

NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM (NPDES) GENERAL PERMITS  
FOR DEWATERING ACTIVITY DISCHARGES

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NOTE: The Dewatering General Permits for the Commonwealth of Massachusetts and the State of New Hampshire are combined. Part 1 contains the general permit provisions for dewatering activity discharges in the Commonwealth of Massachusetts (including both Commonwealth and Indian Country lands); Part 2 contains the general permit provisions for discharges in the State of New Hampshire; and Part 3 through Part 8 are general permit provisions common to both General Permits.

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MAG070000 and NHG070000  
DEWATERING GENERAL PERMIT

**Part 1 MASSACHUSETTS GENERAL PERMIT, Permit No. MAG070000**

In compliance with the provisions of the Federal Clean Water Act, as amended (33 U.S.C. 1251 et seq.) and the Massachusetts Clean Waters Act, as amended (M.G.L. Chap. 21, sections 26-53), the following permit authorizes discharges of water from construction dewatering and dewatering of foundation sumps. Such uncontaminated discharges are authorized in Massachusetts (including both Commonwealth and Indian Country lands) to all Class B and SB waters as 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. Discharges into Class A or SA waters require review and approval by the Massachusetts Department of Environmental Protection (MassDEP).

Those discharges authorized by this General Permit may be commingled with other discharges as long as the authorized discharge is monitored separately (prior to commingling) for compliance with the requirements of this General Permit and any non-authorized discharge is either covered by another NPDES permit or excluded from requiring an NPDES permit by EPA regulation and/or by the Commonwealth.

The General Permit shall become effective on the date of signature.

This General Permit and the authorization to discharge supersedes the General Permit issued on September 23, 2002, and will expire at midnight, 5 years from the last day of the month preceding the effective date.

Signed this day        of        , 2008

\_\_\_\_\_  
Stephen S. Perkins, Director  
Office of Ecosystem Protection  
U.S. Environmental Protection Agency  
Boston, MA 02114

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Glenn Haas, Director  
Division of Watershed Management  
Department of Environmental  
Protection, Commonwealth of  
Massachusetts,  
Boston, MA 02108

## 1.1 Discharge Limits and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge uncontaminated wastewater from construction dewatering and dewatering of foundation sumps to the state's Class B and Class SB receiving waters. Discharges to Class A and Class SA waters are authorized upon review and approval by MassDEP. Each outfall shall be limited and monitored as specified below.

Effluent Characteristic	Units	Discharge Limitations		Monitoring Requirements <sup>1</sup>	
		Avg. Monthly	Max Daily	Monitoring Frequency <sup>2</sup>	Sample Type
Flow <sup>3</sup>	MGD	Report	Report	1/Week	Actual or Estimated
TSS	mg/l	50	100	1/Week	Grab
Oil and Grease <sup>4</sup>	mg/l	-	15	1/Week	Grab
pH <sup>5</sup> (Class A and B)	s.u.	6.5 – 8.3 range <sup>6,7</sup>		1/Week	Grab
pH <sup>5</sup> (Class SA and SB)	s.u.	6.5 – 8.5 range <sup>6,8</sup>		1/Week	Grab
Total Residual Chlorine (TRC) (Class A and B) <sup>9</sup>	mg/l	See Part 1.2.7		1/Week	Grab
Total Residual Chlorine (TRC) (Class SA and SB) <sup>9</sup>	mg/l	See Part 1.2.7		1/Week	Grab
LC <sub>50</sub> & NOEC	%	See Part 1.2.8			24-hr Composite

Footnotes:

1. Samples shall be taken only when discharging and should be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or if the effluent is commingled with another permitted discharge, prior to such commingling.
2.
  - a. Short-term Discharges:
    - i. For discharges of twenty-four (24) hours or less, the permittee must take a minimum of one sample.
    - ii. For discharges lasting more than twenty-four (24) hours but less than one week, the permittee must take a minimum of three (3) representative effluent samples. At least one sample must be taken on the first day of discharge and one on the last day of discharge.
    - iii. Samples must be analyzed with a 72-hour turnaround time in accordance with 40 CFR 136 or by other methods allowed by this permit.

- b. Long-term, non-construction dewatering discharges: following four consecutive samples that are in compliance with permit requirements the permittee may reduce monitoring for all parameters to once (1) per month for the duration of the permit term.
3. The flow rate shall not exceed the maximum capacity of any treatment device.
4. See Part 1.2.6.
5. Requirement for State Certification.
6. There shall be no change from background conditions that would impair any uses assigned to the receiving water class. MassDEP, with EPA concurrence, may expand the pH range to the federal standard of 6.0-9.0 s.u., on a case-by-case basis when conditions warrant it (Part 1.3).
7. The discharge shall not be more than 0.5 s.u. outside of the background conditions.
8. The discharge shall not be more than 0.2 s.u. outside of the background conditions.
9. Sampling for total residual chlorine (TRC) is required only if the discharge(s) contain water from a municipal source.

## **1.2 Other Requirements**

1. The discharge shall not cause a violation of the water quality standards of the receiving water.
2. The discharge shall not cause an objectionable discoloration of the receiving water.
3. There shall be no discharge of visible foam or floating, suspended and/or settleable solids in concentrations or combinations that would impair any use assigned to the receiving water class.
4. All samples shall be tested using the analytical methods found in 40 CFR Section 136 or alternative methods approved by EPA in accordance with the procedures in 40 CFR Section 136.
5. The permittee shall use any one or a combination of the following BMPs for construction dewatering discharges to ensure that the numeric and non-numeric effluent limits in Part 1 are met:

### Runoff Control

- Check Dams
- Grass-Lined Channels
- Permanent Slope Diversions
- Temporary Diversion Dikes

## Erosion Control

- Compost blankets
- Dust control
- Geotextiles
- Gradient terraces
- Mulching
- Riprap
- Seeding
- Sodding
- Soil Retention
- Soil Roughening
- Temporary Slope Drain
- Temporary Stream Crossings
- Wind Fences and Sand Fences

