



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection  
FROM: Eric Hamlin, Bureau of Remediation and Waste Management, Southern Maine Regional Office, Portland, ME  
DATE: July 1, 2010  
RE: ADMINISTRATIVE CONSENT AGREEMENT, Maine Energy Recovery Company, Limited Partnership

\*\*\*\*\*

**Statute and Rule Reference:** The Solid Waste Management Rules: Incineration Facilities, 06-096 CMR 403(6)(H)(4). This rule requires that “[t]he operator shall undertake suitable measures to control dust and odors wherever and whenever necessary.”

**Location:** Maine Energy Recovery Company, 3 Lincoln Street, Biddeford, Maine

**Description:** Waste was stored in the facility tipping area for an unusually long period of time, resulting in an accumulation of unusually odiferous waste. This waste was processed during a storm event with high winds which lifted a cover over the primary shredder enclosure, allowing odor to be released to the surrounding area. (The shredder enclosure cover is designed to vent pressure in the event of an explosion). It is unclear but possible that leakage from the air handling duct leading to the boilers may have contributed to the odor impact.

**Environmental Issues:** Conditions resulted in an odor.

**Department Recommendation:** The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of three thousand two hundred and twenty dollars (\$3,220.00) and a revision of the facility operations manual to include best management practices for management of the tipping floor such that the potential for odor is minimized, and a more proactive plan for testing and maintenance of air handling system components, with the goal of identifying and repairing or replacing components before leaks develop. It also requires that facility personnel immediately contact the Department to report any odor complaints received, and additionally stipulates the installation and operation of a closed-circuit camera to monitor the condition and proper operation of the cover over the primary shredder enclosure.



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

IN THE MATTER OF:

MAINE ENERGY RECOVERY COMPANY, )
LIMITED PARTNERSHIP ) ADMINISTRATIVE CONSENT
BIDDEFORD, YORK COUNTY, MAINE ) AGREEMENT
SOLID WASTE MANAGEMENT ) (38 M.R.S.A. § 347-A)
EIS DOCKET NUMBER 2010-005-S )

This Agreement, by and among Maine Energy Recovery Company, Limited Partnership ("MERC"), the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

- 1. MERC is a Maine limited partnership that operates a waste to energy incinerator with its principal location at 3 Lincoln Street, Biddeford, Maine.
2. The violation described herein occurred at 3 Lincoln Street, Biddeford, Maine.
3. Throughout the period of time addressed by this Agreement, MERC was subject to the Department's Solid Waste Management Rules: Incineration Facilities, 06-096 CMR 403(6)(H)(4) (last amended November 2, 1998). This section requires that "[t]he operator shall undertake suitable measures to control dust and odors wherever and whenever necessary."
4. On December 23, 2008, the Department received complaints about odor originating from the MERC facility on December 22, 2008.
5. An unusually high level of decomposition-related odor from the facility was the result of waste remaining in the tipping area for a long period of time, and processing this material during a storm with high winds resulting in the odor being released to the neighborhood surrounding the facility.
6. Department staff met with a MERC representative on December 23, 2008 to discuss the incident. Following this meeting, it is the Department's understanding that the odor release was the result of several factors, including:
a. Waste was not cleared from the tipping area in a timely manner, resulting in a backlog of unusually odiferous waste;

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
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) 760-3143

IN THE MATTER OF:

MAINE ENERGY RECOVERY COMPANY,	)	
LIMITED PARTNERSHIP	)	ADMINISTRATIVE CONSENT
BIDDEFORD, YORK COUNTY, MAINE	)	AGREEMENT
SOLID WASTE MANAGEMENT	)	(38 M.R.S.A. § 347-A)
EIS DOCKET NUMBER 2010-005-S	)	

- b. wind lift of the primary shredder enclosure cover due to a storm event that coincided with the processing of older, unusually odiferous waste;
  - c. possible leakage of air from a broken air handling duct leading to the boilers, some or all of which originates in the tipping and processing areas of the facility.
7. By failing to undertake suitable measures to control odor, MERC violated 06-096 CMR 403(6)(H)(4).
  8. On January 15, 2009 the Department issued a Notice of Violation to MERC for the activities described in Paragraphs 4–7 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B).
  9. 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.
  10. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
  11. To resolve the violation described in Paragraphs 4–7 of this Agreement MERC agrees to:
    - a. Pay to the *Treasurer, State of Maine*, upon signing this Agreement, a civil monetary penalty in the amount of three thousand two hundred and twenty dollars (\$3,220.00).
    - b. Within sixty (60) days of signing this Agreement, submit to the Department for review and approval modifications to the facility’s operations manual to include:
      - i. Best Management Practices (“BMPs”)for management of waste on the tipping floor in order to minimize the potential for excessive process odor to the greatest extent practical. BMPs should describe (A) best efforts to “zero” (clear all wastes from) the tipping floor weekly, and (B) recordkeeping and reporting requirements.
      - ii. Installation, operation, and monitoring of a remotely-operated closed circuit camera to monitor the condition and operation of the primary shredder enclosure cover and development of a protocol to provide for repair, replacement, or refastening of the primary shredder enclosure as soon as is feasible following identification of a problem. Installation of the camera system shall completed within sixty (60) days of the approval

IN THE MATTER OF:

MAINE ENERGY RECOVERY COMPANY,	)	
LIMITED PARTNERSHIP	)	ADMINISTRATIVE CONSENT
BIDDEFORD, YORK COUNTY, MAINE	)	AGREEMENT
SOLID WASTE MANAGEMENT	)	(38 M.R.S.A. § 347-A)
EIS DOCKET NUMBER 2010-005-S	)	

of the Consent Order.

- iii. A program for (A) proactively assessing components of the facility’s air handling ductwork based on in-service dates and observed times to failure for similar components, in order to determine when component replacement is likely to be more effective than repair; (B) visual inspections of facility ductwork at regular intervals with the goal of identifying potential failure points before leaks develop; and (C) smoke testing of the air handling ductwork at regular intervals with the goal of identifying failure points.

This condition will be satisfied upon approval of the revisions to the operations manual by the Department.

- c. Immediately contact the Department's Solid Waste Division to report odor complaints received by the facility in accordance with the Department’s *Solid Waste Management Rules: Processing Facilities*, 06-096 CMR 409(4)(E)(2).
12. The Department and Office of the Attorney General grant a release of their causes of action against MERC for the specific violation listed in Paragraphs 4–7 of this Agreement on the express condition that all actions listed in Paragraph 11 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.
  13. Non-compliance with this Agreement voids the release set forth in Paragraph 12 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.
  14. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.
  15. The provisions of this Agreement shall apply to, and be binding on, the parties and 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.

IN THE MATTER OF:

MAINE ENERGY RECOVERY COMPANY, )  
LIMITED PARTNERSHIP )  
BIDDEFORD, YORK COUNTY, MAINE )  
SOLID WASTE MANAGEMENT )  
EIS DOCKET NUMBER 2010-005-S )

ADMINISTRATIVE CONSENT  
AGREEMENT  
(38 M.R.S.A. § 347-A)

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of four (4) pages:

MAINE ENERGY RECOVERY COMPANY, LIMITED PARTNERSHIP

BY: Brian Olive DATE: 5/5/10  
NAME: Brian Olive

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
NANCY MACIROWSKI, ASSISTANT ATTORNEY GENERAL