



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

December 4, 2009

Mr. Richard Dickinson
Tate & Lyle Ingredients Americas, Inc.
2200 East Eldorado Street
Decatur, IL 62525

**RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002216
Maine Waste Discharge License (WDL) Application #W000940-5N-F-M
FINALIZED MEPDES Permit/WDL MINOR REVISION**

Dear Mr. Dickinson:

Enclosed, please find a copy of your **finalized** MEPDES permit / WDL **minor revision** which was approved by the Department of Environmental Protection. Please read the minor revision and its attached conditions carefully. You must follow the conditions in the order to satisfy the requirements of law. Any discharge not receiving adequate treatment is in violation of State law and is subject to enforcement action.

If you have any questions regarding this matter, please feel free to call me at 207-485-2281.

Sincerely,

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Sean Bernard, / Lori Mitchell, DEP
Sandy Mojica, USEPA
Sharri Venno, HBMI
File #0940

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-3901 FAX: (207) 287-3435
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
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 04769-2094
(207) 764-0477 FAX: (207) 764-3143



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333

DEPARTMENT ORDER

IN THE MATTER OF

TATE & LYLE INGREDIENTS AMERICAS, INC.)	MAINE POLLUTANT DISCHARGE
HOULTON, AROOSTOOK COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
STARCH PROCESSING FACILITY)	AND
#ME0002216)	WASTE DISCHARGE LICENSE
#W000940-5N-F-M)	MINOR REVISION
APPROVAL		

Pursuant to *Conditions of licenses*, 38 M.R.S.A. § 414-A, and applicable regulations, the Department of Environmental Protection (Department) is hereby modifying combination Maine Pollutant Discharge Elimination System (MEPDES) Permit #ME0002216 / Waste Discharge License (WDL) #W000940-5N-E-R, issued to TATE & LYLE INGREDIENTS AMERICAS, INC. on June 17, 2008. With its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

MINOR REVISION SUMMARY

This minor revision serves to clarify the applicability of certain effluent limitations, monitoring requirements, and discharge restrictions established in Special Condition A of the 6/17/08 permit.

Special Condition A.1. of the 6/17/08 permit states,

“The permittee is authorized to discharge **boiler blowdown and process waste waters** during **June 1 through September 30** via **Outfall #001A** to the Meduxnekeag River **at times when the river flow is ≥ 15 cfs**. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾.”

This minor revision will change the wording to:

“The permittee is authorized to discharge **boiler blowdown and process waste waters via Outfall #001A** to the Meduxnekeag River as specified below. During the period of **June 1 through September 30**, the permittee is authorized to discharge only **at times when the river flow is ≥ 15 cfs**. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾.”

This modification of the language does not substantively change the permit and is intended to clarify the applicability of total phosphorous, river flow and dissolved oxygen limitations and monitoring requirements.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated December 4, 2009, and subject to the Conditions listed below, the Department makes the following CONCLUSIONS:

1. 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.
2. 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 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 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 discharges will be subject to effluent limitations that require application of best practicable treatment as defined in 38 M.R.S.A. § 414-A(1)(D).

ACTION

THEREFORE, the Department is hereby MODIFYING MEPDES permit #ME002216 / WDL #W000940-5N-E-R, issued to TATE & LYLE INGREDIENTS AMERICAS, INC. by the Department on June 17, 2008, to clarify the applicability of Special Condition A.1. with respect to seasonal limitations and monitoring requirements, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached to the 6/17/08 MEPDES permit.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. All the remaining terms and conditions of WDL #W000940-5N-E-R issued by the Department on June 17, 2008 not modified by this permitting action remain in effect and enforceable.

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date of initial modification request: September 9, 2009

This Order prepared by William F. Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- The permittee is authorized to discharge **boiler blowdown and process waste waters via Outfall #001A** to the Meduxnekeag River as specified below. During the period of **June 1 through September 30**, the permittee is authorized to discharge only **at times when the river flow is ≥ 15 cfs**. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾:

Effluent Characteristic	Effluent Limitations					Minimum Monitoring Requirements	
	Monthly <u>Average</u> as specified	Daily <u>Maximum</u> as specified	Monthly <u>Average</u> as specified	Daily <u>Minimum</u> as specified	Daily <u>Maximum</u> as specified	Measurement <u>Frequency</u> as specified	Sample <u>Type</u> as specified
Flow [50050]	---	---	0.04 MGD [03]	---	Report MGD [03]	Continuous [CN]	Recorder [RC]
BOD ₅ [00310]	54 lbs/day [26]	67 lbs/day [26]	243 mg/L [19]	---	300 mg/L [19]	2/Week [02/07]	24-Hr. Composite [24]
TSS [00530]	63 lbs/day [26]	126 lbs/day [26]	284 mg/L [19]	---	567 mg/L [19]	2/Week [02/07]	24-Hr. Composite [24]
Total Phosphorous ⁽²⁾ June 1 – Sept 15 [00665]	0.17 lbs/day [26]	Report lbs/day [26]	0.5 mg/L [19]	---	Report mg/L [19]	2/Week [02/07]	24-Hr. Composite [24]
River Flow ⁽³⁾ June 1 – Sept 15 [00060]	---	---	Report cfs [08]	15 cfs [08]	Report cfs [08]	1/Day [01/01]	Flow Meter [MT]
Dissolved Oxygen ⁽⁴⁾ June 1 – Sept 15 [00300]	---	---	---	7 PPM [20]	---	1/Day [01/01]	Grab [GR]
Dissolved Oxygen ⁽⁴⁾ June 1 – Sept 15 [00300]	---	---	---	7.3 PPM [20]	---	1/Day [01/01]	Grab [GR]
Temperature [00011]	---	---	---	90°F [15]	---	1/Day [01/01]	Grab [GR]
pH [00400]	---	---	---	---	6.0-9.0 SU [12]	1/Day [01/01]	Grab [GR]
Arsenic (Total) ⁽⁵⁾ [01002] (<i>Upon permit issuance</i>)	---	---	---	---	Report µg/L [28]	1/Quarter [01/90]	24-Hr. Composite [24]
Arsenic (Inorganic) ⁽⁶⁾ [01252] (<i>Upon test method approval</i>)	0.004 lbs./day [26]	---	1.3 µg/L [28]	---	---	1/Quarter [01/90]	24-Hr. Composite [24]

