



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

April 15, 2015

TO: Interested Parties of Record

***Sent via electronic mail  
Delivery confirmation requested***

**RE: *Proposed Draft General Permit  
General Permit – Application of Aquatic Pesticides for the Control Of Mosquito-  
Borne Diseases***

Dear Interested Party:

Enclosed is a proposed draft Maine Pollutant Discharge Elimination System (MEPDES) General Permit which the Department proposes to issue as a final document after opportunity for review and comment. By transmittal of this letter you are provided with opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

The General Permit will cover the entire State of Maine. The General Permit authorizes the discharge (*i.e.*, application) of authorized aquatic pesticides to Class GPA, tributaries to Class GPA, Classes AA, A, B, and C, Classes SA, SB, and SC, and those waters classified as such and having drainage areas of less than ten square miles. Waters of the State that do not provide habitat for mosquito species known to transmit vector-borne diseases, as determined by the Department, are not covered by this General Permit. The General Permit will be issued for a five-year term.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Friday, May 15, 2015**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04679-2094  
(207) 764-0477 FAX: (207) 760-3143

Maine Department of Environmental Protection  
Bureau of Land & Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME 04333-0017  
[bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov)

Sincerely,



Bill Hinkel  
Division of Water Quality Management  
Bureau of Land and Water Quality  
[bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov)  
ph: 207.485.2281

cc: Nancy Colbert Puff, Town Manager, Kittery  
Stephen H. Burns, Town Manager, York  
Kimberly A. Foss, Swamp, Inc.  
Henry Jennings, DACF  
Anne Chamberlain, DACF  
Kathleen Leydon, DACF  
Sara Robinson, Maine CDC  
Environmental Review, MDIFW  
Mick Kuhns, MDEP  
Gregg Wood, MDEP  
Pamela Parker, MDEP  
Sterling Pierce, MDEP  
Barry Mower, MDEP  
Susanne Meidel, MDEP  
Lori Mitchell, MDEP  
Environmental Review, MDMR  
David Webster, USEPA  
Alex Rosenberg, USEPA  
David Pincumbe, USEPA  
Olga Vergara, USEPA  
Fred Corey, Aroostook Band of Micmac Indians  
Ivy Frignoca, CLF  
Sharri Venno, Houlton Band of Maliseet Indians  
Trevor White, Indian Township Tribal Gov't  
Dan Kusnierz, Penobscot Indian Nation

**STATE OF MAINE**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**General Permit**  
**Application of Aquatic Pesticides for the Control**  
**of Mosquito-Borne Diseases**

**Maine Pollutant Discharge Elimination System**  
**Maine Waste Discharge License Program**



Bureau of Land and Water Quality  
Maine Pollutant Discharge Elimination System (MEPDES) Permit  
Maine Waste Discharge License (WDL)

**DATE**  
#MEG140000  
#W008226-5Y-D-R

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
GENERAL PERMIT FOR APPLICATION OF AQUATIC PESTICIDES FOR THE  
CONTROL OF MOSQUITO-BORNE DISEASES

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DEPARTMENT ORDER

IN THE MATTER OF

GENERAL PERMIT	)	MAINE POLLUTANT DISCHARGE
AQUATIC PESTICIDES FOR THE CONTROL	)	ELIMINATION SYSTEM PERMIT
OF MOSQUITO-BORNE DISEASES	)	
STATE OF MAINE	)	AND
#W008226-5Y-D-R	)	WASTE DISCHARGE LICENSE
#MEG140000	)	<b>RENEWAL</b>
		<b>APPROVAL</b>

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S.A. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S.A. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, and applicable rules of the Maine Department of Environmental Protection (Department), the Department has considered the renewal of Maine Pollutant Discharge Elimination System (MEPDES) General Permit #MEG140000 / Maine Waste Discharge License (WDL) #W008226-5Y-C-R, *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases*, which was issued on July 28, 2010 for a five-year term, with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**PROCEDURAL AND REGULATORY SUMMARY**

On January 12, 2001, the Department received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. The Department administers the program as the Maine Pollutant Discharge Elimination System (MEPDES) permit program.

On July 28, 2010, the Department issued a General Permit for the *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases* to certain waters of the State that constitute breeding habitat for mosquito species known to be potential vectors of infectious diseases. The July 28, 2010 General Permit was issued for a five-year term and superseded the initial MEPDES permit issued by the Department on September 28, 2005.

During the week of March 8, 2015, the Department provided public notice of its intent to renew the July 28, 2010 General Permit in the Bangor Daily, Morning Sentinel, Kennebec Journal, Portland Press Herald, and Times Record newspapers. The notice solicited comments on a draft permit, when available, and provided an opportunity to request a public hearing. Public notice commenced renewal proceedings on the July 28, 2010. In accordance with *Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002, *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (last amended August 25, 2013), and *General Permits for Certain Wastewater Discharges*, 06-096 CMR 529(3)(c) (last amended June 27, 2007), the July 28, 2010 General Permit remained in force until the effective date of this permit renewal.

## CONCLUSIONS

Based on the findings in the attached Fact Sheet, dated April 15, 2015, and subject to the special and standards conditions that follow, the Department makes the following **CONCLUSIONS**:

1. The discharge associated with the *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases* covered under this General Permit, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge associated with the *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases* covered under this General Permit, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
  - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
  - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge associated with the *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases* covered under this General Permit is subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S.A. § 414-A(1)(D).

