental Protection Agency (EPA) cannot provide written notification of coverage under this general permit to any permittee who submits Notice of Intent to EPA after the permit's expiration date. Any permittee who was granted coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of: reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; the permittee's submittal of a Notice of Termination; issuance of an individual permit; or a formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general or individual permit.

Signed this 26 day of August, 2010

/S/ SIGNATURE ON FILE

Stephen S. Perkins, Director
Office of Ecosystem Protection
U.S. Environmental Protection Agency
Boston, MA

/S/ SIGNATURE ON FILE

Glenn Haas, Director
Division of Watershed Management
Department of Environmental Protection
Commonwealth of Massachusetts
Boston, MA

[1] For discharges that are subject to the Massachusetts Contingency Plan and 310 CMR 40.0000, the permit applies as a matter of federal, but not state, law. For all other discharges, the permit applies under both.

Remediation General Permit under the National Pollutant Discharge Elimination System (NPDES) for Discharges in New Hampshire

New Hampshire General Permit, Permit No. NHG910000

In compliance with the provisions of the Federal Clean Water Act (CWA), as amended (33 U.S.C. §1251 et seq.), the following permit authorizes discharge of water from four general categories, including:

1. site remediation activities primarily related to petroleum contamination;
2. site remediation activities where petroleum is not the primary contaminant ("non-petroleum" sites);
3. contaminated construction site dewatering; and
4. miscellaneous contaminated discharges.

Such discharges are authorized to all waters located in New Hampshire, unless otherwise restricted by the New Hampshire Water Quality Standards,[2] in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

This permit shall become effective on September 10, 2010. If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect as to any particular permittee. However, Region I New England's Office of the U.S. Environmental Protection Agency (EPA) cannot provide written notification of coverage under this general permit to any permittee who submits Notice of Intent to EPA after the permit's expiration date. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of: reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; the permittee's submittal of a Notice of Termination; issuance of an individual permit; or a formal permit decision by the Director not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

Signed this 26 day of August, 2010

/S/ SIGNATURE ON FILE

_____

Stephen S. Perkins
Director, Office of Ecosystem Protection
U.S. Environmental Protection Agency
Boston, MA

[2] 50 RSA § 485-A:8 and the N.H. Code of Administrative Rules, Chapter Env-Wq 1700 Surface Water Quality Regulations (May 2008).

Table of Contents

APPENDICES:

Appendix I - Areas of Critical Environmental Concern (ACEC) in Massachusetts

Appendix II - Endangered Species Act: List of Species by County in Massachusetts and in New Hampshire

Appendix III - Effluent Limits and Monitoring Requirements by Sub-Category

Appendix IV – Chloride and Total Recoverable Metals Limitations at Selected Dilution Ranges & Technology-Based Ceiling Limitations for Facilities Located in Massachusetts and New Hampshire

Appendix V – Notice of Intent (NOI), Notice of Change (NOC), and Notice of Termination (NOT) Suggested Forms & Instructions

Appendix VI – Test Methods and Minimum Levels for Pollutants Covered by the RGP

Appendix VII – Guidance for Endangered Species Act Review & National Historic Preservation Act Review

Appendix VIII – Monthly Data Summary Form and Instructions

PART I - Permit Applicability and Conditions

A. Applicability and Coverage of the Remediation General Permit (RGP)

1. Subject discharges - During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge treated wastewater to surface waters from a variety of discharges listed below and identified in Table I, including discharges from:

   a. site remediation activities related primarily to petroleum, including site remediation of groundwater contaminated from petroleum spills or leaks, such as gasoline, fuel oil, or other oil contaminated sites (including residential non-business remediation discharges);

   b. site remediation where the spill or leak is not petroleum-specific, such as sites contaminated with volatile organic compounds and/or metals;

   c. construction dewatering of contaminated sites, such as at EPA or state-listed contamination sites, including locations where sub-surface site investigations and/or soil characterization for disposal have revealed various common pollutants typically associated with past industrialization, power generation, incineration, or other activity and where no specific source of contamination is apparent; and

   d. dewatering of miscellaneous contaminated discharge sites, such as long-term remediation of contaminated sumps, and short-term contaminated dredge drain back waters (if not covered by Section 401/404 permit), aquifer pump testing to evaluate remediation of formerly contaminated sites, well development or rehabilitation at contaminated or formerly contaminated sites, and hydrostatic testing of pipelines and tanks.

Table I: Activities Covered by the Remediation General Permit

Activity Category	Activity Sub-Category
I - Petroleum Related Site Remediation	A. Gasoline Only Sites B. Fuel Oils and Other Oil Sites (including Residential Non-Business Remediation Discharges) C. Petroleum Sites with Additional Contamination
II - Non Petroleum Site Remediation	A. Volatile Organic Compound (VOC) Only Sites B. VOC Sites with Additional Contamination C. Primarily Heavy Metal Sites
III - Contaminated Construction Dewatering	A. General Urban Fill Sites B. Known Contaminated Sites

Activity Category	Activity Sub-Category
IV - Miscellaneous Related Discharges	A. Aquifer Pump Testing to Evaluate Formerly Contaminated Sites B. Well Development/Rehabilitation at Contaminated/Formerly Contaminated Sites C. Hydrostatic Testing of Pipelines and Tanks D. Long-Term Remediation of Contaminated Sumps and Dikes E. Short-term Contaminated Dredging Drain Back Waters (if not covered by 401/404 permit)

2. Geographic Coverage Area

   a. Massachusetts: All of the discharges to be authorized by this general NPDES permit for dischargers in the Commonwealth of Massachusetts are into all waters of the Commonwealth and Indian Country lands unless otherwise restricted by the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 (or as revised), including 314 CMR 4.04(3) Protection of Outstanding Resource Waters.

   b. New Hampshire: All of the discharges to be authorized by this general NPDES permit for dischargers in the State of New Hampshire are into all waters of the State of New Hampshire unless otherwise restricted by the State Water Quality Standards: see 50 RSA § 485-A:8 and the N.H. Code of Administrative Rules, Chapter Env-Wq 1700 or as revised.

