FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1060.10. For technical questions about the ICR, please contact: Maria T. Malave, 202–564–7027.

Title: New Source Performance Standards (NSPS) for Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels; OMB No. 2060–0038; Agency No. 1060.10; expiration date is May 31, 2000. This is a request for a revision of a currently approved collection.

Abstract: Subpart AAa applies to electric arc furnaces, AOD vessels, and dust handling systems at steel plants that produce carbon, alloy, or specialty steels: and commenced construction, modification, or reconstruction after August 17, 1983. This information is being collected to assure compliance with 40 CFR part 60, subparts AA and AAa.

Subparts AA and AAa require: (1) Monitoring and recordkeeping of operations data and opacity levels; (2) semiannual reports of excess emissions and unacceptable; and (3) notifications of procedures to be followed and CEMs performance during performance tests. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

All reports are sent to the delegated State or local authority. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 21, 2000; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 266 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and disclose the information.

Respondents/Affected Entities: Steel Plants.

Estimated Number of Respondents: 90.

Frequency of Response: semiannual.

Estimated Total Annual Hour Burden: 48,413 hours.

Estimated Total Annualized Capital and O&M Cost Burden: $94,350.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to OMB No. 2060–0038 and EPA ICR No. 1060.10 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Ave., NW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: April 17, 2000.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 00–10283 Filed 4–24–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. FRL–6584–2]

Final NPDES General Permits for Non-Contact Cooling Water Discharges in the States of Maine, Massachusetts, and New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final NPDES General Permits—MEG250000, MAG250000, and NHG250000.

SUMMARY: The Director of the Office of Ecosystem Protection, EPA-New England, is issuing Notice of Final National Pollutant Discharge Elimination System (NPDES) general permits for non-contact cooling water discharges to certain waters of the States of Maine, Massachusetts, and New Hampshire for the purpose of reissuing the current permit which expired on May 31, 1999. These general NPDES permits establish notice of intent (NOI) requirements, effluent limitations, standards, prohibitions and management practices for the non-contact cooling water discharges. Owners and/or operators of facilities discharging non-contact cooling water including those currently authorized to discharge under the expired general permit will be required to submit to EPA-New England, a notice of intent to be covered by the appropriate general permit and will receive a written notification from EPA of permit coverage and authorization to discharge under one of the general permits. The eligibility requirements are discussed in detail under part I. D.3.b and the reader is strongly urged to go to that section before reading further. This general permit does not cover new sources as defined under 40 CFR 122.2.

DATES: The general permit shall be effective on the date specified in the final general permit published in the **Federal Register** and will expire April 25, 2005.

ADDRESSES: Notices of intent to be authorized to discharge under these permits should be sent to: Environmental Protection Agency, 1 Congress Street, Suite 1100 (CMU), Boston, Massachusetts 02114–2023.

The submittal of other information required under these permits or individual permit applications should also be sent to the above address.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the final permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding holidays from: Suprokash Sarker, Office of Ecosystem Protection, Environmental Protection Agency, 1 Congress Street, Suite 1100 (CMA), Boston, MA 02114–2023, telephone: 617–918–1693.

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Changes From the Previous Permit:

- States of MA and NH—pH control and non-toxic chemical additives may be allowed.
- States of MA and NH—change in monitoring requirements for flow, temperature and pH.
- State of MA—addition of monitoring requirement for total residual chlorine if potable water is used in the non-contact cooling water.
- State of NH—limits of pH flexibility is added.
- All States—commingling of non-contact cooling water effluent is allowed so long as the effluent can be monitored before it mixes with other streams of wastewater.
- Notification and eligibility to apply are transferred from Fact Sheet and Supplemental Information to part I, Permit section I.D.

Fact Sheet and Supplemental Information

I. Introduction

The Director of the Office of Ecosystem Protection, EPA-New England, is issuing final general permits for non-contact cooling water discharges to certain waters of the States of Maine, Massachusetts, and New Hampshire. This document contains part I for the final general NPDES permits and part II, Standard Conditions.

II. Coverage of General Permits

Section 301(a) of the Clean Water Act (the Act) provides that the discharge of pollutants is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit unless such a discharge is otherwise authorized by the Act. Although such permits to date have generally been issued to individual discharges, EPA's regulations authorize the issuance of ''general permits'' to categories of discharges (see 40 CFR 122.28). EPA may issue a single, general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures.

A. The Director of an NPDES permit program is authorized to issue a general permit if there are a number of point sources operating in a geographic area that:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations or operating conditions;
4. Require the same or similar monitoring requirements; and
5. In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

B. The similarity of the discharges prompted EPA to issue the April 28, 1994 general permit. When reissued, this permit will enable facilities currently covered under the expired general permit to maintain compliance with the Act and will extend environmental and regulatory controls to new dischargers and avoid a backlog of individual permit applications. Violations of a condition of a general permit constitute a violation of the Clean Water Act and subjects the discharger to the penalties in section 309 of the Act.

III. Exclusions

This general permit is not available to facilities which have cooling water intake structures that do not reflect the best technology available for minimizing adverse environmental impact, as required by section 316(b) of the Clean Water Act. This general permit is also not available to those facilities seeking alternative thermal limitations pursuant to section 316(a) of the Clean Water Act.

EPA has also determined that this general permit will not be available to ''New Source'' dischargers as defined in 40 CFR 122.2 due to the site specific nature of the environmental review required by the National Environmental Policy Act of 1969 (NEPA), 33 U.S.C. 4321 *et seq.* for those facilities. ''New Sources'' must comply with New Source Performance Standards (NSPS) and are subject to the NEPA process in 40 CFR 6.600. Consequently EPA has determined that it would be more appropriate to address ''New Sources'' through the individual permit process.

Any owner or operator authorized by a general permit may request to be excluded from coverage of a general permit by applying for an individual permit. This request may be made by submitting a NPDES permit application together with reasons supporting the request. The Director may also require any person authorized by a general permit to apply for and obtain an individual permit. Any interested person may petition the Director to take this action. However, individual permits will not be issued for sources discharging non-contact cooling water covered by these general permits unless it can be clearly demonstrated that inclusion under the general permit is inappropriate. The Director may consider the issuance of individual permits when:

A. The discharger is not in compliance with the terms and conditions of the general permit;

B. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

C. Effluent limitations guidelines are subsequently promulgated for the point sources covered by the general NPDES permit;

D. A Water Quality Management plan or Total Maximum Daily Load (TMDL) containing requirements applicable to such point sources is approved;

E. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; or

F. The discharge(s) is a significant contributor of pollution.

In accordance with 40 CFR 122.28(b)(3)(iv), the applicability of the general permit is automatically terminated on the effective date of the individual permit.