## Sediment Control

- Bag and/or Sand Filters
- Brush Barrier
- Compost Filter Berms and/or Socks
- Construction Entrances
- Dewatering Tanks
- Fiber Rolls
- Filter Berms
- Sediment Basins and/or Traps
- Sediment Filters and/or Chambers
- Rock Dams
- Silt Fences
- Storm Drain Inlet Protection
- Straw or Hay Bales
- Vegetated Buffers
- Weir Tanks

6. Sampling for oil and grease is required only if a periodic inspection of the discharge indicates the presence of a visible sheen, as defined in 40 CFR Section 110. The discharge of a sheen of oil or gasoline constitutes an oil spill and must be reported immediately to the National Response Center (NRC) at 800/424-8802. Upon detection of a visible sheen, the discharge must stop immediately and the problem corrected. The use of dispersants to treat the sheen is prohibited. This permit does not allow for the addition of any chemicals to treat the sheen.
7. The maximum daily and average monthly concentration of Total Residual Chlorine (TRC) allowed in the effluent are based on the appropriate water-quality criterion and the available dilution in the receiving water. The appropriate water quality criteria are shown below:
  - Freshwater acute (Class A or B) = 19 ug/l (0.019 mg/l); use for daily maximum
  - Freshwater chronic (Class A or B) = 11 ug/l (0.011 mg/l); use for average monthly
  - Marine acute (Class SA or SB) = 13 ug/l (0.013 mg/l); use for daily maximum
  - Marine chronic (Class SA or SB) = 7.5 ug/l (0.0075 mg/l); use for average monthly

If the discharge contains municipal water, the available dilution shall be determined using the equations found in Appendix VII. Both the dilution factor and applicable chlorine limits will be approved by EPA and MassDEP during review of the facility's NOI. The permittee will be provided with the appropriately determined limits when notified of permit coverage.

8. Chronic (and modified acute) toxicity test(s) and/or a priority pollutant scan shall be performed on the discharge from dewatering activities by the permittee upon request by EPA and/or MassDEP. Any testing shall be performed in accordance with EPA's toxicity protocol, a copy of which will be provided at the time of the request. Toxicity test protocols

and a list of the pollutants to be sampled by a priority pollutant scan may be viewed at [http://www.epa.gov/region1/npdes/epa\\_attach.html#epa](http://www.epa.gov/region1/npdes/epa_attach.html#epa). The test shall be performed on a 24-hour composite sample taken during normal facility operation. The results of the test (C-NOEC and LC<sub>50</sub>) shall be forwarded to MassDEP and EPA no later than 30 days after completion of the test.

9. Excepting non-toxic chemicals used for pH neutralization and/or dechlorination, this General Permit prohibits the addition of toxic materials or chemicals to the discharge(s).

### **1.3 State Permit Conditions**

1. This NPDES permit is issued jointly by the U. S. Environmental Protection Agency (EPA) and the MassDEP 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 MassDEP pursuant to M.G.L. Chap. 21, Section 43. 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 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. EPA. In the event 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.
2. MassDEP, with EPA concurrence, may expand the pH range to the federal standard 6.0-9.0 s.u., on a case-by-case basis when conditions warrant it. Applicants may request a waiver from the pH limits listed in Part 1 by conducting a study to show that the pH of the discharge will not cause or contribute to a violation of the pH range listed in the state water quality standards (see 314 CMR 4.05).
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. If the storm sewer system is within an urbanized area, the applicant must notify the MS4 operator of the proposed discharge.
4. At any time MassDEP determines that additional water quality certification requirements are necessary to protect water quality and in lieu of requiring a discharger covered under a general permit to obtain an individual permit (314 CMR 3.06(8)), MassDEP may require an individual discharger to undertake additional control measures, BMPs, or other actions. MassDEP may exercise its authority to require the discharger to take these actions by imposing a condition in the general permit to that effect, or by taking an enforcement action against the discharger, or by any other means. Any such conditions shall be supplied to the permittee in writing.

**Part 2 NEW HAMPSHIRE GENERAL PERMIT, Permit No. NHG070000**

In compliance with the provisions of the Federal Clean Water Act, as amended (33 U.S.C. 1251 et seq.), the following permit authorizes discharges of water from construction dewatering and dewatering of foundation sumps. Such uncontaminated discharges are authorized in New Hampshire to all Class B waters, unless otherwise restricted by State Water Quality Standards, New Hampshire RSA 485-A:8, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. The State of New Hampshire does not allow discharges to Class A waters under this General Permit.

Those discharges authorized by this General Permit may be commingled with other discharges as long as the authorized discharge is monitored separately (prior to commingling) for compliance with the requirements of this General Permit and any non-authorized discharge is either covered by another NPDES permit or excluded from requiring an NPDES permit by EPA regulation and/or by the State.

The General Permit shall become effective on the date of signature.

This General Permit and the authorization to discharge supersedes the General Permit issued on September 23, 2002, and will expire at midnight, 5 years from the last day of the month preceding the effective date.

Signed this     day of             , 2008

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Stephen S. Perkins, Director  
Office of Ecosystem Protection  
Environmental Protection Agency  
Boston, MA 02114

## 2.1 Discharge Limits and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge uncontaminated wastewater from construction dewatering and dewatering of foundation sumps to the state's Class B receiving waters. Discharges to Class A waters are not authorized by this General permit. Each outfall shall be limited and monitored as specified below.

Effluent Characteristic	Units	Discharge Limitations		Monitoring Requirements <sup>1</sup>	
		Avg. Monthly	Max Daily	Monitoring Frequency <sup>2</sup>	Sample Type
Flow <sup>3</sup>	MGD	Report	Report	1/Week	Actual or Estimated
TSS	mg/l	50	100	1/Week	Grab
Oil and Grease <sup>4</sup>	mg/l	-	15	1/Week	Grab
pH	s.u.	6.5 – 8.0 range <sup>5</sup>		1/Week	Grab
Total Residual Chlorine (TRC) <sup>6</sup>	mg/l	See part 2.2.7		1/Week	Grab
LC <sub>50</sub> & NOEC	%	See Part 2.2.8			24-hr Composite

Footnotes:

1. Samples shall be taken only when discharging and should be taken at a location that provides a representative analysis of the effluent just prior to discharge to the receiving water or, if the effluent is commingled with another permitted discharge, prior to such commingling.
2.
  - a. Short-term Discharges:
    - i. For discharges of twenty-four (24) hours or less, the permittee must take a minimum of one sample.
    - ii. For discharges lasting more than twenty-four (24) hours but less than one week, the permittee must take a minimum of three (3) representative effluent samples. At least one sample must be taken on the first day of discharge and one on the last day of discharge.
    - iii. Samples must be analyzed with a 72-hour turnaround time in accordance with 40 CFR 136 or by other methods allowed by this permit.
  - b. Long-term, non-construction dewatering discharges: following four consecutive samples that are in compliance with permit requirements the permittee may reduce monitoring for all parameters to once (1) per month for the duration of the permit term.

