

RESPONSE TO COMMENTS - DATED JUNE 14, 2004
REISSUANCE OF NPDES PERMIT NO. NH0023469
BROX INDUSTRIES, INC.
HUDSON, NEW HAMPSHIRE FACILITY

The U.S. Environmental Protection Agency (EPA-New England) and the New Hampshire Department of Environmental Services, Water Division (NHDES-WD) solicited public comments from April 16, 2004, through May 15, 2004, on the draft National Pollutant Discharge Elimination System (NPDES) permit to be issued to Brox Industries, Inc. (Brox) for its aggregate mining and processing with asphalt production facility in Hudson, New Hampshire. This permit is for the discharge of aggregate wash water, storm water runoff and mine dewatering drainage from outfall 001 into Glover Brook, a tributary to the Merrimack River.

EPA-New England received one set of written comments during the public-notice (comment) period, that from the Brox, Industries dated May 13, 2004. The following is a list of responses to those comments and any corrections made to the public-noticed permit as a result of those comments.

These two pages of responses and associated comments are complementary to the Fact Sheet and Draft Permit. For the reader to fully understand them, he or she should be familiar with the draft permit, the associated Fact Sheet, applicable federal National Pollutant Discharge Elimination System (NPDES) permit regulations and the State of New Hampshire's Water Quality Statutes, Administrative Rules and Surface Water Quality Regulations.

The effective date of this permit has been set at September 1, 2004, which is a little over 60 days from the anticipated date of issuance. The Agency's general rule for NPDES Permits with comments is to make them effective 60 days following the permit's effective date.

COMMENT NO. 1.

Page two of the draft permit indicates a number of monitoring requirements. Two of the effluent characteristics, (A) TSS and (B) Total Recoverable Lead, have both monthly and daily discharge limitations. The average monthly limitation for both TSS and Total Recoverable Lead are significantly lower than the daily maximum. If the measurement frequency of once per month is adhered to, the daily maximum value is irrelevant and the value obtained becomes the monthly average and must comply with the lower discharge limitation.

After discussing this situation with Mr. Gay of your department I understand that Brox Industries, Inc. (Brox) may elect to monitor more frequently than once per month for TSS and/or Total Recoverable Lead, such that there would be more than one measurement used to report the average monthly value. I also understand that if more than one measurement is made in a one month period the highest value obtained will be reported as the "Maximum Daily".

Please confirm my understanding that Permit # NH0023469 will allow Brox to monitor for TSS and Total Recoverable Lead more frequently than once per month and report as outlined above.

RESPONSE NO. 1:

Your interpretation is correct. According to 40 Code of Federal Regulations (CFR) Section 122.41(l)(4)(ii), if a permittee monitors any pollutant more frequently than required by the permit, using test procedures in 40 CFR Part 136 or those specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the monthly Discharge Monitoring Reports (DMRs). This is also specified in Part II General Conditions and Definitions on page 11, Section D.1.d.(2) that have been included with your just issued permit package. More samples are allowed as long as those samples are representative of the discharge being sampled. See 40 CFR Section 122.41(j)(1) and Part II, Section C.1.a. on page 8.

Monitoring frequencies shown in NPDES permits are considered minimums, which means that the permittee must not take fewer samples than specified, but may always take more. For example, if a permit contains average monthly and maximum daily discharge limits with a minimum monitoring frequency of once per month, as does Brox's, then by definition, the results from one monthly sample must meet both the average monthly and maximum daily limits. In effect, the average monthly limit, which is usually more stringent, becomes the controlling limit. However, if two or more samples are collected with each sample being collected on separate days, then the highest of those samples is used for judging compliance with the permit's maximum daily limit and an average of those samples is used for judging compliance with the permit's average monthly limit. For the situation where two or more samples are obtained in one day, the average of those samples represents that day's daily discharge value.

A copy of the instructions for filling out the monthly DMRs has been included with this response to comments and a site address on the World Wide Web for obtaining a copy of these instructions is shown immediately below.

<http://www.epa.gov/region01/enforcementandassistance/enfdmr.html>

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. George Hall, Division Manager
Brox Industries, Inc
1471 Methuen Street
Dracut, Massachusetts 01826-5439

Re: Final Issuance of NPDES Permit No. NH0023469
(for) Hudson Mining and Processing Facility
in Hudson, New Hampshire

Dear Mr. Hall:

Enclosed is your final National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to the referenced application. The permit will become effective on the date specified in the permit, as required by 40 Code of Federal Regulations, Section 124.15. Also, enclosed is the Agency's response to comments on the draft permit and information on hearing requests and stays of NPDES permits.

We appreciate your cooperation throughout the development of this permit. Should you have any questions, feel free to contact Mr. Frederick B. Gay of my staff at phone number (617) 918-1297.

Sincerely,

Roger A. Janson, Director
NPDES Permit Program

Enclosures: Permit with related Attachments and Response to Comments

cc: New Hampshire Department of Environmental Services, Water Division