IV. Permit Basis and Other Conditions of the General NPDES Permit

A. Effluent Limitations

1. Statutory Requirements

Section 301(a) of the Clean Water Act (CWA or the Act), 33 U.S.C. 1311(a), makes it unlawful to discharge pollutants to waters of the United States without a permit. Section 402 of the Act, 33 U.S.C. 1342, authorizes EPA to issue NPDES permits allowing discharges that will meet certain

requirements, including CWA sections 301, 304, and 401 (33 U.S.C. 1331, 1314, and 1341). Those statutory provisions state that NPDES permits must include effluent limitations requiring authorized discharges to: (1) Meet standards reflecting specified levels of technology-based treatment requirements; (2) comply with State Water Quality Standards; and (3) comply with other state requirements adopted under authority retained by states under CWA section 510, 33 U.S.C. 1370.

EPA is required to consider technology and water quality requirements when developing permit limits. 40 CFR part 125, subpart A sets the criteria and standards that EPA must use to determine which technology-based requirements, requirements under section 301(b) of the Act and/or requirements established on a case-by-case basis under section 402(a)(1) of the Act, should be included in the permit.

The Clean Water Act requires that all discharges, at a minimum, must meet effluent limitations based on the technology-based treatment requirements for dischargers to control pollutants in their discharge. Section 301(b)(1)(A) of the Act requires the application of Best Practicable Control Technology Currently Available (BPT) with the statutory deadline for compliance being July 1, 1977, unless otherwise authorized by the Act. Section 301(b)(2) of the Act requires the application of Best Conventional Control Technology (BCT) for conventional pollutants, and Best Available Technology Economically Achievable (BAT) for non-conventional and toxic pollutants. The compliance deadline for BCT and BAT is as expeditiously as practicable but in no case later than three years after the date such limitations are promulgated and in no case later than March 31, 1989.

2. Technology-based Effluent Limitations

EPA has not promulgated National Effluent Guidelines for non-contact cooling water discharges. EPA believes that the limits established to meet the Water Quality Standards discussed below are sufficient to satisfy BAT/BCT described in section 304(b) of the Act.

3. Water Quality Based Effluent Limitations

Under section 301(b)(1)(C) of the Act discharges are subject to effluent limitations based on water quality standards. Receiving stream requirements are established according to numerical and narrative standards adopted under state and/or federal law for each stream use classification. Section 401 of the CWA requires that EPA obtain State certification which ensures that all water quality standards and other appropriate requirements of state law will be satisfied. Regulations governing State certification are set forth in 40 CFR 124.53 and 124.55.

The States of Maine, Massachusetts, and New Hampshire have narrative criteria in their water quality regulations (see Maine Title 38, Article 4–A, section 420 and section 464.4.A.(4); Massachusetts 314 CMR 4.05(5)(e); and New Hampshire Part Env-Ws 430.50(a) that prohibits toxic discharges in toxic amounts. The permit does not allow for the addition of materials or chemicals in amounts which would produce a toxic effect to any aquatic life.

Non-contact cooling water discharges do not contain or come in contact with raw materials, intermediate products, finished products, or process wastes. Therefore, it could be assumed that the discharges do not contain toxic or hazardous pollutants or oil and grease. Nevertheless, toxic effects may still occur as a result of toxic source water or due to dissolution of the piping in the cooling water systems. Any non-contact cooling water discharges which would violate water quality criteria established for toxic or hazardous pollutants would not qualify for this general permit and an individual permit would be required.

Water quality standards applicable to non-contact cooling water discharges covered by this general permit include pH and temperature. The limitations for pH and temperature are based upon limitations in the existing permit in accordance with the antibacksliding requirements found in 40 CFR 122.44(1). The permittees have been able to achieve consistent compliance with all these limitations. The state of New Hampshire may consider a change in pH under certain conditions. The following language reveals when pH can be changed for the state of New Hampshire:

The pH limits in the draft permit remain unchanged from the existing permit, however, language has been added to this draft permit allowing for a change in pH limit(s) under certain conditions as per State Permit Conditions (part I.C.2.a.). A change would be considered if the applicant can demonstrate to the satisfaction of NHDES–WD that the in-stream pH standard will be protected when the discharge is outside the permitted range, then the applicant or NHDES–WD may request (in writing) that the permit limits be modified by EPA to incorporate the results of the demonstration.

Anticipating the situation where NHDES–WD grants a formal approval changing the pH limit(s) to outside the 6.5 to 8.0 Standard Units (S.U.), EPA has added a provision to this draft permit (see New Hampshire part I.C.1.g.). That provision will allow EPA to modify the pH limit(s) using a certified letter approach. This change will be allowed as long as it can be demonstrated that the revised pH limit range does not alter the naturally occurring receiving water pH. Reference part I.C.2.a. **State Permit Conditions** in that permit. However, the pH limit range cannot be less restrictive than found in the applicable National Effluent Limitation Guideline for the facility or to a default range of 6.0 to 9.0 S.U. in the situation of no applicable guideline, whichever is more stringent.

If the State approves results from a pH demonstration study, this permit's pH limit range can be relaxed in accordance with 40 CFR 122.44(l)(2)(i)(B) because it will be based on new information not available at the time of this permit's issuance. This new information includes results from the pH demonstration study that justifies the application of a less stringent effluent limitation. EPA anticipates that the limit determined from the demonstration study as approved by the NHDES–WD will satisfy all effluent requirements for this discharge category and will comply with New Hampshire's Surface Water Quality Regulations amended on September 30, 1996.

B. Antidegradation Provisions

The conditions of the permit reflect the goal of the CWA and EPA to achieve and maintain water quality standards. The environmental regulations pertaining to the State Antidegradation Policies which protect the State's surface waters from degradation of water quality are found in the following provisions: Maine Title 38, Article 4–A. section 464.4.F.; Massachusetts Water Quality Standards 314 CMR 4.04 *Antidegradation Provisions*; and New Hampshire RSA 485–A:8, VI Part Env-Ws 430.31 through 430.45.