3. The flow rate shall not exceed the maximum capacity of any treatment device.
4. See Part 2.2.6.
5. The pH shall be in the specified range or within 0.5 s.u. of the upstream receiving water pH in accordance with part 2.3 of this Permit.
6. Sampling for total residual chlorine (TRC) is required only if the discharge(s) contain water from a municipal source.

## **2.2 Other Requirements**

1. The discharge shall not cause a violation of the water quality standards of the receiving water.
2. The discharge shall not cause an objectionable discoloration of the receiving water.
3. There shall be no discharge of visible foam or floating, suspended and/or settleable solids in concentrations or combinations that would impair any use assigned to the receiving water class.
4. All samples shall be tested using the analytical methods found in 40 CFR Section 136 or alternative methods approved by EPA in accordance with the procedures in 40 CFR Section 136.
5. The permittee shall use any one or a combination of the following BMPs for construction dewatering discharges to ensure that the numeric and non-numeric effluent limits in Part 2 are met:

### Runoff Control

- Check Dams
- Grass-Lined Channels
- Permanent Slope Diversions
- Temporary Diversion Dikes

### Erosion Control

- Compost blankets
- Dust control
- Geotextiles
- Gradient terraces
- Mulching
- Riprap
- Seeding
- Sodding
- Soil Retention
- Soil Roughening
- Temporary Slope Drain
- Temporary Stream Crossings
- Wind Fences and Sand Fences

## Sediment Control

- Bag and/or Sand Filters
- Brush Barrier
- Compost Filter Berms and/or Socks
- Construction Entrances
- Dewatering Tanks
- Fiber Rolls
- Filter Berms
- Sediment Basins and/or Traps
- Sediment Filters and/or Chambers
- Rock Dams
- Silt Fences
- Storm Drain Inlet Protection
- Straw or Hay Bales
- Vegetated Buffers
- Weir Tanks

6. Sampling for oil and grease is required only if a periodic inspection of the discharge indicates the presence of a visible sheen, as defined in 40 CFR Section 110. The discharge of a sheen of oil or gasoline constitutes an oil spill and must be reported immediately to the National Response Center (NRC) at 800/424-8802. Upon detection of a visible sheen, the discharge must stop immediately and the problem corrected. The use of dispersants to treat the sheen is prohibited. This permit does not allow for the addition of any chemicals to treat the sheen.
7. The maximum daily and average monthly concentration of Total Residual Chlorine (TRC) allowed in the effluent are based on the appropriate water-quality criterion and the available dilution in the receiving water. The appropriate water quality criteria are shown below:
  - Freshwater acute = 19 ug/l (0.019 mg/l); use for daily maximum
  - Freshwater chronic = 11 ug/l (0.011 mg/l); use for average monthly
  - Marine acute = 13 ug/l (0.013 mg/l); use for daily maximum
  - Marine chronic = 7.5 ug/l (0.0075 mg/l); use for average monthly

If the discharge contains municipal water, the available dilution shall be determined using the equations found in Appendix VII of the Permit. Both the dilution factor and applicable chlorine limits will be approved by EPA and the New Hampshire Department of Environmental Services (NHDES) during review of the facility's NOI. The permittee will be provided with the appropriately determined limits when notified of permit coverage.

8. Chronic (and modified acute) toxicity test(s) and/or priority pollutant scans shall be performed on the discharge from dewatering activities by the permittee upon request by EPA and/or the NHDES. Any testing shall be performed in accordance with EPA's toxicity protocol, a copy of which will be provided at the time of the request. Toxicity test protocols and a list of the pollutants to be sampled by a priority pollutant scan may be viewed at [http://www.epa.gov/region1/npdes/epa\\_attach.html#epa](http://www.epa.gov/region1/npdes/epa_attach.html#epa). The test shall be performed on a 24-hour composite sample taken during normal facility operation. The results of the test (C-NOEC and LC<sub>50</sub>) shall be forwarded to the State and EPA within 30 days after completion.
9. Excepting non-toxic chemicals used for pH neutralization and/or dechlorination, this General Permit prohibits the addition of toxic materials or chemicals to the discharge(s).

## 2.3 State Permit Conditions

1. This NPDES Permit is issued by the EPA under Federal law. Upon final issuance by the EPA, the NHDES may adopt this permit, including all terms and conditions, as a State permit pursuant to RSA 485-A:13. 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. In the event 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 a NPDES Permit issued by the U.S. Environmental Protection Agency.
2. NHDES, with EPA concurrence, may expand the pH range to the federal standard 6.0-9.0 s.u., on a case-by-case basis when conditions warrant it. Applicants may request a waiver from the pH limits listed in Part 2 by conducting a study to show that the pH of the discharge will not cause or contribute to a violation of the pH range listed in the state water quality standards (see RSA 485A:8).
3. An authorization to discharge under this General Permit, where the activity discharges to municipal or private storm drain owned by another party, does not convey any rights or authorization to connect to that drain. If the storm sewer system is within an urbanized area, the applicant must notify the MS4 operator of the proposed discharge.
4. At any time NHDES determines that additional water quality certification requirements are necessary to protect water quality and in lieu of requiring a discharger covered under a general permit to obtain an individual permit, NHDES may require an individual discharger to undertake additional control measures, BMPs, or other actions. NHDES may exercise its authority to require the discharger to take these actions by imposing a condition in the general permit to that effect, or by taking an enforcement action against the discharger, or by any other means. Any such conditions shall be supplied to the permittee in writing.

