

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Platt Corners Road, New Paltz, New York 12561-1620
Phone: (845) 256-3054 • FAX: (845) 255-3042
Website: www.dec.state.ny.us



Denise M. Sheehan
Assistant Commissioner

November 22, 2005

ATTN: DAVID WEBSTER
PENCOR MASADA OXYNOL, LLC
2170 HIGHLAND AVENUE
BIRMINGHAM, AL 35205

RE: Renewal of Orange Recycling & Ethanol Production Facility
DEC #: 3-3309-00101-00001
LOC: C-Middletown, Orange County

Issuance of Permit Renewals

Dear Mr. Webster:

On March 9, 2005, a Notice of Complete Application for renewal of this facility's Title V & Part 360 permits and for renewal of its 401 Water Quality Certification was published. The Notice clearly stated that the applicant was not seeking any changes to the permitted activity, and the SEQR note stated that these permit renewals are a Type II action. In response to the Notice, the Department received comment letters from Blank & Rome, LLP, counsel for the Town of Wawayanda and from Susan Cleaver. Attached is a three-page Responsiveness Summary addressing the public comment letters, which is summarized below.

The public comments focused primarily on the possibility that the design, operation or applicable regulations for this facility had changed. However, the applicant has explicitly stated, in writing, that they are not applying for any changes to the previously issued permits. Also, the Department staff is not modifying any of the permit conditions except that the Part 360 contains updated language for the hiring an Independent Environmental monitor (IEM) as well as retaining the language for the previous environmental monitor (see Attachment A). Please note the proposed Title V permit contains the previously approved EPA mandated modification from 2001, as well as some updating of the permit language without changing the emissions limits and monitoring requirements.

Second, the public comments focused on a one-page sketch plan in the August 2002 Kroil Report (a Risk Assessment and Financial Analysis prepared for the City of Middletown) showing three small buildings off the City's property on an adjacent parcel of private land in the Town of Wawayanda as proof that the facility layout has changed. The applicant has explicitly stated, in writing, that they are not applying for any changes to the approved site plan and the Department staff is not approving any changes to the approved site plan.

Beyond the concerns raised by counsel for the Town of Wawayanda and similar comments for Susan Cleaver, there was no other indication of public interest in the response to the Notice of Complete Application for the renewal of these permits. Claims to the contrary by these two responders do not constitute a public interest sufficient to convene a hearing for the renewal of permits for which the applicant seeks no changes.

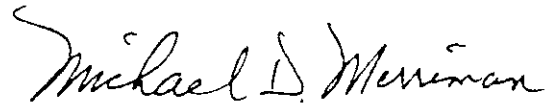
Therefore, the Department hereby renews the Part 360 permits and the 401-Water Quality Certification with an expiration date of November 20, 2010. Since there are no changes to the original Part 360 permit, except the addition of the 3-page Attachment "A", this Permit Renewal Letter will suffice and a paper copy of the Part 360 permit will not be created.

EPA Review of Title V: In accordance with 6NYCRR Parts 621.5(d)(9) and 201-6.4(c), the Administrator of the United States Environmental Protection Agency (EPA) has 45-days to review and approve or deny the renewal of any Title V facility permit if it is determined not to meet applicable requirements of the Clean Air Act or 6 NYCRR Part 201. Therefore, this Department will forward, by separate letter, this the proposed Title V renewal and the public comment letters to the EPA to start that 45-day period. If the EPA determines that they do not object to the renewal, they can respond in the positive before the end of that 45-day period. If the Department does not hear back from the EPA by the end of that 45-day period, the Department can assume that the EPA does not object and is free to renew the Title V permit. A copy of the proposed Title V renewal can be viewed at the following DEC web address:

http://www.dec.state.ny.us/website/dardata/boss/afs/draft_atv.html

Please call me at (845) 256-3165, if you have any questions about this modification.

