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## U.S. EPA Environmental Appeals Board: Colrain, Massachusetts Cotton Bleachery Challenges NPDES Permit Copper Limit

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The Barnhardt Manufacturing Company ("BMC") filed an October 12th Appeal for Review ("Appeal") before the United States Environmental Protection Agency ("EPA") Environmental Appeals Board ("EAB") challenging certain conditions in a Clean Water Act National Pollution Discharge Elimination System ("NPDES") Permit.

The Appeal states that BMC operates a facility in Colrain, Massachusetts ("Facility") that is described as:

... a raw cotton bleachery utilizing hydrogen peroxide for the cleaning and bleaching of cotton fiber.

The Appeal further states that an:

... on-Site wastewater treatment plant manages the wastewater associated with its manufacturing operations, and further manages the sanitary wastes from greater than 20 homes in the immediate vicinity of the Facility.

EPA issued a Final NPDES Permit to the Facility on September 19th.

The Appeal addresses the discharge limit for Total Copper. It states:

Under the Permit, Total Copper contains a discharge limitation of 22 µg/L (average monthly and daily maximum), collected once per month as a composite sample. Total Copper footnote 9 indicates that, "there will be a monitor only requirement for the period starting on the effective date of this Permit and ending three (3) years after the effective date." The Permit further states, "After this three (3) year period, the permittee shall comply with the monthly average and daily maximum total copper limits of 22 µg/L. . .".

BMC further states that:

... Under the Permit, no specific TN is provided. The special condition regarding "Treatment Plant Optimization for Nitrogen" states that "The permittee shall implement the recommended operational changes to maintain the existing mass discharge loading of TN, which will be measured as an annual average." The Permit does not state a compliance date for implementation of the operational changes or recognize that physical changes to the facility may be required. Furthermore, a compliance schedule for implementation of changes required to conform with the annual average nitrogen load of 67.3 lbs/day was not provided.

Based upon argument put forth in its Appeal, BMC requests:

1. The EAB consider the Permittee's request be revised from 22 µg/L to "monitor and report" until such time that additional studies can be completed that reflect Site-specific conditions, in accordance with the information presented herein and with 40 CFR 124.19(4)(b);
2. The EAB consider the Permittee's request for an adjustment to the total copper discharge limitation following the Site-specific study, in accordance with the information presented herein and with 40 CFR 124.19(4)(b);

2.b In lieu of the above, the EAB to allow for a re-opener clause under the Permit, to set a total copper limit when the Site-specific data have been collected, submitted, and reviewed; and

3. The EAB and/or USEPA to clarify that maintenance of the existing TN mass discharge loading is not an enforceable discharge limit under the Permit.

[A copy of the Appeal \(excluding the exhibits\) can be downloaded here.](#)