**NOTE: THE FOLLOWING PARTS 3 THROUGH PART 8 ARE COMMON ELEMENTS FOR BOTH THE MASSACHUSETTS AND NEW HAMPSHIRE GENERAL PERMITS.**

### **Part 3 Applicability and Coverage of Dewatering General Permit**

#### **3.1 Subject Discharges**

Under this general permit, owners and operators in Massachusetts and New Hampshire may be granted authorization to discharge into waters of the respective states. The following *uncontaminated* discharges are covered by this general permit:

1. Construction dewatering of groundwater intrusion and/or storm water accumulation; and,
2. Short-term and long-term dewatering of foundation sumps.

For the purposes of this General Permit, “uncontaminated” discharges are those that contain only the pollutants regulated by this permit. The principal pollutant of concern associated with these discharges is total suspended solids (TSS). Exposure to soil, rock, and man-made material create the potential for TSS in each of these discharges. Oil and grease may also be present from the pumping systems used in these processes. In addition, total residual chlorine is typically present as a disinfectant in potable water prior to dechlorination and could be present in discharges originating from a municipal source.

#### **3.2 Geographic Coverage Area:**

1. *Massachusetts*: Facilities authorized by the Massachusetts General Permit (permit number MAG070000) for discharges in the Commonwealth of Massachusetts may discharge into Class B and SB waters and approved Class A and SA waters of the Commonwealth and Indian Country lands, except as provided in Item 3.3, immediately below, 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.
2. *New Hampshire*: Facilities authorized by the New Hampshire General Permit (permit number NHG070000) may discharge into Class B waters of the State of New Hampshire, except as provided in Item 3.3, immediately below, unless otherwise restricted by the State Water Quality Standards, New Hampshire RSA 485-A:8 (or as revised) and the New Hampshire Code of Administrative Rules, Chapter Env-Wq 1700 or as revised.

#### **3.3 Specific Discharges Excluded from Coverage**

The following discharges are excluded from coverage under this General Permit:

1. *Discharges to Outstanding Resource Waters in Massachusetts and New Hampshire*:
  - a) as defined in Massachusetts by 314 CMR 4.06(3) 4.06(1)(d)2, 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

b) 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).

2. *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 ACEC's by city and town.
3. *Discharges to Class A waters in New Hampshire*, in accordance with RSA 485A:8, I. and Env-Wq 1708.06. To determine if the proposed receiving water is a Class A waterbody, contact the NH DES at the address listed in Part 5.3 of this general permit.
4. *Discharges to a river designated as a Wild and Scenic River.* (As of 2/27/2008, the Wildcat Brook and Lamprey River in New Hampshire and the Westfield, Sudbury, Assabet and Concord Rivers in Massachusetts have been designated as Wild and Scenic Rivers. See <http://www.rivers.gov/wildriverslist.html#ma> for current designations and additional information.)
5. *Discharges to designated areas under the Essential Fish Habitat Act (EFH)* unless the requirements specified in this permit are fulfilled. See Part IV.B. of the Fact Sheet and Appendix II for additional EFH information.
6. *Discharges that the United States Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS) determines may adversely affect the continued existence of any federally-listed endangered or threatened species or may adversely impact or destroy critical habitat of such species* are excluded for coverage under this General Permit unless the requirements specified in this permit are fulfilled. See part IV.C. of the Fact Sheet and Appendices III and IV for additional ESA requirements.
7. *Discharges of pollutants 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 unless the discharge is at or below a concentration that meets water quality standards.
8. *Discharges of stormwater associated with construction sites which disturb greater than one acre of land.* These discharges, which are associated with small or large construction sites as defined at 40 CFR 122.26(15) and 40 CFR 122.26(b)(14)(x), may be eligible for coverage under the Construction General Permit.
9. *Discharges of water supply or other well development or rehabilitation waste water* from the development or rehabilitation of monitoring wells at contaminated or formerly contaminated sites. These discharges should be covered by the Remediation and Miscellaneous Contaminated Sites General Permit (MAG910000 and NHG910000).

10. *Discharges to a Publicly-Owned Treatment Works (POTW)* which are permitted under Section 402 of the CWA (NPDES).
11. “*New Source*” dischargers, as defined in 40 CFR § 122.2.
12. *Discharges of any commercial or industrial wastes to Ocean Sanctuaries* in Massachusetts, as defined at 302 CMR 5.00.
13. *Discharges to territorial seas*, as defined by Section 502 of the Clean Water Act.
14. *Discharges which adversely affect properties listed or eligible for listing in the National Registry of Historic Places* under the National Historic Preservation Act of 1966, 16 USC Sections 470 et seq. See Part IV.K. of the Fact Sheet and Appendix III for additional requirements.
15. *Discharges for which the Director makes a determination that an individual permit is required (see Part 4.5).*

### **3.4 Limitations on Coverage**

Facilities located in Massachusetts and New Hampshire that are seeking coverage under this General Permit must certify compliance with the requirements of this permit related to threatened and endangered species and critical habitat under the Endangered Species Act and to historic properties under the National Historical Preservation Act, where applicable.

In addition, for facilities located in Massachusetts, permit coverage for discharges to Areas of Critical Environmental Concern (ACEC), as defined by the Massachusetts Wetlands Protection Act c.131, Section 40, are contingent upon review and approval by EPA-New England and MassDEP. See Appendix I for a listing of ACEC’s by city and town in Massachusetts.

1. *Endangered and Threatened Species and/or Critical Habitat*<sup>1</sup>: Dewatering activity discharges that are located in areas in which listed 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 in Appendix III and the most recent Endangered and Threatened Species Country-Species List referenced in Appendix IV and found on the US Fish and Wildlife website at [http://www.fws.gov/northeast/newenglandfieldoffice/EndangeredSpec-Consultation\\_Project\\_Review.htm](http://www.fws.gov/northeast/newenglandfieldoffice/EndangeredSpec-Consultation_Project_Review.htm). This determination shall be included in the NOI as described in Appendices III and V.

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

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<sup>1</sup> There is currently only one area federally-designated as critical habitat in MA, i.e., for the Northern Redbelly Cooter in Plymouth County, MA, and none in NH.

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.