This general permit does not apply to any new or increased discharge to any outstanding national resource water or the territorial seas. It also does not apply to any new or increased discharge to other waters unless the discharge is shown to be consistent with the state's antidegradation policies. This determination shall be made in accordance with the appropriate State Antidegradation implementation procedures. EPA will not authorize these discharges under the general permit until it receives a favorable

antidegradation review and certification from the States.

C. Monitoring and Reporting Requirements

Effluent limitations and monitoring requirements which are included in the general permit describe the requirements to be imposed on the facilities to be covered.

Facilities covered by the final general permits will be required to submit to EPA, New England Region and the appropriate State authority, a Discharge Monitoring Report (DMR) containing effluent data. The frequency of reporting is determined in accordance with each State's provisions (see the individual State permits).

The monitoring requirements have been established to yield data representative of the discharge under authority of section 308(a) of the Act and 40 CFR 122.41(j), 122.44(i) and 122.48, and as certified by the State.

D. Endangered Species

The proposed limits are sufficiently stringent to assure water quality standards, both for aquatic life protection and human health protection, will be met. The effluent limitations established in these permits ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that adoption of the proposed permits is unlikely to adversely affect any threatened or endangered species or its critical habitat. EPA is seeking written concurrence from the United States Fish and Wildlife Service and National Marine Fisheries Service on this determination.

E. Standard Permit Condition

40 CFR 122.41 and 122.42 must be complied with. Specific language will be provided to permittees in part II of the permit.

F. State (401) Certification

Section 401 of the CWA provides that no Federal license or permit, including NPDES permits, to conduct any activity that may result in any discharge into navigable waters shall be granted until the State in which the discharge originates certifies that the discharge will comply with the applicable provisions of sections 301, 302, 303, 306, and 307 of the CWA. The section 401 certification process is underway in all States. In addition, EPA and the Commonwealth of Massachusetts jointly issue the final permit.

G. The Coastal Zone Management Act

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, and its implementing regulations (15 CFR part 930) require that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) be determined to be consistent with the CZMP. In the case of general permits, EPA has the responsibility for making the consistency certification and submitting it to the state for concurrence. EPA has requested the MEDEP, Division of Water Resource Regulation, 17 State House, Augusta, ME 04333; the Executive Office of Environmental Affairs, MACZM, 100 Cambridge Street, Boston, MA 02202; and the Office of State Planning, New Hampshire Coastal Program, 2½ Beacon Street, Concord, NH 03301, to provide a consistency concurrence that the proposed general permit is consistent with the ME, MA and NH Coastal Zone Management Program respectively.

H. Environmental Impact Statement Requirements

The general permits do not authorize discharges from any new sources as defined under 40 CFR 122.2. Therefore, the National Environmental Policy Act, 33 U.S.C. 4321 *et seq.*, does not apply to the issuance of these general NPDES permits.

I. National Historic Preservation Act of 1966

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 U.S.C. SS470 et. seq. are not authorized to discharge under this permit.

J. Essential Fish Habitat

The proposed limits are sufficiently stringent to assure state water quality standards, both for aquatic life protection and human health protection, will be met. The effluent limitations established in these permits ensure protection of aquatic life and maintenance of the receiving water as an aquatic habitat. The Region finds that adoption of the proposed permits is unlikely to adversely affect any federally managed species for which essential fish habitat has been designated. EPA is seeking written concurrence from the National Marine Fisheries Service on this determination.

V. Other Legal Requirements

A. Executive Order 12866

EPA has determined that this general permit is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements of this permit were previously approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*, and assigned OMB control number 2040–0086 (NPDES permit application) and 2040–0004 (Discharge Monitoring Reports).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. The permit issued today, however, is not a ''rule'' subject to the requirements of 5 U.S.C. 553(b) and is therefore not subject to the Regulatory Flexibility Act.

D. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their ''regulatory actions'' (defined to be the same as ''rules'' subject to the RFA) on tribal, state and local governments and the private sector. The permit issued today, however, is not a ''rule'' subject to the RFA and is therefore not subject to the requirements of UMRA.

Dated: April 14, 2000.

Mindy S. Lubber,

Regional Administrator, New England.

Part I—Final General Permits Under the National Pollutant Discharge Elimination System (NPDES)

Note: The following three final general permits have been combined for purposes of this **Federal Register**. Part I A, part I B and part I C contain general permits for the states of ME, MA (including both Commonwealth and Indian Country lands), and NH respectively. Part I.D. is common to all three permits.

A. Maine General Permit, Permit No. MEG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the ''CWA''), operators of industrial facilities discharging non-contact cooling water located in Maine are

authorized to discharge to all waters of the State unless otherwise restricted by Title 38, Article 4–A, Water Classification Program, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein. No discharge into lakes is authorized by this permit. The permit allows non-contact cooling water to be commingled with other discharges as long as the non-contact cooling water can be monitored separately for compliance. In Maine the General NPDES Permit is not available to dischargers in Indian Country. EPA will in the near future be making a decision regarding whether State law applies in Indian Country in Maine for the purposes of water quality regulation in response to the State's application to implement the NPDES Permit program in Indian Country. Until then we will not know from whom to accept section 401 of the Clean Water Act certification and so are not making the permit available in Indian Country.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this 14th day of April, 2000.