**ACTION**

Based on the findings and conclusions as stated above, the Department APPROVES the renewal of General Permit #MEG140000, *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases*, to certain waters of the State<sup>1</sup> that provide mosquito habitat, SUBJECT TO THE ATTACHED CONDITIONS, including:

1. The attached Special Conditions, including any effluent limitations and monitoring requirements.
2. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
3. This General Permit and the authorization to discharge become effective upon the date of signature below and expire at midnight five (5) years from the effective date. Prior to expiration of this General Permit, the Department must make a determination if it is to be renewed, and, if so, must commence renewal proceedings. If the General Permit is to be renewed, it shall remain in force until the Department takes final action on the renewal. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002, *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (last amended August 25, 2013), and *General Permits for Certain Wastewater Discharges*, 06-096 CMR 529(3)(c) (last amended June 27, 2007)]

DONE AND DATED AT AUGUSTA, MAINE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
PATRICIA W. AHO, Commissioner

Date filed with Board of Environmental Protection: \_\_\_\_\_

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of Public Notice: Week of March 8, 2015

This Order prepared by Bill Hinkel, BUREAU OF LAND & WATER QUALITY

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<sup>1</sup> Waters of the State covered by this General Permit are: Class GPA as described in 38 M.R.S.A. § 480-B(5) and 38 M.R.S.A. § 465-A, and tributaries to Class GPA; Class AA, A, B, and C as described in 38 M.R.S.A. § 465; Class SA, SB, and SC as described in 38 M.R.S.A. § 465-B; and those waters classified as such and having drainage areas of less than ten square miles.

## SPECIAL CONDITIONS

### A. AUTHORITY

A permit is required for the direct or indirect discharge of pollutants to waters of the State and United States. *Waste discharge licenses*, 38 M.R.S.A. § 413(1) and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, *et seq.* The Department is authorized by the United States Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. The Department may issue a general permit authorizing the discharge of certain pollutants from multiple individual discharge sources and locations which all have the same type of discharges and which involve situations where the Department determines there is a relatively low risk for significant environmental impact. 06-096 CMR 529. The Department has determined that discharges resulting from the application of an authorized aquatic pesticide that conform to the applicability and coverage standards established herein may be authorized by a general permit. Certain discharges, including the discharge of aquatic pesticides considered to be a low risk for human and environmental effects as identified by the Maine Department of Agriculture, Conservation and Forestry, may be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. In such cases, the Department may require some other form of notification. In making such a finding, the Department shall consider: the type of discharge; the expected nature of the discharge; the potential for toxic and conventional pollutants in the discharges; the expected volume of the discharges; other means of identifying discharges covered by the permit; and the estimated number of discharges to be covered by the permit.

### B. SPECIALIZED DEFINITIONS

In addition to the definitions found in *Definitions in the Waste Discharge Permitting Program*, 06-096 CMR 520 (effective January 12, 2001) and in the waste discharge program and water classification laws, the following terms have the following meanings when used in this General Permit.

1. **Aquatic pesticide treatment plan.** “Aquatic pesticide treatment plan” means a written plan prepared by the applicant, or agent thereto, for a specific treatment area and submitted for approval as part of the Notice of Intent required for coverage under this General Permit. The aquatic pesticide treatment plan must identify all pesticides(s) proposed for use and any other chemical(s) or compound(s) proposed for use.
2. **Authorized aquatic pesticide.** “Authorized aquatic pesticide” (i) is any substance or mixture of substances applied in, on or over the waters of the State or in such a way as to enter those waters intended for preventing, destroying, repelling, or mitigating any pest<sup>2</sup>; (ii) is registered with both the United States Environmental Protection Agency (USEPA) and Maine Board of Pesticides Control (BPC); and (iii) will not cause a violation of an applicable water quality standard, as determined by the Department.

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<sup>2</sup> See: *Regulations Concerning the Use of Aquatic Pesticides*, 06-096 CMR 514 (effective May 4, 1996) and *Federal Insecticide, Fungicide, and Rodenticide Act*, Title 7 U.S.C. § 136.



## SPECIAL CONDITIONS

### B. SPECIALIZED DEFINITIONS (cont'd)

3. **Licensed applicator.** “Licensed applicator” means a person holding a valid commercial applicator certification from the State of Maine Department of Agriculture, Conservation and Forestry’s Board of Pesticides Control.
4. **Integrated pest management.** “Integrated pest management” means the selection, integration and implementation of pest damage prevention and control as defined at 7 M.R.S.A. § 2401(1).
5. **Mosquito habitat.** “Mosquito habitat” means Class GPA as described in 38 M.R.S.A. § 480-B(5) and 38 M.R.S.A. § 465-A, and tributaries to Class GPA; Class AA, A, B, and C as described in 38 M.R.S.A. § 465; Class SA, SB, and SC as described in 38 M.R.S.A. § 465-B; and those waters classified as such and having drainage areas of less than ten square miles that provide habitat for mosquito species known to transmit vector-borne diseases. Mosquito breeding areas, such as artificial sources of standing water around residential and commercial areas and storm drains that will not discharge to waters of the State during the application of aquatic pesticides, are not mosquito habitat as used in this General Permit.
6. **Notice of Intent (NOI).** “Notice of Intent” means a notification of intent to seek coverage under this General Permit, when required, submitted by the applicant to the Department on a form provided by the Department.

### C. APPLICABILITY AND ELIGIBILITY

Only proposed aquatic pesticide treatments that conform to the following conditions for applicability and coverage are eligible for coverage under this General Permit.

1. **Area of coverage.** The geographic area covered by this General Permit is the entire State of Maine. Subject to all terms and conditions specified herein, this General Permit authorizes the discharge (*i.e.*, application) of authorized aquatic pesticides to Class GPA, tributaries to Class GPA, Classes AA, A, B, and C, Classes SA, SB, and SC, and those waters classified as such and having drainage areas of less than ten square miles. Waters of the State that do not provide habitat for mosquito species known to transmit vector-borne diseases, as determined by the Department, are not covered by this General Permit.
2. **Protection of non-target species.** An applicant for coverage under this General Permit must demonstrate to the Department’s satisfaction that the proposed treatment(s) provide adequate protection of non-target species. Applicants proposing treatments that do not provide adequate protection of non-target species are not eligible for coverage under this General Permit.
3. **Significant need to control target species.** An applicant for coverage under this General Permit must demonstrate to the Department’s satisfaction a significant need to control the target species and that pesticide control offers the only reasonable and effective means to achieve control of the target species. Demonstration of significant need may include, but not be limited to, health risk, economic hardship, or loss of use, and must document that the waterbody is mosquito habitat as

## SPECIAL CONDITIONS

### C. APPLICABILITY AND ELIGIBILITY (cont'd)

defined in Special Condition B of this General Permit. Significant need to control may also be satisfied by documentation that the proposed aquatic pesticide treatment is consistent with the guidelines set forth in the *State of Maine Arboviral (Mosquito-Borne) Illness Surveillance, Prevention and Response Plan* (current year) published by the Maine Department of Health and Human Services.