2. *National Historic Preservation Act*: Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the National Historic Preservation Act of 1966, 16 USC Sections 470 et seq. are not authorized to discharge under this permit. Applicants must determine whether their discharges have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places and if the potential exists, the applicant must consult with the appropriate agencies. Applicants are required to submit the results of any consultations with its NOI. Electronic listings of National and State Registers of Historic Places are maintained by the National Park Service ([www.nr.nps.gov](http://www.nr.nps.gov)), the Massachusetts Historical Commission ([www.sec.state.ma.us/mhc/mhcidx.htm](http://www.sec.state.ma.us/mhc/mhcidx.htm)) and the New Hampshire Historical Commission ([www.state.nh.us/nhdhr](http://www.state.nh.us/nhdhr)).

Applicants must also comply with applicable State, Tribal and local laws concerning the protection of historic properties and places. Applicants must coordinate with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer and others regarding effects of their discharges on historic properties. Prior to submitting the NOI, the applicant must meet the requirements of Appendix III.

In the event there is an inadvertent discovery of a historic property on the site, the permittee must immediately stop the dewatering activity and coordinate with the appropriate official(s) consistent with the steps outlined in 36 CFR § 800.13 of the National Historic Preservation Act regulations.

## **Part 4 Application and Notice of Intent (NOI)**

### **4.1 Eligibility for Coverage**

To be covered by this permit, applicants must submit a Notice of Intent (NOI) to both EPA and the appropriate State. The NOI must state that the discharge meets the applicable requirements of the General Permit and that the applicant is requesting coverage under this General Permit. However, the facility's discharge will not be covered until the facility receives written authorization to discharge from EPA.

Facility owners/operators must submit a NOI if they are seeking coverage under this General Permit for the first time or if the facility received coverage under the Construction Dewatering General Permit that expired on September 23, 2007.

Any facility operating under an effective (unexpired) individual dewatering activity NPDES permit may request that the individual permit be revoked and that coverage under the General Permit be granted, as outlined in 40 CFR Section 122.28(b)(3)(v). If EPA revokes the individual permit, the General Permit would apply to the discharge. Facilities with expired dewatering activity individual permits that have been administratively continued in accordance with 40 CFR

Section 122.6 may also apply for coverage under this General Permit. When coverage is granted, the expired individual permit will cease to be in effect.

## 4.2 NOI Options

The owner and/or operator of the facility is responsible for applying for the General Permit as required by 40 CFR Section 122.21(b). To be covered by this General Permit, operators of facilities whose discharge or discharges are identified in Part 3.1 of this permit, must **submit to EPA and the appropriate State**, a complete, signed NOI. For purposes of this General Permit, the NOI consists 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.

1. **Massachusetts facilities** must submit the following documents to the appropriate MassDEP offices, at the addresses listed in Part 5.2:
  - a. a copy of the completed EPA's Suggested NOI Form found at Appendix V and/or another form of official correspondence containing the information required in the NOI instructions in Appendix V; and,
  - b. the completed State transmittal form. Facilities that were covered under the expired General Permit and had their coverage administratively continued by submitting a renewal application before the General Permit expired on September 23, 2007 should submit a copy of the MassDEP transmittal from their previous application.

The transmittal form, instructions, and fee amount may be obtained through the MassDEP website at <http://www.mass.gov/dep/water/approvals/surffms.htm>. Click on "Getting Started" to link to the both the transmittal form and form instructions.

A copy of the transmittal form, a copy of the check, and the NOI should be sent to Massachusetts Department of Environmental Protection, 627 Main Street, Worcester, MA 01608. A copy of the transmittal form and the \$385 fee should be sent to MassDEP, P.O. Box 4062, Boston, MA 02111. Municipalities are fee-exempt, but should send a copy of the transmittal form to that address for project tracking purposes. Keep a copy of the transmittal form and a copy of the application package for your records.

2. **The State of New Hampshire** does not have a state application form. Facilities located in New Hampshire are encouraged to submit EPA's Suggested NOI Form, found in Appendix V, to NHDES.

## 4.3 NOI Timeframes

1. *Proposed New Discharges*: Facilities with proposed new discharges that are seeking coverage under this General Permit must submit an NOI to EPA and the respective State, post-marked at least 21 days prior to the commencement of discharge.

2. Existing Permitted Discharges: Facilities with existing coverage under the Existing Construction Dewatering General Permit that expired on September 23, 2007 and that wish to seek coverage under this General Permit, must file an NOI to EPA and the respective State for coverage under this General Permit within 60 days of the effective date of this permit. For enforcement purposes, failure to submit a NOI within 60 days of the effective date of the General Permit for an existing permitted dewatering discharge will be considered to be discharging without a permit. An NOI is not required if the permittee submits a Notice of Termination (NOT – see Part 6.1 and Appendix VI) of discharge before the 60 day time frame expires.

#### 4.4 NOI Requirements

1. For each individual site, the written notification must include all information indicated on the NOI forms included in Attachment V. This information includes:
  - a. General facility information;
  - b. Discharge information;
  - c. Dewatering Source Water Information;
  - d. Contaminant Information;
  - e. Determination of Endangered Species Act Eligibility;
  - f. Documentation of National Historic Preservation Act Requirements;
  - g. Supplemental Information; and,
  - h. Signature Requirements.
2. The NOI must be signed by the owner and/or operator of the facility in accordance with the signatory requirements of 40 CFR Section 122.22.
3. Each applicant must submit a copy of the NOI to EPA and the appropriate State authority listed in Part 5.
4. EPA may request additional information or analytical data from the permittee when it is necessary to adequately review the NOI and evaluate the discharge.
5. If the discharge includes groundwater, the NOI must include the results of laboratory analyses of a representative sample of the effluent for the following parameters:

Antimony	Chromium (Total)	Iron	Silver
Arsenic	Chromium (VI)	Mercury	Zinc
Cadmium	Copper	Nickel	
pH	Chloride		

\* Hardness – sample of receiving water

The effluent sample shall be taken at a location that provides a representative analysis of the proposed discharge. For the effluent sample, to the extent practicable, the sample shall be taken just prior to discharge to the receiving water or, if the effluent is commingled with

another permitted discharge, prior to such commingling. The instream sample for hardness shall be taken in the vicinity of the discharge but upstream or in a location unaffected by either the facility discharge or other facility activities that could affect water quality. All metals shall be reported as total recoverable.