Edward K. McSweeney,

Acting Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharge limitations Other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement frequency	Sample type
Flow (See A.1.h. and Fig. I.)	Report	Report	Monthly	Total Daily.
Temperature (See A.1.h. and Fig. I)	Report	Report	Monthly	Grab.
Total Residual Chlorine (See A.1.i.)		Report	Quarterly	Grab.
pH (See A.1.d.)			4/Month	Grab.
LC_{50} & C– NOEC (See A.1.j.)				24-hr. Comp.

b. The discharge shall not cause a violation of the water quality standards.

c. Non-contact cooling water may be discharged only into Class B, C, SB, and SC waters that have a drainage area larger than ten (10) square miles in accordance with Maine State Law. See part I.A.1.h. for details for determining if the specific discharge(s) have acceptable dilution and can be covered by the General Permit Program.

d. The pH of the effluent shall not be less than 6.0 standard units nor greater than 8.5 standard units any time unless these values are exceeded due to natural causes or as a result of an approved treatment process. pH shall be monitored monthly with 4 grabs, reporting maximum and minimum values.

e. There shall be no discharge of floating solids or visible foam in other than trace amounts.

f. Samples taken in compliance with the monitoring requirements specified above shall 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.

g. *Water Treatment Additives.* Non-toxic water treatment additives are chemicals used in cooling water systems primarily to control corrosion or prevent deposition of scale forming materials which do not exhibit any residual toxic effect on the receiving waters. No treatment additives may be used until specifically reviewed and authorized by MEDEP. Non-toxic water treatment additives are allowed in non-contact cooling water systems. The State of Maine will review each identified chemical to determine its acceptability. Additives used to control biological growth in such cooling systems are prohibited due to their inherent toxicity to aquatic life.

The following water treatment additive biological and chemical data must be supplied in the letter of intent to be covered by this general permit:

(1) Name and manufactureR of each additive used,

(2) Maximum and average daily quantity of each additive used on a monthly basis, and

(3) The vendor's reported aquatic toxicity of additive (NOAEL and/or LC_{50} in % for typically acceptable aquatic test organisms).

All substitutions to the accepted water treatment chemicals must be approved by the State prior to their usage.

h. *Discharge Temperature and Volume.* The temperature and total volume of the discharge from each facility shall not exceed 120 °F and 3.0 million gallons per day (MGD). The acceptability of the discharge from each facility must be determined using the graph on Figure I. The intersection of the maximum effluent temperature and the dilution ratio shall be in the ''acceptable'' range shown on Figure I, titled ''Effluent Temperature/Dilution Graph'' for coverage by the General Permit. If the intersection falls within the ''non-acceptable'' area, the facility must be covered by an individual NPDES Permit, not the General Permit.

The effluent temperature is the maximum daily temperature. The dilution factor is the sum of the 7Q10 low stream flow at the facility site and the daily maximum effluent flow divided by the daily maximum effluent flow. For facilities with multiple outfalls, the daily maximum effluent flow shall be the sum of the flow from all outfalls.

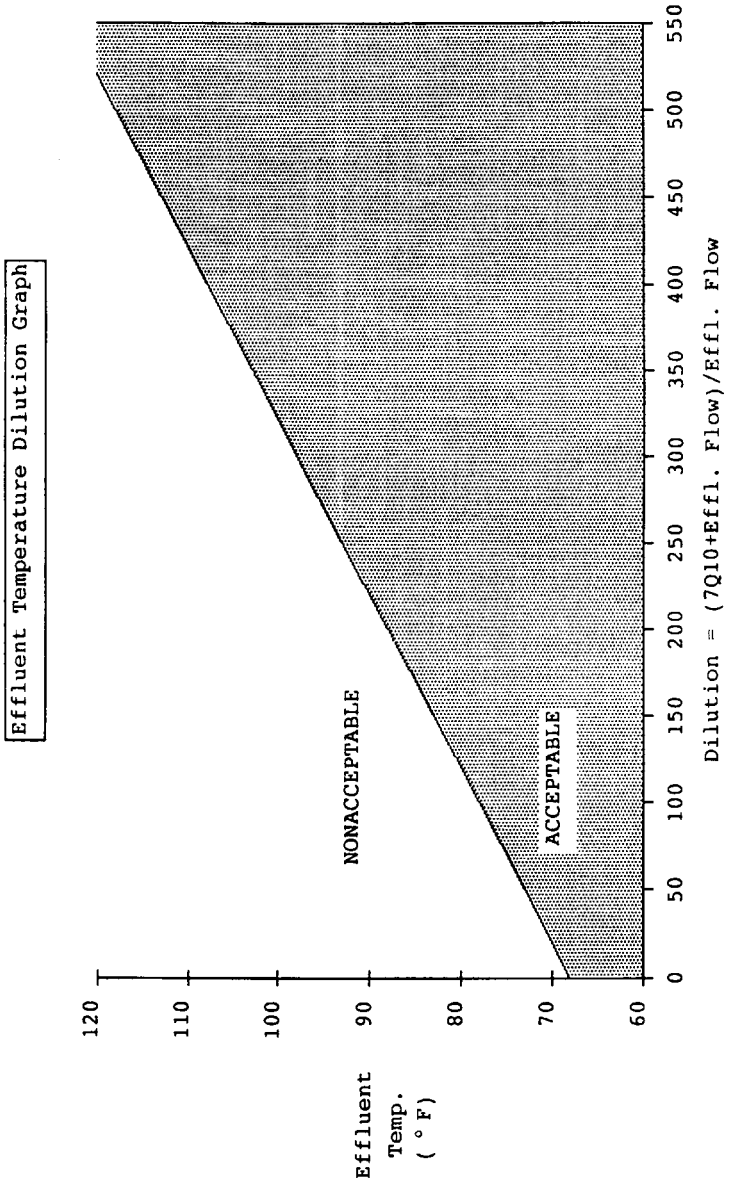
i. *Total Residual Chlorine.* Potable water supply sources used for cooling water supply shall not contain Total Residual Chlorine (TRC) at concentration levels that induce a toxic impact upon aquatic life within the receiving waters. The instream waste concentration of TRC based on the ratio of the effluent flow stream flow to the 7Q10 low flow of the stream shall be less than the appropriate water quality criteria (acute = 19 μg/l, chronic = 11 ug/l for fresh water and acute = 13 μg/l, chronic = 7.5 μg/l for marine water) for the receiving waterway.

j. In the case of suspected toxicity, chronic (and modified acute) toxicity test(s) shall be performed on the non-contact cooling water discharge by the permittee upon request by EPA and/or MEDEP. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24 hour composite sample to be taken during normal facility operation. The result of

the test (LC_{50} & C–NOEC) shall be forwarded to EPA and the State within 30 days.