4. **Exclusions and restrictions.** Authorized aquatic pesticides must be applied in compliance with federal labeling restrictions and in compliance with applicable statute, Board of Pesticides Control rules and best management practices. Aerial spraying from aircraft is not a method that may be used under this General Permit.
5. **Written management plan.** An applicant for coverage under this General Permit must demonstrate to the Department's satisfaction that proposed applications of authorized aquatic pesticides will be performed in conjunction with a written management plan for the control of mosquito species known to transmit vector-borne diseases. To be eligible for coverage under this General Permit, the written management plan must include provisions for integrated pest management and best management practices to reduce or eliminate anthropogenic opportunities for mosquito breeding in waters that are not jurisdictional, such as stagnant water in tires or other structures.

### D. NOTIFICATION, DECISIONS AND EFFECTIVE TERM OF COVERAGE

#### 1. Notice of Intent (NOI).

- a. **NOI submission not required.** In accordance with 06-096 CMR 529(2)(b)(v), an entity seeking coverage under this General Permit for aquatic pesticide treatments using low risk aquatic pesticides as identified in the Maine Department of Agriculture, Conservation and Forestry's *Plan to Protect the Public Health from Mosquito-borne Diseases* ([http://www.maine.gov/dacf/php/pesticides/public\\_health.html](http://www.maine.gov/dacf/php/pesticides/public_health.html)) is not required to submit a Notice of Intent form to the Department to discharge under this General Permit. Prior to performing an aquatic pesticide treatment, the entity responsible for the contracting or implementing the aquatic pesticide treatments must notify the Department in writing and provide:
  - i. The legal name, address, telephone number, and electronic mail address of the cognizant official responsible for the aquatic pesticide treatment.
  - ii. The legal name, address, telephone number, electronic mail address, and Maine Board of Pesticides Control license number of the licensed applicator responsible for execution of the aquatic pesticide treatment.
  - iii. A topographic or similar type map extending approximately one mile beyond the boundaries of the proposed treatment area which depicts the treatment location(s).

## SPECIAL CONDITIONS

### D. NOTIFICATION, DECISION, AND EFFECTIVE TERM OF COVERAGE (cont'd)

**The entity responsible for contracting and executing the application of aquatic pesticides must comply with all terms and conditions specified in Special Conditions C, E, and F of this General Permit.**

- b. **NOI submission required.** An applicant seeking coverage under this General Permit for aquatic pesticide treatments using any pesticide other than the low risk aquatic pesticides as identified as identified in the Maine Department of Agriculture, Conservation and Forestry's *Plan to Protect the Public Health from Mosquito-borne Diseases* must submit a completed NOI to the Department for review and approval. NOI forms must be mailed or hand-delivered to:

Wastewater Permitting Section  
Department of Environmental Protection  
Bureau of Land and Water Quality  
Division of Water Quality Management  
17 State House Station  
Augusta, ME 04333-0017

The Department reserves the right to request additional information from the applicant based on review of the NOI. Permitting information, forms, and Augusta office directions may be obtained by contacting the Department's Waste Discharge Permitting Unit at 1-207-287-7688 or toll-free at 1-800-452-1942. Additionally, the General Permit, associated fact sheet and other forms are available for review and download at: <http://www.maine.gov/dep/water/wd/gp.html>.

2. **Required NOI information.** A complete NOI must contain the following information.
- a. The legal name, address, telephone number, and electronic mail address of the cognizant official responsible for execution of the aquatic pesticide application plan.
  - b. The legal name, address, telephone number, and electronic mail address and affiliation of any agents assisting with the execution of the aquatic pesticide application plan.
  - c. The legal name, address, telephone number, electronic mail address, and Maine Board of Pesticides Control license number of the licensed applicator responsible for execution of the aquatic pesticide application plan.
  - d. A signed, dated aquatic pesticide treatment plan prepared in accordance with Special Condition G of this General Permit.
  - e. A topographic or similar type map extending approximately one mile beyond the boundaries of the proposed treatment area which depicts the treatment location(s).
  - f. In accordance with 06-096 CMR 2(11)(D), evidence of title, right or interest (TRI) in the property(ies) that will be used to access the mosquito habitat.

## SPECIAL CONDITIONS

### D. NOTIFICATION, DECISION, AND EFFECTIVE TERM OF COVERAGE (cont'd)

- g. A list of abutters to whom notice was provided in accordance with Special Condition D.3 must be submitted with the application.
- h. Submit a statement that the applicant provided public notice of the Notice of Intent to the Maine Department of Inland Fisheries and Wildlife (MDIFW) Non-Game Program, the Maine Department of Conservation Natural Areas Program (MNAP), and the Maine Department of Marine Resources (if required) in accordance with Special Condition D.3.
- i. The signature of an authorized person in accordance with *Applications for Waste Discharge Licenses*, 06-096 CMR 521(5) (effective January 12, 2001).

Failure to submit all required NOI information may result in finding the NOI incomplete for processing and may delay processing or result in denial of the NOI.