Sincerely,



Michael D. Merriman
Deputy Regional Permit Administrator

File Name: Masada Permit Renewals.wpd

Encl.: 3-page Part 360 Attachment "A"
3-page Responsiveness Summary

cc: w/attachments
T. Judge, of Masada
D. Pollock & K. Grzyb, DSHM, NPO
R. Stanton & T. Miller, DAR, NPO
Mayor, C-Middletown
Supervisor, Town of Wawayanda
S. Cleaver
M. Hill, of Blank & Rome, LLP

gwcc: M. Moran, M. Duke

**New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3**

21 South Putt Corners Road, New Paltz, New York 12561-1696

Phone: (914) 256-3054 • FAX: (914) 255-3042

Website: www.dec.state.ny.us



July 25, 2000

RE: Orange Recycling and Ethanol Production Facility
DEC ID#3-3309-00101-1
Location: City of Middletown, Orange County

Permit Issuance and SEQR Findings

Dear Interested Citizen:

On June 2, 2000, the NYS Department of Environmental Conservation (DEC) sent you a letter explaining that on May 17, 2000, the U. S. Environmental Protection Agency (EPA) concluded that DEC's proposed Title V Air Permit for the Orange Recycling and Ethanol Production Facility (also known as the Masada project) met all applicable Title V requirements.

This is to advise you that we have issued that Title V Air permit, along with the Part 360 Solid Waste Management Facility permit, the 401 Water Quality Certification (for federal wetlands disturbance) and the SEQR Findings for this facility.

Correction to June 2, 2000 letter:

Please note that in our June 2, 2000 letter, it was incorrectly stated that the 60-day time period for submitting petitions to the U.S. EPA Administrator would begin when DEC issued the Title V Air permit. In fact, the regulations state that the 60-day period automatically starts at the end of the initial 45-day period for the U.S. EPA to accept the DEC draft of the Title V permit. That 45-day period started on May 4th and ended on June 18th. Therefore the 60-day petition period has already begun and will end on **August 21, 2000**.

This means that although you have had all the applicable information about the Title V permit since early June, there are 27 more days to actually submit any new or additional petitions to the U.S. EPA Administrator in Washington, D.C.

How to Petition the EPA:

In accordance with 6NYCRR Part 201-6.4(d) if you object to all or part of the Title V Air permit, you may petition the US EPA Administrator as described below:

"... any person may petition the Administrator within 60 days after the expiration of the Administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period."

DEC has already received a few petitions from people objecting to all or part of the Title V permit. We are forwarding those petitions to the U.S. EPA Administrator as an attachment to this letter. Please note however, that any additional petitions should be sent to:

Carol M. Browner, Administrator
US Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

DEC's SEQR Findings:

DEC has prepared SEQR Findings which provide the basis for our decision to issue these permits. The Findings are also our response to the numerous issues raised in your letters over the past year and at the DEC Legislative Public Hearing on December 29, 1999. A copy of the Findings are enclosed.

Document Availability:

On June 2, 2000 we sent copies to you of our transmittal letter to the U.S. EPA, the response letter from the U.S. EPA office and the 15+ page Responsiveness Summary on Title V.

In addition to the Title V documents sent to the Middletown Thrall Library on June 2nd, the following documents have been sent to the Library:

SEQR Findings
Final Title V Air Permit
Part 360 Solid Waste Management Facility Permit
401 Water Quality Certification

Additionally, any individual, group or organization is always able to view these documents here in the New Paltz office by requesting them from this Department under the NYS Freedom of Information Law (FOIL). Under that same FOIL law, you may also purchase copies for \$0.25 per page.

Sincerely,



Margaret E. Duke
Regional Permit Administrator

Encl.: (See cc list)

cc: w/Title V permit, Part 360 Permit, 401 WQ Cert. & SEQR Findings:

D. Webster, OREPF

M. Hall, Malcolm Pirnie

Mayor DeStefano, C-Middletown

A. Fusco, Comm., Middletown DPW

Middletown Thrall Library

E. Horn, NYSDOH

C. Browner, Administrator, U.S. EPA, Washington w/only Title V permit and petitions
(See attached list)

S. Riva, Region II, U.S. EPA, NYC w/only Title V permit

(Mailing list of 86+ letter writers and others) w/only SEQR Findings

gwcc: M. Moran

E. Stoutenburgh

M. Merriman, DRPA

R. Stanton

T. Miller, DAR

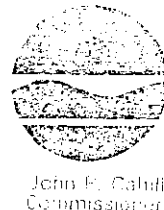
A. Klauss, Regional Engineer

J. Triebwasser, DLA

R. Pergadia, DER

S. Hammond, DSHM, Albany

New York State Department of Environmental Conservation
Division of Environmental Permits, Region 3
21 South Putt Corners Road, New Paltz, New York 12561-1696
Phone: (845) 256-3000 FAX: (845) 255-3042
Website: www.dec.state.ny.us



IMPORTANT NOTICE TO ALL PERMITTEES

The permit you requested is enclosed. Please read it carefully and note the special conditions that are included in it. The permit is valid for only that activity expressly authorized therein; work beyond the scope of the permit may be considered a violation of law and be subject to appropriate enforcement action.