BILLING CODE 6560–50–P

FIGURE I



BILLING CODE 6560–50–C

B. Massachusetts General Permit, Permit No. MAG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the ''CWA''), and the Massachusetts Clean Waters Act, as amended, (M.G.L. Chap. 21, sections 26–53), operators of facilities located in Massachusetts, which discharge non-contact cooling water to the classes of waters as designated in the Massachusetts Water Quality Standards, 314 CMR 4.00 et seq. are authorized to discharge to all waters, unless otherwise restricted, in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

The permit allows non-contact cooling water to be commingled with other discharges as long as the noncontact cooling water can be monitored separately for compliance.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this 14th day of April, 2000.

Edward K. McSweeney,

Acting Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Glenn Hass,

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

Effluent Limitations and Monitoring Requirements

1. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharges limitations Other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement frequency	Sample type
Flow		1.0 MGD [1]	Monthly	Total daily.
Temperature [3]				
Warm water fishery [2] (Class A and B).	Report	83°F(28.3°C)	Monthly	4 grabs, report maximum and average.
Cold water fishery [2] (Class A and B).	Report	68°F(20°)	Monthly	4 grabs, report maximum and average.
(Class SA and SB)	Report	85° F (29.4° C)	Monthly	4 grabs, report maximum and average.
pH		(see Part I.B.1.i or j).	Monthly	4 grabs report maximum and minimum values.
LC_{50} C–NOEC,		(see Part I.B.1.k)		24-hour composite.
Total Residual Chlorine (For potable water supply only).	Report(ug/l)	Report(ug/l)	Quarterly	4 grabs, report maximum and average.

[1] The State with EPA concurrence may allow coverage under the general permit for discharges greater than 1.0 MGD when it determines that such discharge is consistent with all the terms and conditions of the permit on a case by case basis without violating surface water quality standards.

[2] The definition of a cold or warm water fishery can be found in the Massachusetts Surface Water Quality Standards, 314 CMR 4.02.

[3] Samples shall be taken immediately upstream and downstream of the discharge (allowing for resaonable mixing), once per quarter to ensure that receiving water temperature rise limits are being complied with.

b.* * * The discharge shall not cause a violation of the water quality standards.

c.* * * The rise in temperature due to a discharge to Class A waters shall not exceed 1.5°F (0.8°C); and natural seasonal and daily variations shall be maintained (314CMR4.05(3)(a)2).

d.* * * The rise in temperature due to a discharge to Class B waters shall not exceed 3°F (1.7°C) in rivers and streams designated as cold water fisheries nor 5°F (2.8°C) in rivers and streams designated as warm water fisheries (based on the minimum expected flow for the month); in lakes and ponds the rise shall not exceed 3°F (1.7°C) in the epilimnion (based on the monthly average of maximum daily temperature); and natural seasonal and daily variations shall be maintained (314 CMR 4.05(3)(b)2).

e.* * * The rise in temperature due to a discharge to Class SA waters shall not exceed 1.5°F (0.8°C); and natural seasonal and daily variations shall be maintained (314 CMR 4.05(4)(a)2).

f.* * * The rise in temperature due to a discharge to Class SB waters shall not exceed 1.5°F (0.8°C) during the summer months (July through September) nor 4°F (2.2°C) during the winter months (October through June); and natural seasonal and daily variations shall be maintained 314 CMR 4.05(4)(b)2.

g. There shall be no discharge of floating solids, visible oil sheen or foam other than in trace amounts.

h. Samples taken in compliance with the monitoring requirements specified above shall 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 discharge, prior to such commingling. Samples shall be spaced throughout the operating day and at times representative of temperature fluctuations in the discharge.

i. The pH of the effluent for discharges to Class A and Class B waters shall be in the range of 6.5–8.3 standard units and not more than 0.5 units outside of the background range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

j. The pH of the effluent for discharges to Class SA and Class SB waters shall be in the range of 6.5–8.5 standard units and not more than 0.2 units outside of the normally occurring range. There shall be no change from background conditions that would impair any uses assigned to the receiving water Class.

k. Chronic (and modified acute) toxicity test(s) shall be performed on the non-contact cooling water discharge by the permittee upon request by EPA and/or MADEP. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be performed on a 24-hour composite sample to be taken during normal facility operation. The results of the test (C–NOEC and LC_{50}) shall be forwarded to State and EPA within 30 days after completion.

l. This permit does not allow for the addition of any chemical for any purpose to the non-contact cooling water except for non-toxic neutralization chemicals. The Commonwealth of Massachusetts will review each identified neutralization chemical to determine its acceptability. In addition, additives used to control biological growth, corrosion, and/or scale in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each non-toxic neutralization chemical used the following data must be supplied with the Notice Of Intent letter to be covered by this general permit.

(1) Name and manufacturer,

(2) Maximum and average daily quantity used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the cooling water, and

(3) The vendor's reported aquatic toxicity (NOAEL and/or LC_{50} in % for typically acceptable aquatic organism).

All substitutions of nontoxic neutralization chemicals must be approved by the State in writing prior to their usage. All written substitution requests must contain the information required in part I.B.1.l.(1)–(3) immediately above.

m. Flow equalization must be installed for all new discharges.

2. State Permit Conditions

1. This Discharge Permit is issued jointly by the U. S. Environmental Protection Agency (EPA) and the 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 Director of the Massachusetts Division of Watershed Management pursuant to M.G.L. Chap. 21, section 43.

2. 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. Environmental Protection Agency. 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.

C. New Hampshire General Permit, Permit No. NHG250000

In compliance with the provisions of the Federal Clean Water Act, as amended, (33 U.S.C. 1251 *et seq.*; the ''CWA''), operators of industrial facilities discharging non-contact cooling water located in New Hampshire are authorized to discharge to all 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 permit allows non-contact cooling water to be commingled with other discharges as long as the non-contact cooling water can be monitored separately for compliance.

This permit shall become effective when issued.

This permit and the authorization to discharge expire at midnight, five years from the effective date of the **Federal Register** publication and supersedes the permit issued on April 28, 1994.

Signed this 14th day of April, 2000.

Edward K. McSweeney,

Acting Director, Office of Ecosystem Protection, Environmental Protection Agency, Boston, MA 02114.

Effluent Limitations and Monitoring Requirements

l. During the period beginning on the effective date and lasting through expiration, the permittee is authorized to discharge non-contact cooling water.

a. Each outfall discharging non-contact cooling water shall be limited and monitored as specified below. Monitoring for each outfall shall be reported.