- 3. **Public notice.** In accordance with 06-096 CMR 2(14)(A) and 06-096 CMR 529(3)(a), within 30 days prior to filing a Notice of Intent with the Department, an applicant must give public notice of Intent to File a NOI application using the form included with DEPLW1168-A. A NOI application that has been previously returned as incomplete for processing must comply with these requirements if the application is not resubmitted within 30 days of the date it was returned to the applicant. The notice must be mailed by certified mail or Certificate of Mailing to:
  - a. All abutters of the treatment area and project area, as determined by local tax records or other reliable means;
  - b. The municipal office of the municipality(ies) where the project is located, unless the applicant is the municipality;
  - c. If the project is located in the unorganized or deorganized areas of the State, to the appropriate county commissioners;
  - d. Maine Department of Inland Fisheries and Wildlife (MDIFW) Non-Game Program and the Maine Department of Conservation Natural Areas Program (MNAP); and
  - e. Maine Department of Marine Resources (only if marine or estuarine waters are within the project area).

### 5. Decisions.

- a. **Effective Date of Coverage.** The Department must approve or deny each NOI submitted for coverage under this General Permit: 1) within 31 calendar days of receipt of a complete NOI; 2) within 31 days of the date of public notice; or 3) on the effective date of this General Permit, whichever is later. If the Department does not notify the applicant within the specified timeframe, the NOI is automatically approved and becomes effective as if signed by the Commissioner in accordance with 06-096 CMR 2(19)(E). In the event coverage is denied, the Department must notify the applicant of the reason(s) for denial. Denial of coverage under this General Permit is not appealable to the Board of

## SPECIAL CONDITIONS

### D. NOTIFICATION, DECISION, AND EFFECTIVE TERM OF COVERAGE (cont'd)

Environmental Protection and is not final agency action. The approval of coverage under this General Permit is appealable in accordance with 06-096 CMR 2(24)(B).

- b. **Individual permit coverage.** The Department may require, or an interested party may request for consideration, that a permittee covered under this General Permit obtain an individual MEPDES permit for any of the reasons specified at 06-096 CMR 529(2)(b)(3)(i)(A-G). An entity eligible for coverage under this General Permit may request to be excluded from this General Permit and instead apply for an individual MEPDES permit as provided at 06-096 CMR 529(2)(b)(3)(iii).

6. **Effective term of coverage.** The term of this General Permit is five years. Coverage under this General Permit will be continued from year to year provided payment of an applicable annual fee pursuant to 38 M.R.S.A. § 353-B, and that there are no significant changes in the approved treatment plan that warrant submission of a new NOI for Department review and decision.

Prior to expiration of this General Permit, the Department must make a determination if it is to be renewed, and, if so, will commence renewal proceedings. Not less than 24 months prior to expiration of this General Permit, the Department must notify all permittees who have submitted a NOI and are covered under this General Permit of the decision to renew or not renew this General Permit. If the General Permit is to be renewed, it must remain in force until the Department takes final action on the renewal. Upon reissuance of a renewal General Permit, persons wishing to continue coverage must apply for coverage, as directed in Special Condition D.1 of this General Permit, under the renewal General Permit not later than 30 days following the issuance date of the new General Permit.

7. **Changed Conditions.** In the event that the permittee proposes to make significant changes in the nature or scope of the piscicide treatment plan described in a NOI previously approved, the permittee must notify the Department as soon as becoming aware of and before implementing such changes. Based on its evaluation of proposed changes, the Department may require the submission of a new NOI or that an individual permit be obtained. Significant changes include, but are not limited to, changes in the extent of the waterbody or areas to be treated, changes in the hydrology that expand the size of the project area, changes in facts or information described in the NOI previously submitted and approved, changes in anticipated impacts to non-target resources or organisms, or proposed discharges of chemicals or compounds not previously disclosed.

## **SPECIAL CONDITIONS**

### **E. AUTHORIZED DISCHARGES**

A permittee covered under this General Permit is authorized to discharge: 1) only in accordance with Special Conditions C, E, and F of this General Permit if not required to submit a NOI for approval; 2) only in accordance with the permittee's Notice of Intent if required to submit a NOI for approval; and 3) only in accordance with the terms and conditions of this General Permit. Discharges of pollutants other than the low risk aquatic pesticides as identified in the Maine Department of Agriculture, Conservation and Forestry's *Plan to Protect the Public Health from Mosquito-borne Diseases* or as approved based on information provided on an applicant's NOI are not authorized under this General Permit, and must be reported in accordance with Standard Condition B(5), *Bypasses, of Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, attached to this General Permit.

### **F. NARRATIVE EFFLUENT LIMITATIONS**

1. An entity covered under this General Permit must not discharge pollutants that cause a visible oil sheen, foam or floating solids at any time which would impair the uses designated for the classification of waters of the State beyond the project area.
2. An entity covered under this General Permit must not discharge pollutants that contain materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated for the classification of waters of the State beyond the project area.
3. An entity covered under this General Permit must not discharge pollutants that cause visible discoloration or turbidity in waters of the State beyond the project area that causes those waters to be unsuitable for the designated uses and characteristics ascribed to their class.
4. An entity covered under this General Permit must not discharge pollutants that that lower the quality of any water of the State beyond the project area below such classification, or lowers the existing quality of any water of the State beyond the project area if the existing quality is higher than the classification.

### **G. AQUATIC PESTICIDE TREATMENT PLAN**

An entity submitting a NOI for coverage under this General Permit must develop an aquatic pesticide treatment plan that contains provisions for at least the following approval criteria. The aquatic pesticide treatment plan is subject to review and approval by the Department in its decision-making authority on a NOI for coverage under this General Permit. The permittee must implement the approved aquatic pesticide treatment plan.

1. A description of the treatment area, including, but not limited to, general habitat characterization and identification of all known significant surface water inlets or outlets within the area affected by aquatic pesticide treatments the time of treatment.
2. A description and definition of the aquatic pesticide treatment area, and statement explaining how the size of the aquatic pesticide treatment area has been minimized to the greatest extent practicable.