If the permit is associated with a project that will entail construction of new water pollution control facilities or modifications to existing facilities, plan approval for the system design will be required from the appropriate departmental office or delegated local health department, as specified in the State Pollutant Discharge Elimination System permit.

Please note the expiration date of the permit. Applications for permit renewal should be made well in advance of the expiration date. For SPDES, Solid Waste and Hazardous Waste Permits, renewals must be made at least 180 days prior to the expiration date. For specific instructions contact the above office.

NOTE:

The DEC permit number & program ID number noted on the top of page 1 of the permit are important and should be retained for your records. These numbers should be referenced on all correspondence related to this permit, and on any future applications for permits associated with this facility/project area.

If you have any questions on the extent of work authorized or your obligations under the permit, please contact the staff person indicated below or the Division of Environmental Permits at the above address.


Division of Environmental Permits
Region 3

Applicable Only if Checked

STORMWATER SPDES INFORMATION: We have determined that your project qualifies for coverage under the General Stormwater SPDES Permit. You must now file the attached Notice of Intent to obtain coverage under this General Permit. Send the completed form to:

NYS DEC
Stormwater Permitting
Division of Water
50 Wolf Road
Albany NY 12233-3505

DEC PERMIT NUMBER 3-3309-00101-1
FACILITY PROGRAM NUMBER(S)



PERMIT
Under the Environmental Conservation Law (ECL)

EFFECTIVE DATE July 25, 2000
EXPIRATION DATE July 25, 2005

TYPE OF PERMIT (Check All Applicable Boxes)

New
 Renewal
 Modification
 Permit to Construct and Operate

- | | | |
|--|--|--|
| <input type="checkbox"/> Article 15, Title 5:
Protection of Water | <input type="checkbox"/> Article 17, Titles 7, 8:
SPDES | <input type="checkbox"/> Article 27, Title 9; 6NYCRR 373:
Hazardous Waste Management |
| <input type="checkbox"/> Article 15, Title 15:
Water Supply | <input checked="" type="checkbox"/> Article 19: [See attached Permit]
Air Pollution Control | <input type="checkbox"/> Article 34:
Coastal Erosion Management |
| <input type="checkbox"/> Article 15, Title 15:
Water Transport | <input type="checkbox"/> Article 23, Title 27:
Mined Land Reclamation | <input type="checkbox"/> Article 36:
Floodplain Management |
| <input type="checkbox"/> Article 15, Title 15:
Long Island Wells | <input type="checkbox"/> Article 24:
Freshwater Wetlands | <input type="checkbox"/> Articles 1, 3, 17, 19, 27, 37;
6NYCRR 380: Radiation Control |
| <input type="checkbox"/> Article 15, Title 27:
Wild, Scenic & Recreational Rivers | <input type="checkbox"/> Article 25:
Tidal Wetlands | <input type="checkbox"/> Other _____ |
| <input checked="" type="checkbox"/> 6NYCRR 608:
Water Quality Certification | <input checked="" type="checkbox"/> Article 27, Title 7; 6NYCRR 360:
Solid Waste Management | |

PERMIT ISSUED TO PENCOR-MASADA OXYNOL, LLC		TELEPHONE NUMBER
ADDRESS OF PERMITTEE 2170 HIGHLAND AVENUE, SUITE 200, BIRMINGHAM, AL 35205		
CONTACT PERSON FOR PERMITTED WORK ATTN: DAVID WEBSTER		TELEPHONE NUMBER
NAME AND ADDRESS OF PROJECT/FACILITY Adjacent to the Middletown Sewage Treatment Plant off Dolson Avenue		
LOCATION OF PROJECT/FACILITY Same		
COUNTY Orange	CITY Middletown	WATERCOURSE/WETLAND NO. N.A. NYTM COORDINATES E: N: 4
DESCRIPTION OF AUTHORIZED ACTIVITY The facility would accept non-hazardous mixed solid waste (MSW), sewage sludge, waste paper, septage and leachate, for the production of ethanol in accordance with the general and special conditions of this permit and the documents referenced in it.		