All effluent samples, as well as the in-stream sample for hardness, shall be analyzed using the 40 CFR Part 136 approved test methods that will achieve the lowest available minimum levels (MLs) (See Appendix VIII).

#### **4.5 When the Director May Require Application for an Individual NPDES Permit**

1. The Director may require any person authorized by this permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take such action. Instances where an individual permit may be required include, but are not limited to, the following:
  - a. A determination under 40 CFR 122.28(b)(3);
  - b. The discharge(s) is a significant contributor of pollution or is in violation of State Water Quality Standards for the receiving water;
  - c. The discharger is not in compliance with the conditions of this permit;
  - d. 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(s);
  - e. Effluent limitation guidelines are promulgated for the point source(s) covered by this permit;
  - f. A Water Quality Management Plan or Total Maximum Daily Load containing requirements applicable to such point source(s) is approved and inconsistent with this permit;
  - g. The point source(s) covered by this permit no longer:
    - i. Involves the same or substantially similar types of operations;
    - ii. Discharges the same types of wastes;
    - iii. Requires the same effluent limitations or operating conditions;
    - iv. Requires the same or similar monitoring; and/or,
    - v. In the opinion of the Director, is more appropriately controlled under an individual or alternate general permit.
2. If the Director requires that an individual permit be issued, 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.
3. When an individual NPDES permit is issued to an operator otherwise subject to this General Permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

#### **4.6 When an Individual NPDES Permit May be Requested**

Any operator may request to be excluded from the coverage of this general permit by applying for an individual permit. When an individual NPDES permit is issued to an operator otherwise subject to this general permit, the applicability of this permit to that owner or operator is automatically terminated on the effective date of the individual permit.

#### **4.7 EPA Determination of Coverage**

Any applicant may request to be included under this General Permit but the final authority rests with the EPA. Coverage under the General Permit will not be effective until EPA has reviewed the NOI, made a determination that coverage under the Dewatering General Permit is authorized, and has notified the operator in writing of its determination. The effective date of coverage will be the date of signature of the authorization letter by the EPA.

The sites authorized to discharge under the final general permit will receive written notification from EPA with State concurrence. Failure to submit to EPA a Notice of Intent to be covered and/or failure to receive from EPA written notification of permit coverage means that the facility is not authorized to discharge under this general permit. Sites who are denied permit coverage by EPA are not authorized under this general permit to discharge from those sites to the receiving waters.

### **Part 5 Recordkeeping and Reporting Requirements**

Results from sampling, monitoring, testing, and analysis obtained during the previous month shall be summarized for each month and recorded on separate Discharge Monitoring Report Form(s) that shall be kept on-site in a secured place. The reports should be readily available for review at any time during the working hours by EPA and/or State officials. The permittee shall submit a summary of these results to the EPA and state addresses listed below, as appropriate, **IF**: 1) the results indicate that a violation of the effluent limitations of this permit has occurred, or 2) EPA or the State request such a report. In addition, all notifications and communications should be sent to both EPA and the appropriate State office at the following addresses:

#### **5.1 EPA-New England**

U.S. Environmental Protection Agency  
Water Technical Unit (SEW)  
P.O. Box 8127  
Boston, MA 02114-8127

## **5.2 Massachusetts Facilities:**

1. Massachusetts facilities shall submit copies of all reports and communications to the state at:

Massachusetts Department of Environmental Protection  
Division of Watershed Management  
627 Main Street  
Worcester, MA 01608

2. Massachusetts facilities shall also submit copies of all reports and communications to the Regional Offices wherein the discharge occurs. The addresses of the Regional Offices are:

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection  
Western Regional Office  
436 Dwight Street  
Springfield, MA 01103

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection  
Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection  
Northeast Regional Office  
205B Lowell Street  
Wilmington, MA 01887

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection  
Central Regional Office  
627 Main Street  
Worcester, Massachusetts 01608

## **5.3 New Hampshire Facilities:**

New Hampshire facilities shall submit copies of all reports and communications to the state at:

New Hampshire Department of Environmental Services  
Water Division, Wastewater Engineering Bureau  
29 Hazen Drive, P.O. Box 95  
Concord, NH 03302-0095

## **Part 6 Administrative Requirements**

### **6.1 Termination of Operations**

Permittees shall notify EPA and the appropriate State agency in writing of the termination of the discharge(s) authorized under the General Permit. The Notice of Termination (NOT) may be either the suggested NOT form in Appendix VI, or any other form of official correspondence that incorporates all of the information required in Appendix VI. Instructions for completing the NOT are contained in Appendix VI. Signed and completed NOT forms and attachments must be submitted to EPA and the appropriate State agency at the addresses listed in Part 5.

### **6.2 Continuation of this General Permit after its 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, once this General Permit expires, EPA cannot provide written authorization of coverage under this General Permit to any permittee who submits an NOI to EPA after the General 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 General Permit, at which time the permittee must comply with the NOI conditions of the new permit to maintain authorization to discharge;
- b. The permittee terminating coverage by submitting a Notice of Termination;
- c. Issuance of an individual permit for the permittee's discharges; or
- d. A formal decision by EPA not to reissue the general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

## **Part 7 Additional Permit Conditions Applicable to Specific States or Indian Country**

**Lands:** If required, this section is reserved and will be completed following the State certification process and the public notice period.

## **Part 8 Standard Conditions**

### **8.1 General Requirements**

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

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405 (d) of the CWA 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.

The CWA provides that any person who violates Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA or any permit condition or limitation implementing any of such sections in a permit issued under Section 402, or any requirement imposed in a pretreatment program approved under Sections 402 (a)(3) or 402 (b)(8) of the CWA is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who negligently violates such requirements is subject to a fine of not less than \$2,500 or more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or both. Any person who knowingly violates such requirements is subject to a fine of not less than \$5,000 or more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or both. Note: See 40 CFR §122.41(a)(2) for additional enforcement criteria.

Any person may be assessed an administrative penalty by the Administrator for violating Sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under Section 402 of the CWA. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000.

**2. 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.

**3. Duty to Provide Information:** The permittee shall furnish to the Regional Administrator, within a reasonable time, any information which the Regional Administrator 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 Regional Administrator, upon request, copies of records required to be kept by this permit.