3. Specific Discharges Excluded From Coverage - the following discharges are excluded from coverage under this General Permit:

   a. Discharges to Outstanding Resource Waters in Massachusetts and New Hampshire:

      i. as defined in Massachusetts by 314 CMR 4.06(3), including Public Water Supplies (314 CMR 4.06(1)(d)1) which have been designated by the state as Class A waters, unless a variance is granted by the Massachusetts Department of Environmental Protection (MassDEP) under 314 CMR 4.04(3)(b), or

      ii. as defined in New Hampshire under Env-Wq 1708.05(a), unless allowed by the New Hampshire Department of Environmental Services (NH DES) under Env-Wq 1708.05(b).

   b. Discharges to Areas of Critical Environmental Concern (ACEC) in Massachusetts as defined by the Massachusetts Wetlands Protection Act c.131, Section 40, unless a variance as allowed in the water quality standards is granted by the State. See Appendix I for a listing of ACECs by city and town in Massachusetts.

c. Discharges to Class A waters in New Hampshire, in accordance with RSA 485-A: 8, I. To determine if the proposed receiving water is a Class A water body, contact the NH DES at the address listed in Appendix V of this permit.

d. Discharges for designated areas under the Essential Fish Habitat Act (EFH) unless the requirements specified in this permit are fulfilled.

e. Discharges of pollutants which are specifically excluded by the State's published 303(d) lists of "non-attainment" segments of receiving waters in the Commonwealth of Massachusetts and the State of New Hampshire, as defined by the CWA and approved by EPA unless the discharge is at or below a concentration that meets water quality standards.

f. Discharges to Publicly-Owned Treatment Works (POTW) which are permitted under Section 402 of the CWA (NPDES).

g. Discharges directly or indirectly to the ground.

h. Discharges of dredge drain back waters covered by CWA Section 401 and 404 and 40 CFR 330.5(a)(16) administered by the U.S. Army Corps of Engineers (USACE) where USACE intends to permit the discharge. Short term discharges (e.g., Pilot testing or other studies requiring discharge) may be covered under the RGP provided the USACE does not intend to permit the discharge.

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i. Discharges of water supply or other well development or rehabilitation waste waters, except discharges of treated water from the development or rehabilitation of monitoring wells at contaminated or formerly contaminated sites. This permit does not cover wastewater from wells that contain naturally occurring substances or materials from only routine maintenance activities. Note that in New Hampshire, such activities may also need a groundwater permit.

j. Uncontaminated construction dewatering discharges eligible for coverage under EPA Region I's General Permit for Construction Dewatering dated September 23, 2008, or non-storm water discharges covered by the EPA's national Construction General Permit (CGP) (effective June 30, 2008, modified January 20, 2010), and subsequent reissuances of these permits.

k. Uncontaminated pumped groundwater discharges authorized under the EPA Region I's General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems effective May 1, 2003, any subsequent reissuance of this permit, or any other EPA Region1 permit for stormwater discharges from a Municipal Separate Storm Sewer System.

l. Short-term discharges (typically lasting less than 7 days or as determined by EPA on a case by case basis) from sumps or other similar water collection structures.

m. "New Source" dischargers, as defined in 40 CFR § 122.2.

n. Discharges listed in an individual NPDES permit unless:
   i. The permit has expired;
   ii. EPA has terminated the existing permit;
   iii. The discharges are separate from the currently permitted discharges; or
   iv. The discharge is new and eligible for this permit (e.g., an industry where the primary process waste discharge is covered by an individual permit but the facility is conducting groundwater remediation with separate treatment and discharge).

o. Discharges for which the Director makes a determination that an individual permit is required under 40 CFR § 122.28(b) (3). See Part I.B.8., below.

p. Discharges of any commercial or industrial wastes to Ocean Sanctuaries in Massachusetts, as defined at 302 Part CMR 5.00.

q. Discharges to territorial seas, as defined by Section 502 of the CWA.

r. Discharges made from a CERCLA remediation site under a signed Record of Decision under 40 CFR § 300.400(e) (1).

4. Endangered and Threatened Species and/or Critical Habitat[3] - Proposed discharges that are located in areas in which listed endangered or threatened species may be present, are not automatically covered under this permit. Prior to submitting a Notice of Intent (NOI), operators must demonstrate permit eligibility following the eligibility requirements of Appendix VII and the most recent Endangered and Threatened Species County-Species List in Appendix II.

   There are four listed species of concern to applicants applying for permit coverage, namely the shortnose sturgeon, the dwarf wedge mussel, the bog turtle, and the northern redbelly cooter. The shortnose sturgeon is listed under the jurisdiction of the National Marine Fisheries Service and the dwarf wedgemussel the bog turtle and the northern redbelly cooter are listed under the jurisdiction of the U.S. Fish and Wildlife Service.

5. National Historic Preservation Act - Facilities which adversely affect properties listed or

[3] Some, but not all, listed species have designated critical habitats. Exact locations of such habitat are provided in the endangered species regulations at 50 CFR part 17 and part 226.

eligible for listing in the National Registry of Historic Places under the National Historic Preservation Act of 1966, 16 U.S.C. Sections 470 et seq., are not automatically covered under this permit. Prior to submitting a Notice of Intent (NOI), applicants must determine whether there are any historic properties or places listed on the National Register or if any are eligible for listing on the register (e.g., they are "eligible for listing") in the path of the discharge(s) or in the vicinity of any construction of treatment systems or BMPs related to the discharge(s), that may be affected by discharge or discharge-related activities. Applicants must comply with applicable State, Tribal and local laws concerning the protection of historic properties and places. Prior to submitting the NOI, the applicant must meet the requirements of Appendix VII, Section II, pertaining to historic places.