## **SPECIAL CONDITIONS**

### **G. AQUATIC PESTICIDE TREATMENT PLAN (cont'd)**

3. The USEPA registration number, formulation, concentration, maximum application rate, frequency of application, and the material safety data sheets for all aquatic pesticide proposed for use.
4. A list of, and the material safety data sheets for, all chemicals and compounds proposed in addition to aquatic pesticides.
5. Identification of all target species and a statement demonstrating that the proposed aquatic pesticide treatment plan provides adequate protection of non-target species.
6. A statement describing efforts to protect non-target species.
7. A statement demonstrating a significant need to control the target species and that pesticide control offers the only reasonable and effective means to achieve control of the target species.
8. A statement demonstrating that the proposed aquatic pesticide application plan will be performed in conjunction with a written management plan for the control of mosquito species known to transmit vector-borne diseases.
9. A statement describing the proposed/anticipated timeline for implementation and completion of the treatment plan.

### **H. REOPENING OF PERMIT FOR MODIFICATION**

In accordance with 38 M.R.S.A. § 414-A(5), the Department may, with notice to the permittee, reopen a permit to add or change conditions or effluent limitations for toxic compounds, to include specific limitations based on new information, or based on any other pertinent information obtained during the term of this General Permit.

### **I. SEVERABILITY**

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

**MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION  
MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
MAINE WASTE DISCHARGE LICENSE**

**FACT SHEET**

**DATE: APRIL 15, 2015**

**GENERAL PERMIT NUMBER: #MEG140000  
WASTE DISCHARGE LICENSE: # W008226-5Y-D-R**

**APPLICATION OF AQUATIC PESTICIDES FOR THE CONTROL OF  
MOSQUITO-BORNE DISEASES GENERAL PERMIT  
issued by  
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**AREA OF COVERAGE AND RECEIVING WATER CLASSIFICATION:**

**AREA OF COVERAGE IS THE ENTIRE STATE OF MAINE**

**WATERS ELIGIBLE FOR COVERAGE ARE THE FOLLOWING CLASSIFICATIONS THAT  
PROVIDE HABITAT FOR MOSQUITO SPECIES KNOWN TO TRANSMIT VECTOR-  
BORNE DISEASES:**

- **CLASS GPA AS DESCRIBED IN 38 M.R.S.A. § 480-B(5) AND 38 M.R.S.A. § 465-A
  - **TRIBUTARIES TO CLASS GPA**
  - **CLASS AA, A, B, AND C AS DESCRIBED IN 38 M.R.S.A. §465**
  - **CLASS SA, SB, AND SC AS DESCRIBED IN 38 M.R.S.A. § 465-B****
- **THOSE WATERS CLASSIFIED AS SUCH AND HAVING DRAINAGE AREAS OF  
LESS THAN TEN SQUARE MILES**

**DEPARTMENT CONTACTS:**

**BILL HINKEL  
APPLICATION AND PERMITTING  
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**Internet resources: <http://www.maine.gov/dep/> <http://www.maine.gov/dep/water/wd/gp.html>**



## 1. PROCEDURAL AND REGULATORY SUMMARY

On January 12, 2001, the Maine Department of Environmental Protection (Department) received authorization from the U.S. Environmental Protection Agency (USEPA) to administer the National Pollutant Discharge Elimination System (NPDES) permit program in Maine. The Department administers the program as the Maine Pollutant Discharge Elimination System (MEPDES) permit program. The General Permit has been assigned MEPDES #MEG140000.

On November 27, 2007, the USEPA issued a final rule stating that pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) were exempt from the federal Clean Water Act's NPDES permitting requirements. The USEPA's determination specifically referenced the application of pesticides directly to waters of the United States in order to control pests that are present in those waters. On January 7, 2009, the US 6<sup>th</sup> Circuit Court of Appeals (*National Cotton Council, et al. v. EPA*) vacated USEPA's 2007 rule. The USEPA has not promulgated effluent guideline limitations for this category of discharge.

On July 28, 2010, the Department issued a General Permit for the *Application of Aquatic Pesticides for the Control of Mosquito-Borne Diseases* to certain waters of the State that constitute breeding habitat for mosquito species known to be potential vectors of infectious diseases. The July 28, 2010 General Permit was issued for a five-year term and superseded the initial MEPDES General Permit issued by the Department on September 28, 2005.

During the week of March 8, 2015, the Department provided public notice of its intent to renew the July 28, 2010 General Permit in the Bangor Daily, Morning Sentinel, Kennebec Journal, Portland Press Herald, and Times Record newspapers. The notice solicited comments on a draft permit, when available, and provided an opportunity to request a public hearing. Public notice commenced renewal proceedings on the July 28, 2010. In accordance with *Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002, *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (last amended August 25, 2013), and *General Permits for Certain Wastewater Discharges*, 06-096 CMR 529(3)(c) (last amended June 27, 2007), the July 28, 2010 General Permit remained in force until the effective date of this permit renewal.

## 2. ADMINISTRATIVE REQUIREMENTS

The General Permit's administrative procedures and requirements are consistent with *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2 (last amended August 25, 2013), *General Permits for Certain Wastewater Discharges*, 06-096 CMR 529 (last amended June 27, 2007), 06-096 CMR 514, and applicable Maine laws.

The Department has made a determination that aquatic pesticide treatments using low risk aquatic pesticides pose little or no risk to human health and the environment. Moreover, control of mosquito species known to transmit vector-borne diseases during the larval stages of their growth cycle, which is when the low risk aquatic pesticides are typically applied, presents significantly less, and typically no, risk to human health and the environment. The quantity and volume of low risk aquatic pesticides used is minimal in that treatments are typically conducted by hand and pesticides are applied conservatively to discrete mosquito habitats.

## 2. ADMINISTRATIVE REQUIREMENTS (cont'd)

06-096 CMR 529(2)(b)(v) provides that, “Discharges other than discharges from publicly owned treatment works, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may, at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. In such cases, the Department may require some other form of notification.”