Effluent characteristic	Discharge limitations other units (specify)		Monitoring requirements	
	Avg. monthly	Max. daily	Measurement Frequency	Sample Type
Flow, mgd	Report	[1] 1.0	1/Week	Estimate or Totalizer.
Temperature:				
Cold water fishery [2]	Report	68°F(20 °C)	3/Week	Grab.
Warm water fishery [2]	Report	83°F (28.3 °C)	3/Week	Grab.
pH	(see Part I.C.1.g)		1/Week	Grab.
LC_{50} & C–NOEC, %	(see Part I.C.1.f)			24-hour composite.

[1] The State with EPA concurrence may allow coverage under the general permit for discharges greater than 1.0 mgd when it determines that such discharge is consistent with all the terms and conditions of the permit on a case by case basis without violating surface water quality standards.

[2] As determined by the New Hampshire Fish and Game Department.

b. The discharge shall not cause a violation of the water quality standards of the receiving water.

c. This permit does not allow the addition of any chemical for any purpose to the water except for non-toxic pH neutralization chemicals. The State of New Hampshire will review each identified pH neutralization chemical to determine its acceptability. In addition, additives used to control biological growth, corrosion, and/or scale in cooling water are prohibited due to their inherent toxicity to aquatic life.

For each non-toxic pH neutralization chemical used the following data must be supplied with the Notice Of Intent

letter to be covered by this general permit.

(1) Name and manufacturer,

(2) Maximum and average daily quantity used on a monthly basis as well as the maximum and average daily expected concentrations (mg/l) in the cooling water, and

(3) The vendor's reported aquatic toxicity (NOAEL and/or LC_{50} in percent for typically acceptable aquatic organism(s)).

All substitutions of non-toxic pH neutralization chemicals must be approved by the State in writing prior to their usage. All written substitution requests must contain the information required in part I.C.1.c.(1)–(3) immediately above.

d. There shall be no discharge of oil, floating solids, foam, debris or other visible pollutants.

e. Samples taken in compliance with the monitoring requirements specified above shall 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.

f. One chronic (and modified acute) toxicity test shall be performed on the non-contact cooling water discharge by the permittee upon request by EPA and/or the NHDES. Testing shall be performed in accordance with EPA toxicity protocol to be provided at the time of the request. The test shall be perrformed on a 24-hour composite sample to be taken during normal facility operation. The results of the test (C–NOEC and LC_{50}) shall be forwarded to the State and EPA within 30 days after completion.

g. The permittee may submit a written request to the EPA requesting a change in the permitted pH limit range to be not less restrictive than any applicable federal effluent guideline for the facility or to a default range of 6.0 to 9.0 S.U. in the situation of no applicable guideline, whichever is more stringent. The permittee's written request must include the State's letter containing an original signature (no copies). The State's letter shall state that the permittee has demonstrated to the State's satisfaction that as long as discharges to the receiving water from a specific outfall are within a specific numeric pH range the naturally occurring receiving water pH will be unaltered. That letter must specify for each outfall the associated numeric pH limit range. Until written notice is received by certified mail from the EPA indicating the pH limit range has been changed, the permittee is required to meet the permitted pH limit range in the respective permit.

2. State Permit Conditions

a. The permittee shall comply with the following conditions which are included as State Certification requirements.

The pH range for class B waters shall be 6.5–8.0 S.U. or as naturally occurs in the receiving water. The 6.5–8.0 S.U. range must be achieved in the final effluent unless the permittee can demonstrate to Division that: (1) The range should be widened due to naturally occurring conditions in the receiving water or (2) the naturally occurring source water pH is unaltered by the permittees operation. The scope of any demonstration project must receive prior approval from the Division.

b. This NPDES Discharge Permit is issued by the U.S. Environmental Protection Agency under Federal and State law. Upon final issuance by the EPA, the New Hampshire Department of Environmental Services, Surface Water Quality Bureau, may adopt this Permit, including all terms and conditions, as a state permit pursuant to RSA 485–A:13.

D. Common Elements for all Permits

1. Description of Non-Contact Cooling Water Discharges

Non-contact cooling water is water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water discharges are similar in composition even though they are not generated by a single industrial category or point source. For further definition of noncontact cooling water see 40 CFR 401.11 (n).

2. Conditions of the General NPDES Permit

a. *Geographic Areas: Maine* (Permit No. MEG250000). All of the discharges to be authorized by the general NPDES permit for dischargers located in the State of Maine are into all waters of the State unless otherwise restricted by Title 38, Article 4–A, Water Classification Program (or as revised). In Maine the General NPDES Permit is not available to dischargers in Indian Country. EPA will in the near future be making a decision regarding whether State law applies in Indian Country in Maine for the purposes water quality regulation in response to the State's application to implement the NPDES Permit program in Indian Country. Until then we will not know from whom to accept section 401 of the Clean Water Act certification and so are not making the permit available in Indian Country.

Massachusetts (Permit No. MAG250000). All of the discharges to be authorized by the 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.*

New Hampshire (Permit No. NHG250000). All of the discharges to be authorized by the 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, New Hampshire RSA 485–A:8 (or as revised).

b. *Notification by Permittees*: Operators of facilities whose discharge, or discharges, are non-contact cooling water and whose facilities are located in the geographic areas described in part I.D.2. above, may submit to the Regional Administrator, EPA—New England, a notice of intent to be covered by the appropriate general permit. Notifications must be submitted by permittees who are seeking coverage under this permit for the first time and by those permittees who received coverage under the expired permit. This written notification must include for each individual facility, the owner's and/or operator's legal name, address and telephone number; the facility name, address, contact name and telephone number; the number and type of facilities (SIC code) to be covered; the facility location(s); a topographic map (or other map if a topographic map is not available) indicating the facility location() and discharge point(s); latitude and longitude of outfall(s); the name(s) of the receiving waters into which discharge will occur; the source of noncontact cooling water *i.e.,* river intake, (cooling water intake structures shall reflect best technology available for minimizing adverse environmental impact), municipal water supply or private well etc.; an antidegradation review where necessary see section IV. B of the Fact Sheet); new and increased discharges of non-contact cooling water that may adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat are not authorized under this general permit (see section IV. D of the Fact Sheet); and if required, a special list of water treatment chemicals used by the facility. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22.