B. Application and Notice of Intent (NOI)

1. Definition of Owner and Operator

   a. For purposes of this permit, the Owner or Operator, as defined by 40 CFR § 122.2, means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

2. Eligibility for Coverage Under the Remediation General Permit (RGP) - The following types of facilities or sites are eligible to apply for coverage under the RGP:

   a. New dischargers.

   b. Facilities with on-going discharges pursuant to EPA or State-approved site remediation projects.

   c. Facilities with expired individual permits that have been administratively continued in accordance with 40 CFR § 122.6 may apply for coverage under this general permit. If, and when, EPA grants coverage under this permit, EPA will initiate the process to revoke the individual permit.

   d. Any facility operating under an effective (unexpired) individual NPDES permit may request that the individual permit be revoked and that coverage under this general permit be granted, as outlined in 40 CFR § 122.28(b)(3)(v). If, and when, EPA grants coverage under this permit, EPA will initiate the process to terminate the individual permit.

3. Notice of Intent (NOI)

The Operator of the site or facility, including residential owners treating contaminated ground water resulting from broken heating oil tanks, is responsible for applying for the permit as required by 40 CFR § 122.21(b). To be covered by this general permit, operators of applicable sites or facilities, whose discharge or discharges are identified in Part I.A.1 above, must submit to EPA and the appropriate State, a complete, signed Notice of Intent (NOI). The NOI shall contain all information required in the NOI instructions in Appendix V of this permit. For purposes of this RGP, the NOI can consist of either the suggested NOI form in Appendix V of this permit, or another form of official correspondence containing all of the information required in the NOI instructions in Appendix V of this permit.

4. General Application Requirements

a. Facilities for Which an Individual NPDES Application Has Not Been Previously Submitted or Who Have Never Submitted a NOI Under the 2005 RGP - For facility operators who have not previously filed a NPDES application for coverage under an individual permit or who have never submitted a NOI under the 2005 RGP, the following conditions apply:

i. Operators of proposed new discharges seeking coverage under this general permit must submit a NOI to EPA post-marked at least 14 days prior to the commencement of discharge.

ii. Operators of existing discharges pursuant to EPA- or State-approved site remediation projects must file a NOI for coverage under this permit or application Forms 1 & 2C for coverage under an individual permit. The applicant must submit the NOI or individual permit application within 90 days of the effective date of the RGP to EPA, the respective State, and the municipality in which the proposed discharge is located. See Appendix V for NOI instructions and addresses.

b. Facilities for Which Individual NPDES Permit Applications Have Been Previously Submitted – For facility operators with discharges pursuant to approved site remediation projects, who have previously filed a NPDES application for coverage under an individual permit, the following conditions apply:

i. If a facility owner or operator has made only minor changes to the discharge operations since submission of the application, the applicant may notify EPA in writing that the existing application continues to be accurate and is serving in lieu of a notice of intent (NOI). Minor changes include changes to administrative information, changes to the treatment system that improve performance or decrease flow, changes to the discharge location on the same receiving water, etc.

ii. If a facility owner or operator has made significant changes to the discharge operations since submission of the application, the operator must within 90 days file a NOI following the instructions in Appendix V. Significant changes include: discharges containing chemicals not reported in the original application, additional discharge locations, discharges to different receiving waters, changes of flow greater than 25%, or changes of flow that would affect permit limits by lowering the dilution factor.

c. Facilities That Received Coverage under the Expired 2005 RGP – Operators that applied and received coverage under the 2005 RGP must re-apply for coverage by submitting a NOI no later than 90 days after the effective date of this permit. For permittees that submit a complete and timely (within the 90 day period) NOI under this permit, coverage will be maintained under the expired permit until EPA authorizes the discharge under this permit, or notifies the permittee of permit termination. If the permittee terminates discharge prior to 90 days, the permittee must submit a Notice of Termination to EPA in accordance with Part I.G.2.

5. Consultation with Federal Services - All applicants must comply with the requirements of Appendix VII, Section I, regarding consultation pertaining to endangered species, and with Appendix VII, Section II, regarding historic preservation.

6. Signature - The Notice of Intent must be signed by the operator(s) of the facility, as defined in Part I.B.1., above, in accordance with the signatory requirements of 40 CFR § 122.22.

7. Submission of Notice of Intent (NOI) - Each applicant must submit a copy of the Notice of Intent to EPA and the appropriate State authority listed in Appendix V. Additionally, the applicant must submit a copy of the NOI to the municipality in which the proposed discharge will be located.

8. When the Director May Require Application for an Individual NPDES Permit - The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit.

   Instances where an individual permit may be required include the following:

   i. The discharge(s) is a significant contributor of pollution;
   ii. The discharger is not in compliance with the conditions of this permit;
   iii. A change has occurred in the availability of the demonstrated technology of practices for the control or abatement of pollutants applicable to the point source;
   iv. Effluent limitation guidelines are promulgated for point sources covered by this permit;
   v. A Water Quality Management Plan or Total Maximum Daily Load containing requirements applicable to such point source is approved;
   vi. The discharge is to an outstanding natural resource water;

vii. The discharge causes or may cause violations to the water quality standards of the receiving water or if actual or imminent harm to aquatic organisms is identified;
viii. The discharge adversely impacts any federally-managed species for which Essential Fish Habitat has been designated;
ix. The discharge is into waters which are specifically excluded by the States' published 303(d) lists of non-attainment segments of receiving waters in the Commonwealth of Massachusetts and the State of New Hampshire, as defined by the CWA and approved by EPA, and the discharge is above a concentration that meets water quality standards.
x. The point source(s) covered by this permit no longer:
    1. involve the same or substantially similar types of operations;
    2. discharges the same types of wastes;
    3. requires the same effluent limitations or operating conditions; or
    4. requires the same or similar monitoring.
xi. In the opinion of the Director, the discharge is more appropriately controlled under an individual or different general permit.

If the Director requires an individual permit, the permittee will be notified in writing that an individual permit is required, and will be given a brief explanation of the reasons for this decision. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that operator is automatically terminated on the effective date of the individual permit.

9. EPA Determination of Coverage - Any applicant may request to be included under this general permit but the final permitting decision rests with the EPA. Coverage under the general permit will not be effective until EPA has reviewed the notice of intent and existing file information, made a determination that coverage under the RGP is appropriate, and notified the operator in writing of its determination. The effective date of coverage will be the date of signature of the EPA letter authorizing the discharge (the EPA authorization letter).