In accordance with 06-096 CMR 529(2)(b)(v), an entity seeking coverage under this General Permit for aquatic pesticide treatments using low risk aquatic pesticides as identified as identified in the Maine Department of Agriculture, Conservation and Forestry’s *Plan to Protect the Public Health from Mosquito-borne Diseases* ([http://www.maine.gov/dacf/php/pesticides/public\\_health.html](http://www.maine.gov/dacf/php/pesticides/public_health.html)) is not required to submit a Notice of Intent form to the Department to discharge under this General Permit. Prior to performing an aquatic pesticide treatment, the entity responsible for the contracting or implementing the aquatic pesticide treatments must notify the Department in writing and provide the information specified in Special Condition D.1.a. of the General Permit. The entity responsible for contracting and executing the application of aquatic pesticides must comply with all terms and conditions specified in Special Conditions C, E, and F of the General Permit. A violation of any condition set forth in Special Conditions C, E, or F of the General Permit constitutes a violation of the General Permit and is subject to enforcement action by the Department.

An applicant seeking coverage under this General Permit for aquatic pesticide treatments using any pesticide other than the low risk aquatic pesticides as identified in the Maine Department of Agriculture, Conservation and Forestry’s *Plan to Protect the Public Health from Mosquito-borne Diseases* must submit a completed Notice of Intent (NOI) to the Department for review and approval. The Notice of Intent must contain sufficient information and facts as to allow the Department to determine if the proposed aquatic pesticide treatment is anticipated to comply with the General Permit terms and conditions. Pursuant to 06-096 CMR 2, within 30 days prior to filing the NOI with the Department, an applicant for coverage under the General Permit is required to give public notice of its intent to submit a NOI to the Department, and an original or photocopy of the public notice must be submitted to the Department with the NOI. Once a completed NOI is received, the Department has a maximum of 30 days in which to act on it. If no other action is taken within that 30-day period, the NOI is considered approved on the 31st day following the Department’s receipt of the NOI.

The term of the General Permit is five years. Coverage under the General Permit will be continued from year to year through payment of an applicable annual fee for coverage requiring submission of a NOI, pursuant to *Maine Environmental Protection Fund*, 38 M.R.S.A. § 353-B, and provided there are no significant changes in the proposed treatment(s) as previously described to the Department. Prior to expiration of the General Permit, the Department must make a determination if it is to be renewed, and, if so, will commence renewal proceedings. Not less than 24 months prior to expiration of the General Permit, the Department must notify all permittees covered under the General Permit of the decision to renew or not renew the General Permit. If the General Permit is to be renewed, it must remain in force until the Department takes final action on the renewal. Upon reissuance of a renewal General Permit, persons wishing to continue coverage must apply for coverage under the renewal General Permit not later than 30 days following the issuance date of the new General Permit.

### 3. DESCRIPTION OF GENERAL PERMIT INTENT

The Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention (Maine CDC) annually prepares their “*State of Maine Arboviral (Mosquito-Borne) Illness Surveillance, Prevention and Response Plan.*”<sup>1</sup> The 2014 Season edition states,

*The two main mosquito-borne viruses (also known as arboviruses, for arthropod-borne viruses) recognized in Maine and known to cause human and animal disease are Eastern Equine Encephalitis (EEE) virus and West Nile virus (WNV). The first potentially Maine acquired human case of EEE was identified in 2008. The first case of indigenously acquired WNV occurred in 2012. Different types of mosquitoes, with species-specific feeding habits (birds and/or mammals) and habitats (environments where they are found) carry these diseases. (p.4)*

*EEE virus is an alphavirus, present in some passerine (perching song birds) bird species found in fresh-water swamp habitats. The virus is transmitted among wild birds in these areas primarily by *Culiseta melanura*, a mosquito species that prefers to feed on birds. EEE virus has a cycle of natural infection among wild bird populations with occasional infections of humans, non-human mammals (most often horses) and large domesticated birds (emus, ostriches, etc). Bridge vectors (i.e., a mosquito species that is indiscriminant and will feed on birds or mammals) are responsible for transferring the EEE virus to humans.*

*Some people infected with EEE may get only a mild flu-like illness with fever and headache. However, for people with infection of the central nervous system, a sudden high fever, severe headache, and stiff neck can be followed quickly by seizures, coma, and death. (p.5)*

*The incidence of EEE infection in humans varies by geographic area. Human EEE disease is more common in areas that support dense populations of passerine birds and have favorable habitats for the larvae of the primary mosquito vector. In Maine, these areas consist mainly of large and mature white cedar and red maple swamps. (p.5)*

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<sup>1</sup> <http://www.maine.gov/dhhs/mecdc/infectious-disease/epi/vector-borne/documents/arbo-plan-2014.PDF> (accessed April 14, 2015)

### 3. DESCRIPTION OF GENERAL PERMIT INTENT (cont'd)

*WNV is a flavivirus. Similar to EEE, WNV is also maintained in the environment in a cycle that involves birds, with indiscriminant feeding mosquitoes infecting humans and other mammals. WNV causes sporadic disease in humans, and occasionally results in significant outbreaks. (p.6)*

*An estimated 80% of people who become infected with WNV never develop symptoms attributable to the infection. For those who do develop symptoms: severe symptoms can include high fever, headache, neck stiffness, disorientation, coma, tremors, convulsions, muscle weakness, vision loss, and paralysis. These symptoms may last weeks, and neurological effects may be permanent. (p.6)*

*Maine CDC provides information to the public and communities to guide planning and actions to reduce the risk of human disease from EEE virus and WNV. Individuals can take a number of simple steps that will greatly reduce the risk of mosquito-borne viruses to them, their families, and their communities. Choosing to wear protective clothing (e.g., long pants, long-sleeve shirts), using effective Environmental Protection Agency (EPA) approved repellants, and minimizing opportunities for mosquitoes to breed are all important ways individuals can help prevent the spread of EEE and WNV in Maine. Community efforts, such as public education, mosquito surveillance, and integrated pest management (IPM) measures aimed at mosquito larvae may be necessary to decrease the local risk of EEE virus and WNV. (p.8)*