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, the General Conditions specified (See Page 2) and any Special Conditions included as part of this permit.

REGIONAL PERMIT ADMINISTRATOR Margaret E. Duke	ADDRESS 21 South Putt Corners Rd., New Paltz NY 12561	DATE 4/25/00	BY MDM
AUTHORIZED SIGNATURE <i>Margaret E. Duke</i>		Page 1 of 14	

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee has accepted expressly, by the execution of the application, the full legal responsibility for all damages and costs, direct or indirect, of whatever nature and by whomever suffered, for liability it incurs resulting from activity conducted pursuant to this permit or in noncompliance with this permit and has agreed to indemnify and save harmless the State from suits, actions, damages and costs of every name and description resulting from such activity.

Item B: Permittee to Require its Contractors to Comply with Permit

The permittee shall require its independent contractors, employees, agents and assigns to read, understand and comply with this permit, including all special conditions, and such persons shall be subject to the same sanctions for violations of this permit as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required for this project.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

GENERAL CONDITIONS

General Condition 1: Facility Inspection by the Department

--The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

--The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when written or verbal notification is provided by the Department at least 24 hours prior to such inspection.

--A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

General Condition 2: Relationship of this Permit to Other Department Orders and Determinations

Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

General Condition 3: Applications for Permit Renewals or Modifications

The permittee must submit a separate written application to the Department for renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing.

The permittee must submit a renewal application at least:

- a) 180 days before expiration of permits for State Pollutant Discharge Elimination System (SPDES), Hazardous Waste Management Facilities (HWMF), major Air Pollution Control (APC) and Solid Waste Management Facilities (SWMF); and
- b) 30 days before expiration of all other permit types.

Submission of applications for permit renewal or modification are to be submitted to:

NYSDEC Regional Permit Administrator, Region 3

21 South Putt corners Road, New Paltz, NY 12651, Telephone: 914-256-3054

General Condition 4: Permit Modifications, Suspensions and Revocations by the Department

The Department reserves the right to modify, suspend or revoke this permit when:

- a) the scope of the permitted activity is exceeded or a violation of any condition of the permit or provisions of the ECL and pertinent regulations is found;
- b) the permit was obtained by misrepresentation or failure to disclose relevant facts;
- c) new material information is discovered; or
- d) environmental conditions, relevant technology, or applicable law or regulation have materially changed since the permit was issued.



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

Required Submittal, Reporting, and Record keeping

GENERAL:

1. Unless otherwise specified, all submissions required by this permit shall be submitted as follows:

Two copies: New York State Department of Environmental Conservation
Regional Solid Waste Engineer
Division of Solid and Hazardous Materials
21 South Putt Corners Rd,
New Paltz, New York, 12561-1696

One copy: New York State Department of Environmental Conservation
Division of Solid and Hazardous Materials
50 Wolf Rd.
Albany, New York 12233-7253

All approvals required by this permit shall be obtained from either the Regional Solid Waste Engineer (RSWE) or the Regional Permit Administrator (RPA) of the Region 3 office, as indicated in a particular permit condition.

2. The permittee shall ensure that all facility employees are familiar with the Contingency Plan (Appendix F of the permit application) and have it available for ready reference on the site. The permittee shall provide a copy of the Contingency Plan to the Orange County Health Department. In addition, during construction, all personnel on site must be familiar with the Site Contingency Plan (Appendix L of the permit application).
3. All manuals, plans, and programs, unless otherwise specified in the permit application or special conditions, must be updated prior to initiation of facility construction to reflect the most recently approved revisions as noted in Attachment 'A' to this permit and at each renewal of the permit to construct and operate.
4. An annual report shall be submitted no later than March 1 of each calendar year during which this permit is in effect. The annual report must be in accordance with 6 NYCRR Part 360-3.4(f)(3), Part 360-11.4(j), and Part 360-12.2(d). The annual report must include a revised closure cost estimate.
5. A daily record of facility monitoring must be maintained in accordance with 6 NYCRR Part 360-1.14, Part 360-11.4(i), and part 360-12.2(d).

