

RESPONSE TO PUBLIC COMMENTS FOR DRAFT NPDES PERMIT MA0000281

Ferraz Shawmut Inc., Newburyport, MA

On June 19, 2002, the U.S. Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MADEP) released for public notice and comment a draft National Pollutant Discharge Elimination System (NPDES) permit for the above draft NPDES permit. The public comment period for this draft permit expired on July 18, 2002.

The following comments were received from the Massachusetts Division of Marine Fisheries :

Comment No. 1

The toxicity testing information provided in the accompanying Fact Sheet indicates the effluent has a higher toxicity for the mysid as compared to menidia. The mysid results were closer to the 50 % permit limit, with one test showing toxicity at 57.6 %. No statistical estimate of error is ascribed to toxicity test results, and compliance with the 50 % permit limit cannot be concluded. Based on information provided in the Fact Sheet, Marine Fisheries agrees with the EPA that a reasonable potential to cause toxicity is present, but any relaxation of the current permit requirements for obtaining a EPA waiver from further WET testing is premature. It is noted that the Fact Sheet indicates the requirement of four consecutive WET tests. This is inconsistent with the draft permit language indicating two consecutive WET tests within one year as minimum requirements before consideration is given for a waiver from further testing. Marine Fisheries requests that a minimum of four consecutive WET tests and two years be the de minimus permit requirements for consideration of an EPA waiver for WET testing.

Response: EPA agrees. The permit has been changed accordingly.

Comment No. 2

The Fact Sheet states “recently” there have been no pH violations, however historical information on pH measurements is absent from Table 1. Marine Fisheries requests a determination from EPA of the frequency and duration of any effluent limitation exceedances for pH over the past five years of the current permit.

Response: EPA has reviewed the Discharge Monitoring Reports (DMRs) for the period from 1/31/98 to 5/31/02 for pH. The pH in the effluent varied from 6.5 - 8 standard unit within these periods. The results were within the permit limits.

Comment No. 3

A substantial segment of the Merrimack River in Massachusetts is designated SB due to the significant influence of saltwater further inland (314 CMR 4.06). The section of the river containing the effluent discharge has also been designated as a mixing zone under the provisions of the Magnuson-Stevens Fishery Conservation and Massachusetts Act for the purpose of determining if this activity may adversely impact any essential fish habitat. Several listed federally managed species occur in and are supported by this habitat. The occurrence of a threatened species, the Atlantic sturgeon, has been documented in the river. EPA’s conclusion that Atlantic salmon is the only species present within this essential fish habitat is incorrect, and

the resulting determination that effluent receiving waters are not a habitat of particular concern as defined under sect. 600.815(a)(9) of the Magnuson-Stevens Act (the Act) is not possible until an assessment of adverse impact from this discharge for species listed under the Act for this waterbody is completed. This assessment can be completed through consultation with the National Marine Fisheries Service.

Response: Consistent with most coastal NPDES permits, on June 17, 2002 EPA sent the draft permit and fact sheet to NMFS as part of the informal consultation process. Public comment period began on June 18, 2002 and expired on July 18, 2002. As of August 19, 2002 EPA did not receive any comment from NMFS.

Other Changes

Based on MADEP review, the following changes are made :

1. The life of the permit is decreased from five year to four year in page 1 of the draft permit.
2. Some minor typos and formatting changes were made to the permit.