C. Effluent Limitations and Monitoring Requirements

1. General Effluent Limitations and Monitoring Requirements – Each permitted discharge (including the influent and effluent) shall be limited and monitored by the permittee in accordance with the EPA authorization letter, Parts I.C, D, E, and F, and Parts II.C and D of this permit.

2. Water Quality Requirements - The discharge shall not cause a violation of the water quality standards of the receiving water.

   a. The discharge shall be adequately treated to insure that the surface water remains free from pollutants in concentrations or combinations that settle to form harmful deposits, float as foam, debris, scum, form a visible sheen or other visible pollutants.

   b. The discharge shall be adequately treated to insure that the receiving waters remain free from color, odor, taste, or turbidity in concentrations that would render them unsuitable for their designated use unless such concentrations are naturally occurring.

   c. EPA may impose additional water quality-based limitations on a site-specific basis, or require the permittee to obtain coverage under an individual permit, if information on the NOI, required reports, or from other sources indicates that the permittee's discharges are not controlled as necessary to meet applicable water quality standards.

   d. EPA may notify the permittee of additional discharge monitoring requirements. Any such notice will briefly state the reasons for the monitoring, locations, and parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

3. Prohibition of Toxic Discharge - The discharge shall not contain materials in concentrations or in combinations which are hazardous or toxic to aquatic life or which would impair the uses designated by the classification of the receiving waters.

4. Chemical Effluent Limits and Influent and Effluent Monitoring – Upon receiving authorization to discharge under this permit, in addition to the general monitoring requirements of Part II.C and Part II.D, and after the initial startup sampling and testing requirements of Part I.D.2 have been met, permittees must monitor the untreated influent and treated effluent for all the parameters identified in EPA's authorization letter. For those parameters identified in the authorization letter, the permittee must monitor according to the monitoring requirements listed in Appendix III, Appendix IV, and Appendix VI; and must meet the effluent limits listed in Appendix III.

5. pH - For discharges in Massachusetts, Table II below applies to the effluent only. For discharges in New Hampshire, Table III below applies to the effluent only.

Table II: pH Effluent Limits and Monitoring Requirements in Massachusetts

Effluent Characteristic	Units	Discharge Limitation	Monitoring Requirement	
			Measurement Frequency	Sample Type
pH Range for Class A & Class B Waters [4]	Standard Units	6.5 to 8.3 [5]	1/Month	Grab [6]
pH Range for Class SA & Class SB Waters [4]	Standard Units	6.5 to 8.5 [5]	1/Month	Grab [6]

Table III: pH Effluent Limits and Monitoring Requirements in New Hampshire

Effluent Characteristic	Units	Discharge Limitation	Monitoring Requirement	
			Measurement Frequency	Sample Type
pH Range for Class B Waters [4]	Standard Units	6.5 to 8.0	1/Month	Grab[6]

[4] State Certification Requirement.
[5] The permittee may request that the pH range be widened to within 6 to 9 s.u. or another range due to naturally occurring conditions in the receiving water. Similarly, permittees may request such a change if the naturally occurring source water is unaltered by the permittee's operation. The scope of any demonstration must receive prior approval from the MassDEP. A Notice of Change (NOC) must be submitted to the EPA Director upon approval from the state (see Appendix V).
[6] pH sampling for compliance with permit limits may be performed using field methods as provided for in EPA test Method 150.1.

6. Temperature – Effluent limits and monitoring requirements associated with temperature for Massachusetts and New Hampshire are presented in Table IV.

Table IV: Temperature Effluent Limits and Monitoring Requirements

Class of Water Body and Type of Fishery	Units	Discharge Limitation	Monitoring Requirement	
			Measurement Frequency	Sample Type [7]
Class A and B warm water fisheries	Fahrenheit (^{o}F)	83 (daily maximum)	1/Month	Grab
Class A and B cold water fisheries	^{o}F	68 (daily maximum)	1/Month	Grab
For sites in **Massachusetts**, the following coastal and marine temperature limits apply:				
Coastal and marine waters (Class SA and SB)	^{o}F	85 (daily maximum) 80 (maximum daily mean)	1/Month	Grab
For sites in **Massachusetts**, the following temperature changes apply:				

Class of Water Body	Type of Fishery or Subcategory	Units	Maximum Change in Temperature from Background	Measurement Frequency	Sample Type [7]
A	--	^{o}F	1.5	1/Month	Grab
B	Warm Water	^{o}F	5	1/Month	Grab
	Cold Water and Lakes/Ponds	^{o}F	3	1/Month	Grab
SA	Coastal	^{o}F	1.5	1/Month	Grab
SB	July to September	^{o}F	1.5	1/Month	Grab
	October to June	^{o}F	4	1/Month	Grab

[7] Temperature sampling per Method 170.1. Change in temperature from background shall be determined by subtracting the temperature of the effluent from the temperature of the receiving water taken "upstream" of the discharge.

7. Consideration of Dilution Factors for Discharges of Metals - Where discharges of metals require effluent limits, dilution factors may be applied to the discharges of metals to freshwater.[8] In the NOI, the applicant must select the applicable parameters and, if necessary, an appropriate dilution factor. See Appendix V, Section I.A.3.c of the NOI Instructions for detailed instructions for determining the applicable effluent limitations for metals into freshwater.