*Chemical /Biological pesticide controls can be further divided into the application of products aimed at mosquito larvae (larvicide) and those aimed at adult mosquitoes (adulticide). Use of larvicides involves the application of chemicals or natural bacteria to surface waters (such as ponds or in storm drains) to kill mosquito larvae. Larviciding is a proactive measure that can be useful in reducing the risk of mosquito-borne disease throughout the season. The intent of a larvicide program is to control generations of targeted mosquito species before they reach the adult stage, when they are able to transmit diseases such as EEE and WNV. Larvicide programs typically begin in early spring and continue throughout the season, and may help reduce the potential for human exposure to pesticides. (p.10)*

### 3. DESCRIPTION OF GENERAL PERMIT INTENT (cont'd)

*Adulticides generally involve the application of fine “mists” of pesticide over a relatively broad area or barrier treatments around the edge of properties to bring about the rapid reduction of adult mosquitoes. Adulticiding occurs in response to current surveillance activity. Adulticiding can quickly reduce existing, biting adult mosquitoes throughout a spray area, but its effects are relatively short lived, raising the possibility of repeat applications. In addition, adulticide spray sites are most likely to be areas of high human population density increasing the potential for human pesticide exposure. Comprehensive mosquito control programs may utilize both of the control methods, larviciding and adulticiding, if indicated by surveillance data. (p.10-11)*

*Maine CDC, the Maine Department of Agriculture, Conservation, and Forestry, the Maine Board of Pesticides Control, and the Maine Department of Environmental Protection are available to provide guidance and recommendations to assist municipalities in plan development and when faced with response decisions. (p.10)*

The General Permit authorizes the discharge of aquatic pesticides to certain waters of the State that constitute breeding habitat for mosquito species known to be potential vectors of infectious diseases. Pesticides must be registered with both the USEPA and Maine Board of Pesticides Control. Pesticides discharged in accordance with the General Permit must be applied in compliance with federal labeling restrictions and in compliance with applicable statute, Maine Board of Pesticides Control rules and best management practices. A permit is not required pursuant to 38 M.R.S.A. § 413(1) for the application of aquatic pesticides to mosquito breeding areas that are not waters of the State, or that at the time of application and during efficacy will not flow into a water of the State, such as a storm drain during dry period of the year.

Aerial spraying from aircraft is not a method that may be used under this General Permit.

### 4. AREA OF COVERAGE AND ELIGIBILITY CRITERIA

The General Permit limits coverage to Class GPA, tributaries to Class GPA, Classes AA, A, B, and C, Classes SA, SB, and SC, and those waters classified as such and having drainage areas of less than ten square miles. Waters of the State that do not provide habitat for mosquito species known to transmit vector-borne diseases, as determined by the Department, are not covered by this General Permit. The General Permit applies to the entire state of Maine.

In accordance with *Regulations Concerning the Use of Aquatic Pesticides*, 06-096 CMR 514(2) (effective May 4, 1996), the General Permit is carrying forward requirements for the applicant to demonstrate a significant need to control the target species and that aquatic pesticide control offers the only reasonable and effective means to achieve control of the target species and that the aquatic pesticide treatment plan provides adequate protection for non-target species.

## 5. CONDITIONS OF PERMIT

*Conditions of licenses*, 38 M.R.S.A. § 414-A states that the Department shall issue a license for the discharge of any pollutants only if it finds that:

- a. The discharge either by itself or in combination with other discharges will not lower the quality of any classified body of water below such classification;
- b. The discharge either by itself or in combination with other discharges will not lower the quality of any unclassified body of water below the classification which the board expects to adopt;
- c. The discharge either by itself or in combination with other discharges will not lower the existing quality of any body of water, unless, following opportunity for public participation, the department finds that the discharge is necessary to achieve important economic or social benefits to the State and when the discharge is in conformance with 38 M.R.S.A. § 464(4)(F);
- d. The discharge will be subject to effluent limitations that require application of the best practicable treatment, which are the methods of reduction, treatment, control and handling of pollutants, including process methods, and the application of best conventional pollutant control technology or best available technology economically achievable, for a category or class of discharge sources that the Department determines are best calculated to protect and improve the quality of the receiving water and that are consistent with the requirements of the Federal Water Pollution Control Act, as amended, and published in 40 Code of Federal Regulations; and
- e. A pesticide discharge is unlikely to exert a significant adverse impact on non-target species. This standard is only applicable to applications to discharge pesticides.

In addition, *Certain deposits and discharges prohibited*, 38 M.R.S.A. § 420 and *Surface Waters Toxics Control Program*, 06-096 CMR 530 (effective March 21, 2102) require the regulation of toxic substances not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 CMR 584 (effective July 29, 2012), and that ensure safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected.

## 6. RECEIVING WATER QUALITY STANDARDS

The State's water quality standards establish water quality objectives for all State waters by: 1) designating uses and related characteristics of those uses for each class of water, and 2) prescribing water quality criteria necessary to protect those uses and related characteristics. In addition, the State's antidegradation policy protects and maintains certain existing uses.

The applicability of the General Permit is restricted to discharges to Class GPA as described in 38 M.R.S.A. § 480-B(5) and 38 M.R.S.A. § 465-A, and tributaries to Class GPA; Class AA, A, B, and C as described in 38 M.R.S.A. § 465; Class SA, SB, and SC as described in 38 M.R.S.A. § 465-B, and that meet the standards of their ascribed classification, or where not, only if the discharge does not cause or contribute to the failure of the water body to meet the standards of classification. *Standards for*

## 6. RECEIVING WATER QUALITY STANDARDS (cont'd)

*classification of fresh surface waters*, 38 M.R.S.A. § 465 describes the standards for Class GPA, AA, A, B, and C waters.