Facilities located in Maine, Massachusetts and New Hampshire that

intend to be covered under this general permit must also submit a formal certification with the notice of intent that no chemical additives except those used for pH adjustment are used in their non-contact cooling water systems. If non-toxic neutralization chemicals are used, each shall be listed in the Notice of Intent letter.

Each facility must certify that the discharge for which it is seeking coverage under this general permit consists solely of non-contact cooling water and any authorized water treatment chemicals. If the discharge of non-contact cooling water subsequently mixes with other wastewater (*e.g.* stormwater) prior to discharging to receiving water, the permittee must certify that the monitoring it will provide under this general permit will be only for contact cooling water. An authorization to discharge under this general permit, where the non-contact cooling water discharges to a municipal or private storm drain owned by another party, does not convey any rights or authorization to connect to that drain.

Each facility must also submit a copy of the notice of intent to each State authority as appropriate (see individual state permits for appropriate authority and address).

The facilities authorized to discharge under the final general permit will receive written notification from EPA, New England Region, with State concurrence. Failure to submit to EPA, New England Region , 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.

3. Administrative Aspects

a. *Request to be covered*: A facility is not covered by any of these general permits until it meets the following requirements. First, it must send a notice of intent to EPA and the appropriate State indicating it meets the requirements of the permit and wants to be covered. And second, it must be notified in writing by EPA that it is covered by this general permit.

b. *Eligibility to Apply*: Any facility operating under an effective (unexpired) individual NPDES permit may request that the individual permit be revoked and that coverage under the general permit be granted, as outlined in 40 CFR 122.28(b)(3)(v).If EPA revokes the individual permit, the general permit would apply to the discharge.

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. When coverage is granted the expired individual permit automatically will cease being in effect. Proposed new dischargers may apply for coverage under this general permit and must submit the NOI 90 days prior to the discharge.

Facilities with coverage under the current general permit issued on April 28, 1994, effective on May 31, 1994 and expired on May 31, 1999 need to apply for coverage under this general permit within 60 days from the effective date of the permit. Failure to submit a Notice of Intent within 60 days for continuation of the discharge will be considered discharging without a permit as of the expiration date of the expired permit (May 31, 1999) for enforcement purposes. A Notice of Intent is not required if the permittee submits a Notice of Termination (see part I.F.1) of discharge before the sixty days expires.

c. *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 as long as the permittee submits a new Notice of Intent two (2) months prior to the expiration date in the permit. However, once this permit expires 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:

(1) 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; or

(2) The permittee's submittal of a Notice of Termination; or

(3) Issuance of an individual permit for the permittee's discharges; or

(4) 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.

E. Monitoring and Reporting

Maine and Massachusetts

Monitoring results obtained during the previous 3 months shall be summarized for each quarter and reported on separate Discharge Monitoring Report Form(s) postmarked no later than the 15th day of the month following the completed reporting period. The reports are due on the 15th day of January, April, July and October. The first report may include less than 3 months information.

New Hampshire

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report Form(s) postmarked no later than the 15th day of the month following the completed reporting period. The reports are due on the 15th day of the month following the reporting period.

The reports as stated above should be sent to EPA and the States at the following addresses :

1. EPA

Submit original signed and dated DMRs and all other reports required herein at the following addressee:

U.S. Environmental Protection Agency, Water Technical Unit (SEW), Post Office Box 8127, Boston, MA 02114

2. Massachusetts Department of Environmental Protection

a. The Regional Offices wherein the discharge occurs, shall receive a copy of the DMRs required herein:

Massachusetts Department of Environmental Protection, Western Regional Office, Post Office Box 2410, Springfield, MA 01103

Massachusetts Department of Environmental Protection, Southeastern Regional Office, 20 Riverside Drive, Lakeville, MA 02347

Massachusetts Department of Environmental Protection, Northeastern Regional Office, 205A Lowell Street, Wilmington, MA 01887

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

b. Copies of all DMRs, toxicity tests and other notifications required by this permit shall also be submitted to the State at:

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

c. Copies of the State Application Form BRP WM 11, Appendix A-Request for General Permit coverage, may be obtained at the DEP website at *(www.state.magnet.us/dep);* by telephoning the DEP Info Service Center (Permitting) at (617)–338–2255 or 1–800–462–0444 in 508, 413, 978 and 781 area codes; or from any DEP Regional Service Center located in each Regional Office.

3. Maine Department of Environmental Protection

Signed copies of all reports required by this permit shall be sent to the State at:

Maine Department of Environmental Protection, Division of Water Resource Regulation, 17 State House, Augusta, ME 04333

4. New Hampshire Department of Environmental Services

Signed copies of all reports required by this permit shall be sent to the State at:

New Hampshire Department of Environmental Services, Water Division, P.O. Box 95, 6 Hazen Drive, Concord, New Hampshire 03302–0095

F. Additional General Permit Conditions

1. Termination of Operations

Operators of facilities and/or operations authorized under this permit shall notify the Director upon the termination of discharges. The notice must contain the name, mailing address, and location of the facility for which the notification is submitted, the NPDES permit number for the non-contact cooling water discharge identified by the notice, and an indication of whether the non-contact cooling water discharge has been eliminated or the operator of the discharge has changed. The notice must be signed in accordance with the signatory requirements of 40 CFR 122.22.

2. When the Director May Require Application for an Individual NPDES Permit

a. 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 the following:

(1) The discharge(s) is a significant contributor of pollution;

(2) The discharger is not in compliance with the conditions of this permit;

(3) 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;

(4) Effluent limitation guidelines are promulgated for point sources covered by this permit;

(5) A Water Quality Management Plan or Total Maximum Daily Load containing requirements applicable to such point source is approved;

(6) Discharge to the territorial sea

(7) Discharge to outstanding natural resource water.

(8) The point source(s) covered by this permit no longer:

(a) Involves the same or substantially similar types of operations;

(b) Discharges the same types of wastes;

(c) Requires the same effluent limitations or operating conditions;

(d) Requires the same or similar monitoring; and

(e) In the opinion of the Director, is more appropriately controlled under a general permit than under an individual NPDES permit.

b. The Director may require an individual permit only if the permittee authorized by the general permit has been notified in writing that an individual permit is required, and has been given a brief explanation of the reasons for this decision.