CONSTRUCTION PERMIT CONDITIONS:

6. The permittee may not start construction of the Part 360 facility until it receives written authorization from the Regional Solid Waste Engineer. This authorization will be based on the Department's receipt and approval of all appropriate submittals required under this permit prior to construction.
7. The Voluntary Clean-up Agreement ((VCA) must be signed by all applicable parties prior to the commencement of construction. All construction activities must be in compliance with the VCA entered into between the Department and the City of Middletown. If the VCA is not complied with, the permittee must cease all construction activities authorized by this permit and notify the Department within 24 hours.



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

8. Prior to the initiation of any construction of the facility, the permittee must submit the following and receive written approval from the Department that the submittal is acceptable.:
- a) construction drawings which are prepared and certified by a New York State licensed professional engineer which identify the location of all equipment, including systems and equipment for fire prevention/control.
 - b) A project construction schedule.
 - c) A Health and Safety Plan for work on the hazardous waste site.
 - d) A work plan prepared and certified by a New York State licensed professional engineer detailing the procedures and protocols to be used for monitoring the performance of the dynamic compaction or other foundation enhancement work to ensure that the building foundation tolerances for settlement will be met.
 - e) A settlement monitoring plan detailing how the permittee will routinely survey the buildings built on the old landfill for settlements. This plan should detail the acceptable thresholds for settlement as approved by the local building authority and should be prepared by a New York State Licensed Land Surveyor.
 - f) A landfill gas monitoring plan prepared and certified by a New York State licensed professional engineer detailing the methods and frequency for monitoring of landfill gases in and around the buildings. This plan must also provide threshold numbers with respect to when action is necessary regarding the gases.
 - g) A revised Appendix N, signed and sealed by a NYS licensed professional engineer, with a new date and including a revised geomembrane liner specification for the foundation gas barrier as contained in Attachment 8 of Appendix N, dated June 27, 2000. The revised geomembrane liner specification should be for either a 40 mil smooth HDPE or LLDPE geomembrane. The revised specification shall include reference to the prefabricated pipe penetration boots to ensure matching/compatible polymers between the final geomembrane liner and boot material. Should the design engineer specify an alternate geomembrane selection for the gas barrier, written justification from a New York State licensed professional engineer demonstrating the technical merits of the alternate geomembrane choice must be included with the revised specification.
9. Prior to the initiation of construction at the facility's on-site wastewater treatment plant, the permittee must submit a letter from the City of Middletown which indicates that the wastewater treatment plant will meet the pretreatment standards of the City. The permittee must receive written approval from the Department prior to construction.

OPERATIONAL PERMIT CONDITIONS:

10. Within 180 days of the start of operation, the permittee shall conduct and submit a noise study, prepared and certified by a New York State licensed professional engineer, to determine whether the facility meets the noise levels specified in 6 NYCRR Part 360 regulations.
11. Prior to the start of operation, the permittee shall submit the following and receive written approval from the Regional Solid Waste Engineer:
- a) a written staff safety program, prepared and certified by a New York State licensed professional engineer, for the facility.



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

- b) a final waste control plan, prepared and certified by a New York State licensed professional engineer, which includes a list of waste providers.
 - c) a final Contingency Plan, prepared and certified by a New York State licensed professional engineer, which specifies the emergency coordinator and the alternate emergency coordinator.
 - d) a final Personal Staffing and Training Plan. (See Appendix G)
 - e) a final Operations Manual prepared and certified by a New York State licensed professional engineer. This manual must address the operation of the Radiation Detection Devices used at the facility.
 - f) Executed contracts with disposal facilities. These contracts must indicate the amounts of waste that they have the capacity to accept. The permittee must execute contracts for with one or more disposal facilities that in aggregate will have sufficient capacity to receive all ash residue, downtime waste, bypass waste, gypsum, and sludge from the facility for the term of the permit. These contracts must cover a minimum period of 5 years. In the event that the permittee determines a reuse for any of the above wastes and receives an approved Beneficial Use Determination from the Department, an executed contract for that waste stream will no longer be required.
 - g) A New York State professional engineer's certification that the facility has been constructed in complete conformance with this permit. The certification must include 3 sets of as-built drawings.
 - h) A final Facility Maintenance, Monitoring, and Inspection Plan, prepared and certified by a New York State licensed professional engineer.
 - i) Completed contracts for bypass waste hauling and emergency contractor
12. Prior to the initiation of installation and operation of the "Blue Bag" processing line, a final design must be submitted to the Department and written approval must be obtained from the Regional Solid Waste Engineer.
13. The facility shall be constructed in conformance with:
- a) The General and Special Conditions of this permit;
 - b) The applicable 6 NYCRR Part 360 Solid Waste Management Facilities regulations,
 - c) The 6 NYCRR Part 360 Permit Application entitled "Orange Recycling and Ethanol Production Facility" as outlined in Attachment A to this permit;
14. The facility may not accept waste until it receives written authorization from the Regional Solid Waste Engineer. This authorization will be based on the Department's receipt and approval of all appropriate submittals required under this permit prior to operation.
15. The facility may operate within the timeframes indicated in subparagraphs 'a' through 'd', below:
- a. The facility may receive mixed municipal waste at the MRF tipping floor and the MRF may process waste only between 7:00 AM and 7:00 PM Monday through Friday and only between 7:00AM and 1:00 PM on