8. Certification and Requests for Monitoring Reduction

   a. If the discharge continues for six (6) months or longer from the start of the discharge under this permit, the permittee must certify by letter to EPA (including laboratory data) that any parameters that were not required to be monitored per EPA's authorization letter, are not present (i.e., certify parameters are "believed absent"). Such certification shall be made between six (6) months and twelve (12) months from the date of EPA's authorization letter and additionally during each subsequent twelve (12) to twenty four (24) month period that the discharge continues.

      i. Certification of any parameter believed absent shall be based on laboratory data from a minimum of one (1) new untreated influent sample taken within 30 days of the recertification request.
      ii. Certifications of parameters that are believed absent must be signed in accordance with 40 CFR § 122.22.

   b. If the discharge continues for fewer than six (6) months from the start of the discharge under this permit, certification is not necessary.

   c. Regardless of certification of chemicals as believed absent, the Director may provide written notice to any operator, requiring monitoring of specific parameters. Any such notice will briefly state the reasons for the monitoring, parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

   d. As required in 40 CFR § 122.42, in addition to reporting requirements specified in the permit, permittees must notify the Director as soon as they have reason to believe that any activity has occurred which would result in the discharge of any toxic pollutant which is not otherwise limited in the permit and is referenced in 40 CFR § 401.15.

   e. Certain monitoring requirements may be reduced[9] upon demonstration by ongoing

[8] Dilution factors may be available for discharges to saline waters but only with approval of the flow modeling information from the State prior to the submission of the NOI.

[9] Unlike monitoring requirements, reduction of RGP limits is not allowable without a permit modification in accordance with 40 CFR § 122.62.

sampling and analytical data.

i. To be eligible for a reduction in influent monitoring, the permittee must provide a minimum of 12 consecutive months of laboratory data. This data must be submitted with a Notice of Change (NOC) per Appendix V, Section II.

ii. To be eligible for a reduction in effluent monitoring, the permittee must provide 24 consecutive months of data demonstrating compliance with the applicable parameter limits, and applicable minimum levels (see Part I.D.1.d), or demonstrating no toxicity, in the case of whole effluent toxicity testing is required. This type of change requires written approval by the Director. Prior to receiving written approval, the permittee must continue to monitor at the frequency specified in the RGP. This data must be submitted with a NOC.

9. Flow Monitoring - There is no single flow limit that applies to all dischargers covered by this general permit. For proper operation and maintenance of treatment systems, the permittee must monitor and comply with site-specific flow limits as determined by the treatment system.

a. Design flow: The permittee shall monitor flow with a continuous flow meter, i.e., a meter that records the instantaneous gallons per minute (gpm) and total gallons discharged, to ensure that it does not exceed the design flow of the treatment system, determined by the component of the treatment train with the most restricted flow and as reported on the NOI. See BMPP requirements in Part I.E.2.

b. Total flow: The permittee shall monitor total monthly flow with a continuous total flow meter, i.e., a totalizer that records the instantaneous gallons per minute (gpm) and total gallons discharged, in order to ensure proper operation and maintenance of the effluent treatment system. See BMPP requirements in Part I.E.2.

D. Sampling, Testing, Recordkeeping, and Reporting Requirements

1. Sampling and Testing

a. Representative sampling of the influent and effluent characteristics is required. Influent sampling should be taken at a point prior to any treatment of the water, i.e., raw influent. For effluent, samples should be taken after all treatment and just prior to discharge to the receiving water or, if the treated effluent is commingled with another discharge, prior to such commingling.

b. All samples shall be tested using the analytical methods found in 40 CFR §136, or alternative methods approved by EPA, in accordance with the procedures in 40 CFR §136, or approved methods by the Commonwealth of Massachusetts, New Hampshire

and/or, Standard Methods 18th, 19th or 20th Editions authorized in the latest EPA Federal Register/ Vol. 72, No. 47/Monday March 12, 2007/ Rules and Regulations.

i. For measuring volatile compounds, Method 8260C[10], (or most recent version) may be used as a substitute for CWA Methods 524.2, 602, 624, or 1624.
ii. For measuring semi-volatile compounds, Method 8270D[11] (or the most recent version) may be used as a substitute for Methods 610, 625, and 1625.
iii. Any use of Method 8260C[18] or Method 8270D must be accompanied by documented quality assurance quality control (QA/QC) test results to prove that the analytical process can achieve the lower detection limits of the alternative methods.

c. Compliance with the permit limits will be based on the Minimum Levels (MLs)[12] listed in Appendix VI of this permit. Any value below the applicable ML shall be reported as zero.

d. Analysis of influent and effluent samples shall use test methods with the MLs at or below limits where practicable. See Appendix VI for a list of test methods and MLs.

i. Where sample concentrations are above the MLs, any of the methods listed for that pollutant in Appendix VI may be used.

ii. Where approved methods have MLs above the permit limits, the permittee must use the approved method with the lowest possible ML before the concentration can be considered non-detectable.

e. pH shall be monitored according to Method 150.1 or other method approved for use under 40 CFR § 136.

f. Temperature shall be monitored according to Method 170.1 or other method approved for use under 40 CFR § 136.

2. Initial Treatment System Discharge Startup - The permittee must perform the following additional sampling and analysis of all applicable parameters during the first month of discharge:

[10] Method 8260C must be preceded by the sample preparation Method 5030A.
[11] Method 8270D must be preceded by either Method 3510C or Method 3535 as the sample preparation method. In either case, the quality control requirements of Method 3500B must be taken into account. The sample preparation method must be specified with data analysis records. Method 8270D may be modified to provide lower detection and quantitation limits using Selected Ion Monitoring (SIM).
[12] Minimum Level (ML) is the lowest level at which the analytical system gives a recognizable signal and acceptable calibration point for the analyte. The ML represents the lowest concentration at which an analyte can be measured with a known level of confidence. The ML is calculated by multiplying the laboratory-determined method detection limit by 3.18 (see 40 CFR Part 136, Appendix B).

a. During the first week of discharge, permittees must sample from the untreated influent and from the treated effluent on the first and third day of the discharge. Note: in cases where days fall on a holiday, Sunday, or other normal non-workday, the schedule may be adjusted to the next day before or after the off-day and noted on the monitoring report.

b. During the first week, samples may be analyzed in accordance with 40 CFR § 136 or by other methods approved by this permit with a 72-hour turnaround time. After the first week, samples must be analyzed with a seven (7) day turnaround time.

c. If the treatment system is working properly and achieving effluent limits, sampling shall be monthly thereafter for the term of the permit. After the first week, results for these additional samples shall be received and reviewed by the operator no more than seven (7) days from the sampling event.