Relevant standards for the receiving waters are as follows:

- Designated Uses. Class GPA, AA, A, B, and C waters must be of such quality that they are suitable for the designated uses of drinking water after disinfection or treatment (depending on classification), fishing; agriculture, recreation in and on the water, industrial process and cooling water supply, hydroelectric power recreation, and as habitat for aquatic life.
- Water Quality Criteria.  
Class AA – The aquatic life, dissolved oxygen and bacteria content of Class AA waters shall be as naturally occurs.

Class A – The dissolved oxygen content of Class A waters may be not less than 7 parts per million or 75% of saturation, whichever is higher. The aquatic life and bacteria content of Class A waters shall be as naturally occurs.

Class B – The dissolved oxygen content of Class B waters may not be less than 7 parts per million or 75% of saturation, whichever is higher, except that for the period from October 1st to May 14th, in order to ensure spawning and egg incubation of indigenous fish species, the 7-day mean dissolved oxygen concentration may not be less than 9.5 parts per million and the 1-day minimum dissolved oxygen concentration may not be less than 8.0 parts per million in identified fish spawning areas. Between May 15th and September 30th, the number of *Escherichia coli* bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 64 per 100 milliliters or an instantaneous level of 236 per 100 milliliters.

Class C – The dissolved oxygen content of Class C water may be not less than 5 parts per million or 60% of saturation, whichever is higher, except that in identified salmonid spawning areas where water quality is sufficient to ensure spawning, egg incubation and survival of early life stages, that water quality sufficient for these purposes must be maintained. In order to provide additional protection for the growth of indigenous fish, the dissolved oxygen may not be less than 6.5 parts per million as a 30-day average based upon a temperature of 24 degrees centigrade or the ambient temperature of the water body, whichever is less.

## 6. RECEIVING WATER QUALITY STANDARDS (cont'd)

*Standards for classification of estuarine and marine waters*, 38 M.R.S.A. § 465-B describes the standards for Class SA, SB, and SC waters.

Relevant standards for the receiving waters are as follows:

Class SA – Class SA waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as free-flowing and natural.

The estuarine and marine life, dissolved oxygen and bacteria content of Class SA waters shall be as naturally occurs.

There may be no direct discharge of pollutants to Class SA waters, except for, among other specified discharges, the discharge of aquatic pesticides approved by the Department for the control of mosquito-borne diseases in the interest of public health and safety using materials and methods that provide for protection of non-target species.

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

The dissolved oxygen content of Class SB waters must be not less than 85% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 8 per 100 milliliters or an instantaneous level of 54 per 100 milliliters.

Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for non-target species.



## 6. RECEIVING WATER QUALITY STANDARDS (cont'd)

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

The dissolved oxygen content of Class SC waters must be not less than 70% of saturation. Between May 15th and September 30th, the numbers of enterococcus bacteria of human and domestic animal origin in these waters may not exceed a geometric mean of 14 per 100 milliliters or an instantaneous level of 94 per 100 milliliters.

Discharges to Class SC waters may cause some changes to estuarine and marine life provided that the receiving waters are of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community.

- Antidegradation Policy. State waters are protected by the State's antidegradation policy which provides that certain existing in-stream water uses and the level of water quality necessary to protect those existing uses must be maintained and protected. 38 M.R.S.A. § 464(4)(F).

## 7. BEST PRACTICABLE TREATMENT

Pursuant to 38 M.R.S.A. § 414-A(1)(D), the discharge will be subject to effluent limitations that require application of the best practicable treatment. Effluent limitations means any restriction or prohibition including, but not limited to, effluent limitations, standards of performance for new sources, toxic effluent standards and other discharge criteria regulating rates, quantities and concentrations of physical, chemical, biological and other constituents that are discharged directly or indirectly into waters of the State. Neither the USEPA nor the Department has promulgated effluent guideline limitations for the discharge of aquatic pesticides for the control of mosquito species known to transmit vector-borne diseases.

The General Permit restricts the discharge of authorized aquatic pesticide to comply with federal labeling restrictions and with applicable statutes, Board of Pesticides Control rules and best management practices. The General Permit does not require submission of a Notice of Intent for treatments using low risk aquatic pesticides, as identified in the Maine Department of Agriculture, Conservation and Forestry's *Plan to Protect the Public Health from Mosquito-borne Diseases*. These low risk aquatic pesticides have been evaluated by the Maine Department of Agriculture, Conservation and Forestry and the Maine Department of Environmental Protection and collectively the State has determined that the risk to the environment and human health is absent or low due to the nature in which treatments are applied, the non-toxic characteristics of the pesticides to non-target organisms and humans, and the types of habitats in which these low risk aquatic pesticides are applied (waters that are typically not utilized for swimming or recreation). For the proposed use of aquatic pesticides not identified as low risk aquatic pesticides, the General Permit requires the

## 7. BEST PRACTICABLE TREATMENT (cont'd)

submission of a Notice of Intent for review and approval. Based on information provided in the Notice of Intent, the Department will specify in an approval any conditions in addition to those specified in the General Permit that are considered necessary to ensure compliance with applicable water quality standards and that best practicable treatment is applied to the discharge.

## 8. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

The discharge of authorized aquatic pesticides for the control of mosquito species known to transmit vector-borne diseases in accordance with the terms and conditions specified in the General Permit is not anticipated to result in a violation of water quality standards. Although Department rule and the General Permit require minimization of impacts to non-target species, the nature of the activity and types of authorized aquatic pesticides available to achieve the objective of controlling mosquito species known to transmit vector-borne diseases cannot ensure complete protection of non-target species. However, the aquatic pesticide discharge is unlikely to exert a significant adverse impact on non-target species, a finding necessary pursuant to 38 M.R.S.A. § 414-A(1)(E).

## 9. PUBLIC COMMENTS

Public notice of this intent to renew the July 28, 2010 General Permit was made in the *Bangor Daily, Morning Sentinel, Kennebec Journal, Portland Press Herald, and Times Record* newspapers during the week of March 8, 2015. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR 522 (effective January 12, 2001).

## 10. DEPARTMENT CONTACTS

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

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## 11. RESPONSE TO COMMENTS

*Reserved.*

DRAFT