**4. Reopener Clause:** The Regional Administrator reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the CWA in order to bring all discharges into compliance with the CWA.

**5. Oil and Hazardous Substance Liability:** 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 CWA, or Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

**6. Property Rights:** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges.

**7. Confidentiality of Information:** In accordance with 40 CFR Part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, EPA may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR Part 2 (Public Information).

Claims of confidentiality for the following information will be denied:

- i) The name and address of any permit applicant or permittee;
- ii) Permit applications, permits, and effluent data as defined in 40 CFR § 2.302(a)(2).

Information required by NPDES application forms provided by the Regional Administrator under § 122.21 may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

**8. Duty to Reapply:** If the permittee wishes to continue an activity regulated by this permit after its expiration date, the permittee must apply for and obtain a new permit. The permittee shall submit a new NOI at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Regional Administrator. (The Regional Administrator shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

**9. State Authorities:** Nothing in Part 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

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

## **8.2 Operation and Maintenance of Pollution Controls**

**1. 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 and with the requirements of storm water pollution prevention plans. 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 only when the operation is necessary to achieve compliance with the conditions of the permit.

**2. Need to Halt or Reduce 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.

**3. 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.

**4. Bypass:**

**a. Definitions**

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

2) "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**

1) 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.

2) Unanticipated bypass: The permittee shall submit notice of an unanticipated bypass as required in Section 9.4.2 (Reporting Requirements, 24-hour notice and reporting).

**d. Prohibition of bypass:** Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless:

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

2) 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

3) The permittee submitted notices as required in Paragraph c, above, of this section. The Regional Administrator may approve an anticipated bypass, after considering its adverse effects, if the Regional Administrator determines that it will meet the three conditions listed here.

**5. Upset**

**a. Definition.** "Upset" means an exceptional incident in which there is unintentional and temporary non-compliance 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 5.c (below) 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:

- 1) An upset occurred and that the permittee can identify the cause(s) of the upset;
- 2) The permitted facility was at the time being properly operated;
- 3) The permittee submitted notice of the upset as required in Section 8.4.1. a and e; and
- 4) The permittee complied with any remedial measures required under 8.2.3 (duty to mitigate) above.

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

### **8.3 Monitoring and Records**

#### **1. 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 (or longer as required by 40 CFR Part 503), 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 except for the information concerning storm water discharges which must be retained for a total of 6 years. This retention period may be extended by request of the Regional Administrator at any time.

c. Records of monitoring information shall include:

- 1) The date, exact place, and time of sampling or measurements;
- 2) The individual(s) who performed the sampling or measurements;
- 3) The date(s) analyses were performed;
- 4) The individual(s) who performed the analyses;
- 5) The analytical techniques or methods used; and
- 6) 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. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

**2. Inspection and Entry:** The permittee shall allow the Regional Administrator, or an authorized representative (including an authorized contractor acting as a representative of the 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.

## **8.4 Reporting Requirements**

### **1. Reporting Requirements**

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

1) 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

2) 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 40 CFR §122.42(a)(1).

**b. Anticipated noncompliance.** The permittee shall give advance notice to the Regional Administrator of any planned changes in the permitted facility or an activity which may result in noncompliance with permit requirements.

**c. Transfers.** This permit is not transferable to any person except after notice to the Regional Administrator. The Regional Administrator may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory.)

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

- 1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) forms provided by or specified by the Regional Administrator.
- 2) 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 form specified by the Regional Administrator.
- 3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Regional Administrator in the permit.
- 4) Operators of facilities located in Massachusetts that discharge intermittently are not required to submit DMRs for periods of no discharge to maintain coverage under this General Permit. Rather, these facilities are required to submit an annual report that verifies that no discharge occurred during the previous calendar year. The annual report must be postmarked by the 15<sup>th</sup> of January. When a facility commences to discharge, it must comply with the monitoring and reporting requirements at Part 6.2.b. of General Permit.

**e. Twenty-four hour reporting.**

- 1) 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.
- 2) 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. (See 40 CFR §122.41(g))
  - 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 Regional Administrator in the permit to be reported within 24 hours. See 40 CFR §122.44(g))

3) The Regional Administrator may waive the written report on a case-by-case basis for reports under Paragraph 8.4.1.e, above, if the oral report has been received within 24 hours.

**f. 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.

**g. Other noncompliance:** The permittee shall report all instances of noncompliance not reported under Paragraphs 8.4.1.d., e and f. of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in Paragraph 8.4.1.e above.

**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 Regional Administrator, it shall promptly submit such facts or information.

## **2. Signatory Requirement:**

1.) All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See 40 CFR §122.22)

2.) The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

**3. Availability of Reports:** Except for data determined to be confidential under Section 8.1.7 above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the CWA, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal penalties as provided for in Section 309 of the CWA.

## **8.5 Other Conditions**

1. Definitions for purposes of this permit are as follows.

**Administrator** means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

**Applicable standards and limitations** means all State, interstate, and Federal standards and limitations to which a "discharge" or a related activity is subject to, including water quality

standards, standards of performance, toxic effluent standards or prohibitions, "best management practices", and pretreatment standards under Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA.

**Application** means the EPA standard national forms for applying for a permit, including any additions, revisions or modifications to the forms; or forms approved by EPA for use in "approved States," including any approved modifications or revisions.

**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.

**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)** mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." 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.

**Best Professional Judgment (BPJ)** means a case-by-case determination of Best Practicable Treatment (BPT), Best Available Treatment (BAT) or other appropriate standard based on an evaluation of the available technology to achieve a particular pollutant reduction.

**Composite Sample** - A sample consisting of a minimum of eight grab samples collected at equal intervals during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportional to flow, or a sample continuously collected proportionally to 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 similar activities.

**CWA** or "The Act" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub.L. 96-483 and Pub.L. 97- 117; 33 U.S.C. §§1251 et seq.

**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 measurements, the daily discharge is calculated as the average measurement of the pollutant over the day.