d. During system startup, the operator may also utilize field monitoring and visual observations as appropriate (e.g. portable organic vapor analysis, pH, turbidity, or other tests) to aid in proper system startup.

e. In addition to the reporting requirements found at Part I. D.4., if the operator has any indication of water treatment system malfunction or violation of effluent limitations, the operator must immediately shut down the system discharge until appropriate repairs or other actions can be implemented.
   i. If the treatment system is shut down during startup, at re-start of treatment and discharge, the operator shall utilize field monitoring again and an additional laboratory sample must be taken with a 24-hour turnaround time when results must be reviewed by the operator.
   ii. If the problem has been corrected, the operator may resume with initial system start-up per Part I.D.2.c-d above.
   iii. If the problem persists, the operator must shut down the treatment system again and make necessary repairs. After repair, the permittee must initiate system start-up per Part I.D.2.a-d above.
   iv. The permittee must notify the RGP contact listed at http://www.epa.gov/region1/npdes/rgp.html and the appropriate State via telephone, fax, e-mail or other means within 48 hours of the need to shut down the treatment system and cease discharge a second time.
   v. Discharge may resume upon completion of correction of the problems or unless otherwise directed by EPA or the State contact.

f. Existing data may be substituted for the data required by Part I.D.2.a - e above:

   i. If equivalent initial sampling and analysis has been conducted prior to the effective date of the permit pursuant to: Massachusetts Regulations 310 CMR 40.0000, the Massachusetts Contingency Plan (Chapter 21E); New Hampshire's Title 50 RSA

485-A: Water Pollution and Waste Disposal or Title 50 RSA 485-C: Groundwater Protection Act; or the 2005 EPA RGP program.

ii. Unless the existing treatment system has been interrupted for 45 consecutive days or more prior to the effective date of this permit. Such systems must meet the applicable requirements of Part I.D.5 or 6 below.

3. Acute Toxicity Testing and Monitoring - Permittees are prohibited from adding materials or chemicals which would produce a toxic effect to any aquatic life.

   a. If the States and/or EPA suspect that a discharge may cause or contribute to an excursion above the State's narrative criterion for toxicity, the State or EPA may require a Whole Effluent Toxicity (WET) test and/or a priority pollutant scan of the effluent as authorized at 40 CFR Section 122.44(d) (1) (v). If toxicity testing is required, EPA will provide the permittee with a copy of the test procedure and detailed protocol.

   b. The permittee shall submit to EPA and the appropriate State Agency the results of all tests, as required at 40 CFR § 122.41(l) (4) (ii).

4. Recordkeeping and Reporting

   a. In addition to the recordkeeping requirements found in Part II.C of this permit, the results of the sampling, monitoring, testing, and analysis shall be summarized monthly on the form provided in Appendix VIII and kept on-site or with the permittee and available for inspection upon request by EPA or the State.

   b. The permittee shall submit a summary of the results from sampling, monitoring, testing, and analysis to the EPA and state addresses listed in Appendix VIII, as appropriate, if:
      i. The results indicate that a violation of the effluent limitations of this permit has occurred and the steps the permittee has taken to resolve the violation, or
      ii. EPA or the State requests such a report.

5. Intermittent Operations and System Re-Start - If the discharge has been interrupted for more than 45 consecutive days but fewer than 120 consecutive days, the permittee must perform additional monitoring and reporting during re-start.

   a. A minimum of two (2) sets of influent and effluent laboratory samples of all applicable parameters must be taken during the first week after re-start of discharge.

   b. During the first week, samples must be analyzed in accordance with 40 CFR §136 or by other methods allowed by this permit with a 72-hour turnaround time. After the first week, samples may be analyzed with a 7 day or less turnaround time.

c. If the system is working properly and achieving effluent limits sampling shall be monthly thereafter.

d. If any sample or other observation indicates that the effluent quality exceeds any permit limitation(s), the same shutdown, repair, and notification requirements apply as do during initial startup.

e. The reporting requirements of Part I.D.4 apply.

6. Extended System Shutdown - Treatment systems and discharges that are interrupted for 120 or greater consecutive days are considered extended shutdowns. Any system re-starts after this period shall revert to the monitoring and reporting requirements for initial system startup of Part I.D.2.

7. Short-Term Discharges - Discharges lasting less than one week (7 days), such as: pump tests and discharge of temporarily containerized waters, excluding hydrostatic testing discharges, which are then terminated and are not planned to be re-started, are considered "short-term discharges."

   a. For all short-term discharges, the permittee must take a minimum of 2 representative influent and effluent samples, except for discharges lasting one day or less. Such discharges must take a minimum of one sample.

   b. At least one sample must be taken on the first day of discharge and one on the third day of discharge.

   c. Samples must be analyzed with a 72-hour turnaround time in accordance with 40 CFR§ 136 or by other methods allowed by this permit.

   d. The reporting requirements of Part I.D.4. apply.

8. Hydrostatic Testing Discharge Monitoring and Reporting Requirements - Hydrostatic test waters must meet additional monitoring requirements due to the unique nature of those activities.

   a. For New and Existing Tanks: The operator must take a minimum of six (6) representative grab samples, including:

      i. For influent sampling, the operator must take one (1) sample of the fill (source) water during the first 10% of the fill segment time and one (1) sample during the last 10% of the fill-segment time;

      ii. For in-process sampling, the operator shall take samples of the tank water, following

testing but before draining, one (1) at top and one (1) at bottom. The operator shall analyze and evaluate in-process samples prior to discharge. If the analysis demonstrates that the water quality does not meet the effluent limits established in this permit, the operator shall not discharge the effluent until treatment reduces the pollutant level below the limits established in this permit;

iii. For effluent sampling, the operator must take one (1) sample of the discharge water during the first 10% of discharge and one (1) sample during the last 10% of discharge. If at any time the analysis demonstrates that the effluent water quality is not consistent with the limits established in this permit, the operator shall cease discharging the effluent until further treatment achieves the effluent limits; and

iv. All effluent sampling shall be taken prior to the combination with any other wastewater.