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

- Saturday, provided the facility is in compliance with Special Condition #15(d) of this permit, subparagraph d, below.
- b. The facility may receive sewage sludge, septage and leachate 24 hours/day, 7 days/week.
 - c. The dryer operation, ethanol production facility and gasifier may operate 24 hours/day, 7 days/week.
 - d. The tipping floor shall be free of all wastes, except as provide in Special Condition #18 from 7:00 PM to 7:00 AM on Mondays through Saturdays and from 1:00 PM on Saturday to 7:00 AM the following Monday.
16. The facility is only allowed to accept the following materials in the amounts specified below. All incoming waste must be weighed upon entry to the facility:
- a. Mixed Municipal Waste (MSW): Not to exceed 230,000 Tons Per Year (TPY), or 4,800 Tons Per Week (TPW), or 960 Tons Per Day (TPD).
 - b. Sewage Sludge: Not to exceed 422,000 TPY, 8,820 TPW or 1790 TPD.
 - c. Septage and Leachate: Not to exceed 364 TPY, 8 TPW, or 8 TPD.
 - d. Waste Paper: Not to exceed 32,000 TPY, 670 TPW, or 130 TPD.
 - e. No hazardous waste may be accepted.
17. The facility is only allowed to process MSW through the dryer or direct MSW to dry storage after the MSW has been fully processed through the MRF.
18. Only in emergency conditions can waste remain on the floor, and only with immediate notification of the Regional Solid Waste Engineer.
19. Ultimate disposal of waste: All solid waste passing through the facility must be ultimately treated or disposed of at a facility authorized by the Department if located in New York State, or by the appropriate governmental agency or agencies if in other states, territories, or nations. Any recyclables recovered from the waste stream for which an economic market exists, must be recycled.
20. Complaints received by the permittee about the operation of the facility must be documented in a log book with a description of the complaint and the action taken to evaluate the complaint and alleviate the concern. The log must also indicate the results of the action. Documentation must be available for review at the Department's request during hours of operation. The operation of the facility must be conducted in such a manner that any off-site migration of dust or odors does not cause a nuisance condition, as determined solely by the Department. Any operational changes deemed necessary by the Department to correct such nuisance conditions must be implemented.
21. The permittee shall undertake any and all measures required by the Department to control blowing papers and litter, insects, odors, dust, noise, vectors, and other nuisances, including the immediate cessation of all or part of the facility operation.



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

22. A copy of this permit, along with all maps, records and documents mentioned in the special conditions, must be available for inspection by NYSDEC at all hours of operation at the project site.
23. Any waste not authorized in Special Condition #16 that is received at the facility, shall be removed from the facility within 24 hours, unless otherwise approved by the Department. The Department must be notified of each incident in the annual report and a record of each incident must be available for Department review. Any unauthorized waste accepted at the facility must be managed in accordance with applicable Federal and State laws and regulations.
24. Notice of the commencement of any on-site activities, except for emergency repairs, that interrupts normal waste processing, must be made to the Regional Solid Waste Engineer at least five (5) working days in advance of the activity.
25. The permittee is prohibited from accepting waste from customers in a municipality which has either not completed a Department approved Comprehensive Recycling Analysis (CRA) or is not included in another municipality's CRA satisfying the requirements of 6 NYCRR Part 360-1.9(f).
26. The permittee shall notify the Regional Solid Waste Engineer no later than 12 hours after the commencement of an unscheduled total facility shutdown if it is determined that the shutdown will exceed 24 hours in duration. Within 15 days thereafter, the permittee shall submit a written report describing the duration of the malfunction and the corrective action taken.