**Director** means the person authorized to sign NPDES permits by EPA and/or the State.

**Discharge Monitoring Report Form (DMR)** means the EPA standard 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.

**Discharge of a pollutant** means:

- a) Any addition of any "pollutant" or combination of pollutants to "waters of the United States" from any "point source," or
- b) Any addition of any pollutant or combination of pollutants to the waters of the "contiguous zone" or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. This term does not include an addition of pollutants by any "indirect discharger."

**Effluent limitation** means any restriction imposed by the Director on quantities, discharge rates, and concentrations of "pollutants" which are "discharged" from "point sources" into "waters of the United States," the waters of the "contiguous zone," or the ocean.

**Effluent limitations guideline** means a regulation published by the Administrator under Section 304(b) of CWA to adopt or revise "effluent limitations."

**EPA** means the United States "Environmental Protection Agency."

**Grab Sample** - An individual sample collected in a period of less than 15 minutes.

**Hazardous Substance** means any substance designated under 40 CFR Part 116 pursuant to Section 311 of CWA.

**Maximum daily discharge limitation** means the highest allowable "daily discharge."

**Municipality** means a city, town, borough, county, parish, district, association, or other public body created by or under State law and having jurisdiction over disposal or sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of CWA.

**National Pollutant Discharge Elimination System** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. The term includes an "approved program."

**New discharger** means any building, structure, facility, or installation:

- a) From which there is or may be a "discharge of pollutants";
- b) That did not commence the "discharge of pollutants" at a particular "site" prior to August 13, 1979;
- c) Which is not a "new source"; and
- d) Which has never received a finally effective NPDES permit for discharges at that "site".

This definition includes an "indirect discharger" which commences discharging into "waters of the United States" after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a "site" for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979, at a "site" under EPA's permitting jurisdiction for which it is not covered by an individual or general permit and which is located in an area determined by the Regional Administrator in the issuance of a final permit to be an area of biological concern. In determining whether an area is an area of biological concern, the Regional Administrator shall consider the factors specified in 40 CFR Sections §§125.122. (a)(1) through (10).

An offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig will be considered a "new discharger" only for the duration of its discharge in an area of biological concern.

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

**NPDES** means "National Pollutant Discharge Elimination System".

**Noncontact Cooling Water** means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

**Owner or operator** means the owner or operator of any "facility or activity" subject to regulation under the NPDES programs.

**Permit** means an authorization, license, or equivalent control document issued by EPA or an "approved State."

**Person** means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

**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, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

**Pollutant** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

a) Sewage from vessels; or

b) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if the State determines that the injection or disposal will not result in the degradation of ground or surface water resources.

**Primary industry category** means any industry category listed in the NRDC settlement agreement (*Natural Resources Defense Council et al. v. Train*, 8 E.R.C. 2120 (D.D.C. 1976), modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in Appendix A of 40 CFR Part 122.

**Privately owned treatment works** means any device or system which is used (a) to treat waste from any facility whose operator is not the operator of the treatment works and (b) not a POTW.

**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 device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial waste of a liquid nature which is owned by a "State" or "municipality." This definition includes sewers, pipes or other conveyance only if they convey wastewater to a POTW providing treatment.

**Regional Administrator** means the Regional Administrator of EPA, New England, Boston, Massachusetts.

**Secondary Industry Category** means any industry category which is not a "primary industry category."

**Section 313 water priority chemical** means a chemical or chemical categories which are:

- 1) listed at 40 CFR §372.65 pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Re-authorization Act (SARA) of 1986);
- 2) present at or above threshold levels at a facility subject to EPCRA Section 313 reporting requirements; and
- 3) satisfies at least one of the following criteria:
  - i. are listed in Appendix D of 40 CFR Part 122 on either Table II (organic priority pollutants), Table III (certain metals, cyanides, and phenols) or Table V (certain toxic pollutants and hazardous substances);
  - ii. are listed as a hazardous substance pursuant to section 311(b) (2)(A) of the CWA at 40 CFR §116.4; or
  - iii. are pollutants for which EPA has published acute or chronic water quality criteria.

**Significant materials** includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to EPCRA Section 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

**Significant spills** includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR §§110.10 and 117.21) or Section 102 of CERCLA (see 40 CFR §§302.4).

**State** means any of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands.

**Storm Water** means storm water runoff, snow melt runoff, and surface runoff and drainage.

**Storm Water discharge associated with industrial activity** means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. (See 40 CFR Section 122.26(b)(14) for specifics of this definition.)

**Time-weighted composite** means a composite sample of a mixture of equal volume aliquots collected at a constant time interval.

**Toxic pollutant** means any pollutant listed as toxic in Appendix D of 40 CFR Part 122, under Section 307(a)(1) of the Clean Water Act.

**Uncontaminated storm water** is precipitation to which no pollutants have been added and has not come into direct contact with any raw material, intermediate product, waste product or finished product.

**Waste pile** means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

**Waters of the United States** means:

- a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- b) All interstate waters, including interstate "wetlands."
- c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - iii) Which are used or could be used for industrial purposes by industries in interstate commerce;
- d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- e) Tributaries of waters identified in paragraphs (a) (d) of this definition;
- f) The territorial sea; and
- g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)-(f) of this definition.

**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 (WET)** is the total effect of an effluent measured directly with a toxicity test.

**C-NOEC “Chronic (Long-term Exposure Test) – No Observed Effect Concentration”**

means the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specified time of observation.

**A-NOEC “Acute (Short-term Exposure Test) – No Observed Effect Concentration”**

See C-NOEC definition above.

**LC<sub>50</sub>** LC<sub>50</sub> is the concentration of a sample that causes mortality of 50% of the test population at a specific time of observation. The LC<sub>50</sub> = 100% is defined as a sample of undiluted effluent.

2. Abbreviations used in this permit are defined below:

cfs	cubic feet per second
BMP	best management practice
DMR	discharge monitoring report
MassDEP	Massachusetts Department of Environmental Protection
MGD	million gallons per day
mg/l	milligrams per liter
NCCW	noncontact cooling water
NHDES	New Hampshire Department of Environmental Services
NOI	Notice of Intent
NOT	Notice of Termination
pH	a measure of the hydrogen ion concentration
Temp. °C	temperature in degrees Centigrade
Temp. °F	temperature in degrees Fahrenheit
TRC	total residual chlorine
TSS	total suspended solids
ug/l	micrograms/liter