b. For New and Existing Pipelines: The operator must take a minimum of six (6) representative grab samples, including:

i. For influent sampling, the operator must take one (1) sample of the fill (source) water during the first 10% and one (1) sample during the last 10% of the fill-segment time;

ii. For in-process sampling, the operator shall take two (2) samples of the pipeline water following depressurization. The operator shall analyze and evaluate in-process samples prior to discharge and if the analysis demonstrates that the effluent water quality is not consistent with the limits established in this permit, the operator shall not discharge the effluent until treatment reduces the pollutant level below the limits established in this permit;

iii. For effluent sampling, the operator must take one (1) sample of the discharge water during the first 10% of discharge and one (1) sample during the last 10% of discharge. If at anytime the analysis demonstrates that the discharge water quality is not consistent with the effluent limits established in this permit, the operator shall cease discharging the effluent until further treatment achieves the effluent limits;

iv. All effluent sampling shall be taken prior to the combination with any other wastewaters.

c. Permittees shall follow the reporting requirements of Part I.D.4.

E. Best Management Practices Plan (BMPP)

1. Development of a BMPP - The permittee shall develop and implement a Best Management Practices Plan (BMPP) for the discharge operations covered under this permit.

a. In accordance with good engineering practices, the permittee shall provide a plan for compliance with the terms of this permit. The BMPP must include methods:
   i. to minimize the potential for violations of the terms of the permit;
   ii. to protect the designated water uses of surrounding surface water bodies;
   iii. to mitigate pollution from materials storage areas, in-plant transfers of hazardous and/or toxic materials, process and material handling areas, loading and unloading operations, and accidental spillage; and
   iv. to properly operate and maintain the treatment systems where they are used to meet the limitations in this permit.

b. The plan shall identify potential sources of pollution and describe what measures the permittee will take to reduce the pollutants associated with day-to-day work activity from the facility.

c. The BMPP may be a stand-alone document or may be incorporated into any other BMPP, Pollution Prevention (P2), or Spill Prevention Control and Counter Measures (SPCC) Plan, or other plan required under other permits or programs.

d. The permittee must maintain the BMPP on-site or at the location of the principal operator identified in the NOI and made available for inspection to federal and state personnel. The permittee must develop and include with the BMPP a Preventative Maintenance Plan (PMP) to insure that:

   i. a maintenance schedule is in place for any treatment equipment used to meet the limits of this permit, and

   ii. implementation of regular maintenance activities is undertaken on the treatment system at the site.

2. Additional Best Management Practices - The following are specific BMPs which are consistent with standard operating practices and must be considered in the development of a BMPP:

   a. Site Security - Security for the treatment and other systems related to the NPDES discharge must be either incorporated into the overall site security plan or as separate site security provisions as part of a BMPP.

   b. Management of Generated Wastes - Operators covered by this permit must adhere to proper waste management practices for the facility and should describe how they will comply with the requirements of federal and state regulations, as applicable, including:

      i. For sites located in Massachusetts, waste regulations include: Massachusetts

regulations for solid wastes generated at sites listed under the MA Contingency Plan (MCP) at 310 CMR 40.0030; and for facilities or sites not covered by the MCP, 310 CMR 30.000, the Massachusetts Hazardous Waste Regulations.

ii. For sites located in New Hampshire, waste regulations include: Part Env-Wm 412, Reporting and Remediation of Oil Discharges, and Env-Wm 100-1100, Hazardous Waste Rules, and any other applicable regulations.

Submission of a Notice of Termination (NOT) of the discharge (see Appendix V) does not relieve the operator of any requirement for proper management of solid and hazardous waste generated as a result of complying with the permit.

c. Prohibition of Discharge Exceeding Design Flow - The BMPP must describe how flow through the treatment system will be maintained below the "system design flow" (i.e., the maximum flow through the component with the lowest limiting capacity).

d. Total flow through treatment system - The BMPP must describe how the permittee will monitor the total monthly flow through the treatment system as part of the PMP for the components of the system.

e. Employee Training - The BMPP must include a program for training new employees and for refresher training for other employees who have direct or indirect responsibility for insuring compliance with the RGP.

f. Management of Run-on and Runoff - Any BMPP developed for the facility covered by the RGP must include actions to control extraneous run-on and runoff of uncontaminated waters which may commingle with contaminated waters requiring treatment and discharge. In cases where the site or facility is large and may be covered by other permit requirements, the run-on/runoff controls may be integrated with the overall site requirements.

g. Erosion, Scouring and Sediment Control - The BMPP must insure that the discharge(s) covered by this permit do not adversely affect existing water quality by preventing any erosion, stream scouring, or sedimentation caused directly or indirectly by the discharge.

3. BMPs for Hydrostatic Testing - In addition to meeting the numerical limits and other general BMPs in this section, hydrostatic testing dischargers must discussed in the BMPP and include the following:

a. Prior to hydrostatic testing, pipes or tanks that will come into contact with the test water must be thoroughly cleaned to remove scale, soil, residues, etc. Wastewater resulting from these operations shall not be discharged to the receiving water.

b. Discharge flow should not exceed the flow of receiving stream or river, or alter the habitat in other water bodies.

c. All chemical additives must be identified. Testing water containing additives must be disposed of as waste.

d. De-watering structures (such as splash blocks, sediment filters, etc.) should be used to dissipate energy and control erosion.