The italicized numeric values bracketed in the table and in subsequent text are code numbers that Department personnel utilize to code the monthly Discharge Monitoring Reports.

FOOTNOTES: See Pages 14-19 of the 6/17/08 permit for the applicable footnotes.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AND

MAINE WASTE DISCHARGE LICENSE

FACT SHEET

DATE: DECEMBER 4, 2009

PERMIT NUMBER: #ME0002216

LICENSE NUMBER: #W000940-5N-F-M

NAME AND ADDRESS OF APPLICANT:

**TATE & LYLE INGREDIENTS AMERICAS, INC.
2200 EAST ELDORADO STREET
DECATUR, ILLINOIS 62525**

COUNTY: AROOSTOOK

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**TATE & LYLE INGREDIENTS AMERICAS, INC.
48 MORNINGSTAR ROAD
HOULTON, MAINE 04730**

**RECEIVING WATER / CLASSIFICATION: MEDUXNEKEAG RIVER / CLASS B
GROUND WATERS / CLASS GW-A**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**MR. RICHARD DICKINSON
(217) 421-2152**

**MR. ROBB TATUM
(207) 532-9523**

1. MINOR REVISION SUMMARY

This minor revision serves to clarify the applicability of certain effluent limitations, monitoring requirements, and discharge restrictions established in Special Condition A of the 6/17/08 permit.

Special Condition A.1. of the 6/17/08 permit states,

“The permittee is authorized to discharge **boiler blowdown and process waste waters** during **June 1 through September 30** via **Outfall #001A** to the Meduxnekeag River **at times when the river flow is ≥ 15 cfs**. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾.”

This minor revision will change the wording to:

“The permittee is authorized to discharge **boiler blowdown and process waste waters** via **Outfall #001A** to the Meduxnekeag River as specified below. During the period of **June 1 through September 30**, the permittee is authorized to discharge only **at times when the river flow is ≥ 15 cfs**. Such discharges shall be limited and monitored by the permittee as specified below⁽¹⁾.”

This modification of the language does not substantively change the permit and is intended to clarify the applicability of total phosphorous, river flow and dissolved oxygen limitations and monitoring requirements.

2. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted, the Department has determined the existing water uses will be maintained and protected provided the permittee complies with the terms and conditions established herein.

3. DEPARTMENT CONTACTS

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

William F. Hinkel
Division of Water Quality Management
Bureau of Land & Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017 Telephone: (207) 485-2281
bill.hinkel@maine.gov



DEP INFORMATION SHEET

Appealing a Commissioner's Licensing Decision

Dated: May 2004

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner: (1) in an administrative process before the Board of Environmental Protection (Board); or (2) in a judicial process before Maine's Superior Court. This INFORMATION SHEET, in conjunction with consulting statutory and regulatory provisions referred to herein, can help aggrieved persons with understanding their rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

DEP's *General Laws*, 38 M.R.S.A. § 341-D(4), and its *Rules Concerning the Processing of Applications and Other Administrative Matters* (Chapter 2), 06-096 CMR 2.24 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written notice of appeal within 30 calendar days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner and the applicant a copy of the documents. All the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

The materials constituting an appeal must contain the following information at the time submitted:

1. *Aggrieved Status.* Standing to maintain an appeal requires the appellant to show they are particularly injured by the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.

5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence as part of an appeal only when the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or show that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2, Section 24(B)(5).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license file is public information made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* An applicant proceeding with a project pending the outcome of an appeal runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge initiation of the appeals procedure, including the name of the DEP project manager assigned to the specific appeal, within 15 days of receiving a timely filing. The notice of appeal, all materials accepted by the Board Chair as additional evidence, and any materials submitted in response to the appeal will be sent to Board members along with a briefing and recommendation from DEP staff. Parties filing appeals and interested persons are notified in advance of the final date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision. The Board will notify parties to an appeal and interested persons of its decision.

II. APPEALS TO MAINE SUPERIOR COURT

Maine law allows aggrieved persons to appeal final Commissioner licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2.26; 5 M.R.S.A. § 11001; & MRCivP 80C. Parties to the licensing decision must file a petition for review within 30 days after receipt of notice of the Commissioner's written decision. A petition for review by any other person aggrieved must be filed within 40-days from the date the written decision is rendered. The laws cited in this paragraph and other legal procedures govern the contents and processing of a Superior Court appeal.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, contact the DEP's Director of Procedures and Enforcement at (207) 287-2811.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