CLOSURE:

27. The permittee shall close the site prior to the expiration date of this permit or prior to the expiration of any renewals of this permit in accordance with the closure requirements in 6 NYCRR Part 360.
28. Within 45 days of the completion of the closure activities, the permittee shall submit to the Department a certification, prepared and certified by a New York State licenced professional engineer, that the facility has been closed in accordance with the Department approved closure plan and 6 NYCRR Part 360 SWMF regulations.

FINANCIAL ASSURANCE:

29. Thirty days prior to the initiation of construction the permittee shall provide to the Department financial surety in the amount of \$1,538,000 in a form acceptable to the Department. The financial surety shall be maintained for the life of the permit. Neither the provision of the financial assurance, nor any act of the Department in drawing upon the financial funding, shall relieve the permittee of its obligation to comply with this permit and the requirements to close the facility properly.
30. The Department reserves the right to adjust the amount of the Financial Assurance to account for changing closure costs and for non-compliance with any conditions of this permit or any requirement of Part 360.
31. In the event that the financial institution proposes to terminate the Financial Assurance at any time, the permittee shall, no less than thirty days prior to the effective date of such termination, provide a substitute Financial Assurance in the same amount and form, or other form acceptable to DEC. If an acceptable substitute has not been provided by thirty days prior to the termination date, DEC may draw upon the Financial Assurance for its amount and hold the amount drawn as a cash collateral guarantee until such time as an acceptable substitute is



SPECIAL CONDITIONS

For Article 27, title 7, & 6NYCRR Part 360
(Solid Waste Management Facility & 401 Water Quality Certification)

provided or if necessary during the time prior to the provision of a substitute Financial Assurance, may expend such sums as may be required in the event of the permittee's default of its obligations regarding compliance with this permit, the Permit to Operate this facility or its closure.

ENVIRONMENTAL MONITOR:

32. An account to fund the environmental monitor shall be maintained with the Department as follows:

(a) The sum of \$75,000 shall be submitted to the Department upon execution of this permit or within 10 days of the effective date of this permit. Once the construction certification is accepted by the Department and the facility has been operational for one year without any major violations, the account can be reduced to \$50,000 for the life of the permit. This sum is based on an estimate of the annual environmental monitor cost and is subject to quarterly revision. Subsequent quarterly payments shall be made for the duration of this permit to maintain an account balance sufficient to meet the next nine months' anticipated expenses. Quarterly payments shall be made for the duration of this permit in accordance with the following provisions.

(b) Costs to be covered by this fund include:

(1) Direct personal service costs and fringe benefits of the Environmental Monitor and full-time Environmental Monitor supervisors, including the costs of replacement personnel for the person regularly assigned to these positions.

(2) Direct non-personal service costs, including without being limited to lease of a vehicle if necessary and its full operating costs, and any appropriate chemical sampling and analysis.

(3) Inflation increases and negotiated salary increase.

(4) Indirect support or overhead costs at the New York State Department of Environmental Conservation Federally-approved Indirect Cost Rate.

(c) Upon written request by the permittee, the Department shall make available any records (e.g., vouchers, time records) relating to such Environmental Monitor costs, consistent with applicable law.

(d) As noted the Department may revise the required payment on a quarterly basis to include all costs of monitoring to the Department. The quarterly revision may take into account factors such as inflation, salary increases, accrued interest to be applied to the balance, changes in operating hours and procedures and the need for additional Environmental Monitors and supervision of such Environmental Monitors by full time Environmental Monitor supervisors. Upon written request by the permittee, the Department shall provide permittee with a written explanation of the basis for any modification.

(e) Within 30 days of written notice by the Department that a payment is due, payment shall be forwarded to the Department. Payment shall be sent to:

NYS Department of Environmental Conservation
50 Wolf Road
Albany, NY 12233-1510
ATTENTION: Environmental Monitors