4. BMPP Deadlines - The following deadlines apply for developing BMPPs:

a. New dischargers - Permittees initiating new discharges after the effective date of the permit shall develop a BMPP before discharging.

b. Existing dischargers planning to operate for fewer than 180 days - Permittees overseeing discharges pursuant to approved site remediation projects which will continue for fewer than 180 days from approval of coverage under the RGP, must be able to document that BMPs are currently in place and being implemented at the time the discharge is authorized.

c. Existing dischargers planning to operate for more than 180 days - Permittees with existing discharges pursuant to approved site remediation projects which plan to continue for more than 180 days from approval of coverage under the RGP shall revise and implement the written updated BMPP within 30 days after receiving notification from EPA that the site/facility is covered by the general permit. The BMPP shall be kept on site.

d. Annual certification – Annually, on the anniversary date of the EPA authorization letter, the permittee shall certify that the BMPP was followed during the previous calendar year. Each certification shall state whether the inspections and maintenance activities were conducted, results recorded, and records maintained and whether the facility is in compliance with the BMPP. Annually, for the first two years, the permittee shall submit the certification to EPA and the State at the addresses listed in Appendix VII.

i. Apart from the first two annual certifications, no other annual certifications need to be submitted to the MassDEP, NH DES or EPA, unless requested by an Agency. However, the owner or operator must keep a properly executed BMPP and the required annual certification letter at the site ready for inspection by the State or EPA. The plan at the time of the inspection should demonstrate which elements of the BMPP have been implemented or not implemented, or modified during the unreported time.

ii. Each certification must be completed and signed according to the requirements of 40

CFR 122.22 by either the permittee or the operator(s) of the treatment system.

iii. Failure to submit the first or second year certifications may result in permit termination and/or associated penalties imposed by the State or EPA or both.

F. Special NPDES Permit Conditions

1. The following are a number of special NPDES conditions which apply to certain types of discharges:

   a. Compliance with Multi-Sector General Permit (MSGP) Requirements

      i. If an operator of the facility is covered by the both the MSGP and by this Remediation General Permit (RGP), the following particular requirements apply:
         1. Operators who are utilizing a non-municipal storm sewer system at a facility covered by the EPA MSGP must comply with any Stormwater Pollution Prevention Plan (SWPPP) developed under that permit.
         2. Where there is separate ownership and/or different operators of the facility/site and the storm sewer system, the operator of the facility/site covered by the RGP must notify the operator of the facility covered by the MSGP.
         3. An authorization to discharge under this general permit, where the activity discharges to a municipal or private storm drain owned by another party, does not convey any rights or authorization to connect to that drain.

   b. Special Conditions for Hydrostatic Testing

      i. Permittees are prohibited from discharging any sludge generated in the pre-cleaning or any rinsing solutions used in the pre-cleaning of the pipelines or tanks.

      ii. Permittees are prohibited from discharging hydrostatic test water to which treatment chemicals, corrosion inhibitors or biocides have been added.

G. Administrative Requirements

1. Notice of Change (NOC) - Permittees covered under this permit may request a change to certain conditions of this permit through submission of a Notice of Change (NOC) to the EPA Director with a copy to the State agency.

   a. A list of acceptable changes can be found in the NOC instructions in Appendix V. Such changes are not permit modifications as provided for under 40 CFR § 122.62.

   b. For purposes of the RGP, the NOC may consist of either:
      i. The suggested NOC form in Appendix V of the RGP, or

ii. Some other form of official correspondence containing all of the information described in the NOC instructions in Appendix V of this permit.

c. Signed and completed NOC forms and attachments must be submitted to EPA and the appropriate state at the addresses listed in Appendix V, Section I.B.

2. Notice of Termination (NOT) - Permittees shall notify EPA and the state in writing of the termination of discharge(s) authorized under the general permit. The Notice of Termination (NOT) may be either the suggested NOT form in Appendix V or any other form of official correspondence to EPA and the state. Instruction for completing the NOT are contained in Appendix V.

a. Termination of Coverage under the RGP for Discharge. The NOT must be completed and submitted within 30 days of the permanent cessation of the discharge(s) authorized by the RGP.

b. Signed and completed NOT forms and attachments must be submitted to EPA and the appropriate state at the addresses listed in Appendix V, Section I.B.

3. Joint Issuance and Enforcement

a. For sites in New Hampshire, this NPDES Discharge Permit is issued by the EPA under Federal and State law. Upon final issuance by the EPA, the NH DES may adopt this permit, including all terms and conditions, as a State permit pursuant to RSA 485-A: 13. NH DES may add additional water quality certification requirements to the authorization to discharge letter for any New Hampshire discharge.

Each Agency shall have the independent right to enforce the terms and conditions of this Permit. Any modification, suspension or revocation of this Permit shall be effective only with respect to the Agency taking such action, and shall not affect the validity or status of the Permit as issued by the other Agency, unless and until each Agency has concurred in writing with such modification, suspension or revocation.

b. For sites in Massachusetts, this Discharge Permit is issued jointly by the U. S. Environmental Protection Agency and the Massachusetts Department of Environmental Protection under Federal and State law, respectively. As such, all the terms and conditions of this permit are hereby incorporated into and constitute a discharge permit issued by the Commissioner of the Massachusetts Department of Environmental Protection pursuant to M.G.L. Chap.21, §43, except where exempted under 310 CMR 40.0041(4) of the Massachusetts Contingency Plan. Each agency shall have the independent right to enforce the terms and conditions of this permit. Any modification, suspension or revocation of this permit shall be effective only with respect to the agency taking such action, and shall not affect the validity or status of this permit as issued by

the other agency, unless and until each agency has concurred in writing with such modification, suspension or revocation. In the event that any portion of this permit is declared invalid, illegal or otherwise issued in violation of state law, such permit shall remain in full force and effect under federal law as an NPDES permit issued by the U.S. Environmental Protection Agency. In the event that this permit is declared invalid, illegal or otherwise issued in violation of federal law, this permit shall remain in full force and effect under state law as a permit issued by the Commonwealth of Massachusetts, except where exempted under 310 CMR 40.0041(4) of the Massachusetts Contingency Plan.

4. Continuation of This General Permit After Expiration - If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and remain in force and in effect as to any particular permittee. However, EPA cannot provide written notification of coverage under this general permit to any permittee who submits Notice of Intent to EPA Region I after the permit's expiration date. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

   a. Reissuance of this permit, at which time the permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge;

   b. The permittee's submittal of a Notice of Termination;

   c. Issuance of an individual permit for the permittee's discharges; or

   d. A formal permit decision by the EPA Director to revoke authorization or not to reissue this general permit, at which time the permittee must seek coverage under an individual permit or follow another option EPA provides at that time.