



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection  
FROM: Kurt Tidd, Bureau of Air Quality Control  
SUBJECT: Naturally Potatoes, A Basic American Foods Division, LLC.  
DATE: February 18, 2010

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Statutory and Regulatory References:

38 M.R.S.A. § 591 and Maine's Rule for *Major and Minor Source Air Emission License Regulation* 06-096 CMR 115 authorizes the Department to impose reasonable and appropriate license conditions to ensure compliance with emission standards, regulations or orders. Naturally Potatoes operates its Mars Hill, Maine facility under the terms and conditions of Air Emission License A-911-71-A-N.

Location:

Mars Hill, Maine

Description:

Department records document that Naturally Potatoes failed to submit the Annual Emissions Inventories within the timeframes specified in Air Emissions License A-911-71-A-N and Maine's Rule for *Emissions Statement*, 06-096 CMR 137.

Environmental Issues:

The Department relies on the licensing of facilities to ensure compliance with State Laws and Regulations. By requiring facilities to license their facilities, the Department is able to control the amount and types of pollutants that are emitted to the atmosphere within the state. Each license issued within the State specifies what standards and criteria must be complied with for each facility.

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Naturally Potatoes to comply with the requirements of Air Emissions License A-911-71-A-N and Maine's Rule for *Emissions Statements* and provides for Civil Penalties in the amount of \$1,050.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

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



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

NATURALLY POTATOES ) ADMINISTRATIVE CONSENT
A BASIC AMERICAN FOODS DIVISION, LLC ) AGREEMENT
AROOSTOOK COUNTY )
MARS HILL, MAINE )
A-911-71-A-N )

This Agreement by and among Naturally Potatoes A Basic American Foods Division, LLC, ("Naturally Potatoes") the Maine Department of Environmental Protection ("Department") and Maine Office of the Attorney General is entered into pursuant to 38 M.R.S.A § 347-A (1).

The parties agree as follows:

- 1. Naturally Potatoes is a Delaware Limited Liability Company registered to do business in Maine as a potato processing facility.
2. The violations described herein took place at Naturally Potatoes' processing facility located in Mars Hill, Maine.
3. During times relevant to this Agreement, Naturally Potatoes was subject to Maine's Protection and Improvement of Air laws ("Air Act"), 38 M.R.S.A. §§ 581- 610(C) and Air Emission License A-911-71-A-N (12/10/2005).
4. Throughout the period of time addressed in this Agreement, Naturally Potatoes was subject to Air Emissions License A-911-71-A-N condition (20) which states in relevant part;

(20) Annual Emission Statement

In accordance with MEDEP Chapter 137, the licensee shall annually report to the Department the information necessary to accurately update the State's emission inventory by means of:

- 1) A computer program and accompanying instructions supplied by the Department;
or
2) A written emission statement containing the information required in MEDEP Chapter 137.

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Reports and questions should be directed to:  
Attn: Criteria Emission Inventory Coordinator  
Maine DEP  
Bureau of Air Quality  
17 State House Station  
Augusta, ME 04333-0017  
Phone: (207) 287-2437

The emission statement must be submitted on time as specified in Chapter 137.

5. Maine's Rule for *Emission Statements*, 06-096 CMR 137 (3)(D) states in relevant part;

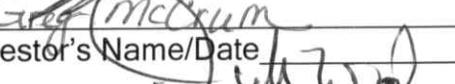
3. Requirements

- D. Emission statements required by subsections 3(A) through 3(C) must be filed with the Department no later than July 1 of the year following the inventory year. Beginning with inventory year 2009, emission statements required by subsections 3(A) through 3(C) must be filed with the Department no later than May 15 of the year following the inventory year.
6. The Bureau of Air Quality issued Letters of Warning ("LOW") to Naturally Potatoes on July 15, 2009, July 24, 2007 and July 14, 2006 for failing to submit their Annual Emissions Inventory by July 1 of each year listed above. Naturally Potatoes submitted their Annual Emissions inventory on July 21, 2009, July 25, 2007 and July 24 2006 for the years listed above.
7. By the conduct described in paragraph six (6) Naturally Potatoes violated Air Emissions License A-911-71-A-N condition (20) and Maine's Rule for *Emissions Statements*, 06-096 CMR 137 (3)(D).
8. Department Staff notified Naturally Potatoes by a Notice of Violation (NOV) on August 28, 2009 of the Air Emissions violation described in paragraph six (6).
9. For the purposes of this Agreement, Naturally Potatoes agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
10. Pursuant to 38 M.R.S.A § 341-D(6)(C) and 347-A(1)(A)(1), Administrative Consent Agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.

NATURALLY POTATOES )  
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11. This Agreement shall become effective only if it is approved by the Board and the Maine Office of the Attorney General.
12. To resolve the violation identified in paragraph six (6) of this Agreement, Naturally Potatoes agrees to pay to the Treasurer, State of Maine immediately upon signature of this Agreement a civil monetary penalty in the amount of one thousand and fifty dollars (\$1,050.00) for the violations related to Air Emissions License A-911-71-A-N and Maine's Rule for *Emissions Statements*, 06-096 CMR 137 (3)(D) set forth herein.
13. The Board and the Office of the Attorney General grant a release of their cause of action against Naturally Potatoes for the specific violation listed in paragraph six (6) of this Agreement on the express condition that the civil monetary penalty listed in paragraph twelve (12) of this Agreement is paid. The release shall not become effective until all requirements of this Agreement are satisfied.
14. Non-compliance with this Agreement voids the release set forth in paragraph thirteen (13) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
15. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
16. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

Sign   
Print Greg McCrum  
Requestor's Name/Date  
Sign   
Print Dick Wood  
Approver's Name/Level 2 Date 11/4/10  
020.220.501.00-003  
ADAGE General Ledger Number  
DUE DATE \_\_\_\_\_

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IN WITNESS HEREOF the parties hereto have executed this Agreement of four (4) pages.

NATURALLY POTATOES A BASIC AMERICAN FOODS DIVISION, LLC

BY: *Dick Wood* 11/4/2010  
Title Plant Manager DATE

BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_  
Susan M. Lessard, Chair DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_  
Gerald D. Reid, Assistant Attorney General DATE

MAINE DEPT  
OFFICE OF THE ATTORNEY GENERAL  
RECEIVED