3. When an Individual NPDES Permit May Be Requested

a. Any operator may request to be excluded from the coverage of this general permit by applying for an individual permit.

b. 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.

F. Summary of Responses to Public Comments

On November 23, 1999, EPA released in the **Federal Register** for public notice and comment a draft NPDES general permit for non-contact cooling water discharges in the states of ME, MA. and NH. The public comment period for this draft general permit expired on December 22, 1999.

1. Based on EPA in-house review and comment, the following items are changed with the concurrence of the respective states where appropriate:

A. Under section III—Exclusions, the first paragraph is changed to read as follows: ''This general permit is not available to facilities which have cooling water intake structures that do not reflect the best technology available for minimizing adverse environmental impact, as required by section 316(b) of the Clean Water Act. This general permit is also not available to those facilities seeking alternative thermal limitations pursuant to section 316(a) of the Clean Water Act.''

B. Under part I.A.1.a. (ME Permit), Effluent Limitations and Monitoring Requirements for pH and LC_{50} & C-NOEC are added. A new note ''j'' for toxicity testing is also added under part I.A.1.j.

C. Under part I.C.1.a (NH Permit), maximum daily flow is changed from ''Report'' to 1.0 mgd with the following note: ''The State with EPA concurrence may allow coverage under this general permit for discharges greater than 1.0 mgd when it determines that such discharge is consistent with the terms and conditions of the permit on a case by case basis without violating surface water quality standards.''

D. Under part I Final General Permits and part I.D.2.a., Geographic Areas language is added to clarify that the general permit in Maine is not available for discharges in Indian Country and to clarify that Indian Country lands are included in the Commonwealth of Massachusetts permit.

E. Under part I.D.2.b, Notification by Permittee, the following: ''(cooling water intake structures shall reflect best technology available for minimizing adverse environmental impact)'' is added after ''* * * cooling water i.e, river intake * * *'' on line 11.

2. The following items are either added or changed based on comments from the State of New Hampshire :

A. pH is added before all ''neutralization chemicals'' under part I.C.1.c.

B. In the last line of the third paragraph under part I.D.3.b, Eligibility to Apply, the word ''Notice of Termination'' is followed by the reference part I.F.1.

C. The reference to the ''Surface Water Quality Bureau'' is replaced with ''Water Division''.

3. Based on comments from MADEP the following items are either added or changed :

A. Under part I.B.1.g. the wording is changed to read ''* * * floating solids, visible oil sheen or foam other than in trace amounts.''

B. Under part I.B.1.h, add: ''Samples shall be spaced throughout the operating day and at times representative of temperature fluctuations in the discharge.''

C. Under part I.E.2.b. the wording is changed to read ''Copies of all DMRs, toxicity tests and other notifications * * *'' instead of ''except DMRs.''

4. The US Fish and Wildlife Service, in a letter dated December 17, 1999, concurred with EPA's opinion that the reissuance of the NPDES general permits will not jeopardize the continued existence of Atlantic salmon in Maine.

5. The National Marine Fisheries Service in a letter dated April 5, 2000 has concluded that the reissuance of the

general permits for the discharge of non-contact cooling water in the states of Maine, Massachusetts and New Hampshire will not likely adversely affect any endangered or threatened species under NMFS jurisdiction. NMFS also concurs with EPA's determination that this action will not have an adverse effect on essential fish habitat.

Part II, Standard Conditions

Section A. 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.

a. 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.

b. 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 nor 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 nor 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.

c. 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

a. 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).

b. 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).

c. Information required by NPDES application forms provided by the Regional Administrator under section 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 notice of intent 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 parts 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.

Section B. 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 B.4.c and 4.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 paragraph D.1.e (24-hour notice).

d. *Prohibition of bypass.* (1) Bypass is prohibited, and the Regional Administrator may take enforcement action against a permittee for bypass, unless: (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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

(c) (i) The permittee submitted notices as required under paragraph 4.c of this section.

(ii) 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 above in paragraph 4.d of this section.

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 B.5.c of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

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

(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 paragraphs D.1.a and 1.e (24-hour notice); and

(4) The permittee complied with any remedial measures required under B.3. above.

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

Section C. 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 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, 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.

Section D. 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 to the effluent limitations in the permit, nor to the notification requirements under 40 CFR 122.42(a)(1).

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

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

c. *Transfers.* This permit is not transferable to any person except 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 section 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) or forms provided or specified by the Regional Administrator for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the 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.

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 section 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 section 122.44(g))

(3) The Regional Administrator may waive the written report on a case-by-case basis for reports under paragraph D.1.e 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 D.1.d, D.1.e and D.1.f of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph D.1.e of this section.

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

2. Signatory Requirement

a. All applications, reports, or information submitted to the Regional Administrator shall be signed and certified. (See section 122.22)

b. 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 paragraph A.8. 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.

Section E. 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 total and/or fecal coliforms, 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) means 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 Judgement (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) Public Law 92–500, as amended by Public Law 95–217, Public Law 95–576, Public Law 96–483 and Public Law 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 guidelines 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 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 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.''

Non-Contact Cooling Water is water used to reduce temperature which does not come in direct contact with any raw material, intermediate product, a 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.

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.

Regional Administrator means the Regional Administrator, EPA, Region I, Boston, Massachusetts.

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.

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

Toxic pollutant means any pollutant listed as toxic in appendix D of 40 CFR part 122, under section 307(a)(l) of CWA.

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.

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:

(1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) 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.

Whole Effluent Toxicity (WET) means the aggregate toxic effect of an effluent measured directly by a toxicity test.

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.

2. Abbreviations When Used in This Permit Are Defined Below

cu. M/day or M3/day—cubic meters per day
mg/l—milligrams per liter
µg/l—micrograms per liter
lbs/day—pounds per day
kg/day—kilograms per day
Temp. °C—temperature in degrees Centigrade
Temp. °F—temperature in degrees Fahrenheit
Turb.—turbidity measured by the Nephelometric Method (NTU)
pH—a measure of the hydrogen ion—concentration
CFS—cubic feet per second
MGD—million gallons per day
Oil & Grease—Freon extractable material
ml/l—milliliter(s) per liter
Cl_2—total residual chlorine

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