

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION



DEC PERMIT NUMBER:
2-6204-00007/00013
 [2-6204-00007/00014, 2-6204-00007/00015,
 2-6204-00007/00016]

FACILITY:
East 91st Street

EFFECTIVE DATE:

EXPIRATION DATE:

PERMIT
 Under the Environmental Conservation Law (ECL)

TYPE of PERMIT: New Renewal Modification Permit to Reconstruct Permit to Operate

- Article 27, Title 7; 6 NYCRR 360: Solid Waste Management
- 6 NYCRR 608: Water Quality Certification
- Article 15, Title 15: Long Island Wells
- Article 19, Air Pollution Control Air State Facility
- Article 25: Tidal Wetlands
- Article 15, Title 5: Protection of Waters

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| PERMIT ISSUED TO OWNER /OPERATOR: NYC Department of Sanitation | TELEPHONE : 917-237-5501 |
| ADDRESS OF PERMITTEE: 125 Worth Street, New York, NY 10013 | |
| CONTACT PERSON FOR PERMITTED WORK: Harry Szarpanski, Assistant Commissioner, Bureau of Long Term Export 44 Beaver Street, New York, NY 10004 | TELEPHONE : 917-237-5501 |
| PROJECT/FACILITY NAME: East 91 st Street Marine Transfer Station | |
| PROJECT/FACILITY ADDRESS: 91 st Street, East River and the FDR Drive, New York, New York | |
| DESCRIPTION OF AUTHORIZED ACTIVITY: Construction and Operation of a Converted Marine Transfer Station authorized to accept up to 4,290 tons per day of municipal solid waste (MSW) and 5,280 tons per day MSW under emergency conditions, as specified in Special Condition 17 below. The Converted Marine Transfer Station provides for containerized waste for barge and rail export. The facility is authorized to operate 24 hours a day, Monday through Saturday; closed Sunday, except for prescribed emergency conditions as identified in the Engineering Report and Operations Manual made a part of this permit. | |

All work associated with the authorized activity described above must comply with all of the applicable provisions of 6 NYCRR Part 360 (Solid Waste Management Regulations), effective 29 September 1997. By acceptance of this permit, the Permittee agrees that this permit is contingent upon strict compliance with the ECL, all applicable regulations, and the General Conditions and Special Conditions included herein.

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| REGIONAL PERMIT ADMINISTRATOR: John F. Cryan | ADDRESS: NYSDEC, Division of Env Permits 47-40 21st Street, Long Island City, NY 11101 |
| AUTHORIZED SIGNATURE: | DATE |

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS**Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The Permittee has accepted expressly, by the execution of its application for the subject work, 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: 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 subject 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 subject 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 subject work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The Permittee must provide a person to accompany the Department's representative during an inspection of the subject facility when the Department provides written or verbal notification to the Permittee at least 24 hours prior to such inspection.

A copy of this permit, including all general and special conditions therein, all amendments thereto, and all documents referenced therein must be available for inspection by the Department at the project site at all times that activity associated with the subject work is occurring. Failure to produce a copy of such permit, conditions, amendments, or documents upon request by a Department representative is a violation of this permit.

Any sign provided by the Department with this permit must be protected from the weather and posted in a conspicuous location at the subject work site throughout the period during which any of the subject work occurs.

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

Unless expressly provided for by the Department, 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, including but not limited to a change in facility operator. 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, major Air Pollution Control (APC) and Solid Waste Management Facilities; and
- b) 30 days before the expiration of all other permit types.

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

NYSDEC Regional Permit Administrator, Region 2, 47-40 21 Street, Long Island City, NY 11101 (tel. 718/482-4997).

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.

General Condition 5: Compliance with Other Regulatory Requirements

The Permittee is responsible for obtaining any other permits, approvals, lands, easements, and rights-of-way that may be required for the subject work. The Permittee and its independent contractors, employees, agents, and assigns must comply with all applicable local, State, and federal regulatory requirements.

General Condition 6: Permittee to Ensure that its Contractors to Comply with Permit

The Permittee must ensure that its independent contractors, employees, agents, and assigns read, understand, and comply with this permit, including all General and Special Conditions herein, in general, and General Condition No. 5, above, in particular. Such persons must be subject to the same sanctions for violations of this permit as those prescribed for the Permittee.

7. That if future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized must not be completed, the owners, must, without expense to the State, and to such extent and in such time and manner as the Department may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.
8. The State of New York must in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
9. All necessary precautions must be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate, or any other environmentally deleterious materials associated with the project. Any creosote-treated lumber must be weathered for at least six months before it is brought to the subject work site.
10. Any material dredged in association with the work herein permitted must be removed evenly, without leaving large refuse piles, ridges across the bed of a waterway or floodplain, or deep holes that may have a tendency to cause damage to navigable channels, the banks of a waterway, water quality, sediment quality, or benthic habitat.
11. There must be no unreasonable interference with navigation by the work herein authorized.
12. If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the Permittee must, without expense to the State, and to such extent and in such time and manner as the Department may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.
13. If granted under Article 36, this permit does not signify in any way that the project will be free from flooding.
14. If granted under 6 NYCRR Part 608, the Department hereby certifies that the subject project will not contravene effluent limitations or other limitations or standards under Sections 301, 302, 303, 306, and 307 of the Clean Water Act of 1977 (PL 95-217) provided that all of the conditions listed herein are met.
15. In accordance with Title 19, Part 600.4 (c) of the New York Code of Rules and Regulations, the Department hereby certifies that the action described and approved in this permit, if located within the Coastal Zone, is consistent to the maximum extent practicable with the policies and purposes of the New York City Waterfront Revitalization Program.

SPECIAL CONDITIONS

Plans and Specifications:

16. All construction and operation associated with the subject facility must conform to the following documents, including all attachments and appendices: a) City of New York Department of Sanitation, Final Engineering Report for the East 91st Street Marine Transfer Station Waste Containerization Facility, Part 360 Permit Application, Volume 1, Volume 2 and Volume 3, prepared by HDR Engineering, Inc./ Hydroqual, Inc. and Greeley and Hansen, dated January 2007, and b) Joint Application for Permit, Proposed MTS Conversion Program City of New York Department of Sanitation, prepared by HydroQual, Inc./ HDR Engineering, Inc., dated February 2007. However, if any portion of such documents conflicts with any provision of this permit, such provision must prevail.

Solid Waste Management

17. The Converted Marine Transfer Station is authorized to accept the following quantities of MSW as noted in item 12(b) of the permit application referenced in Special Condition 16 above:
 - A Weekly Limit of 9,864 tons that shall not be exceeded in any calendar week, except for an Upset or Emergency Condition;
 - A Maximum Peak Day Limit of 1,860 tons per day that shall not be exceeded on any day, except for an Upset or Emergency Condition;
 - An Upset Condition Limit of 4,290 tons per day that is the result of an event that reduces the processing capacity of one or more elements of the Permittee’s waste management system, such as fire or equipment outages, thereby requiring a temporary reallocation of MSW from other wastesheds to this transfer station for a period of a few days duration;
 - An Emergency Condition Limit of 5,280 tons per day caused by public emergency event affecting the entire or a large part of the Permittee’s waste management system thereby requiring the Permittee, acting on the basis of protecting the public health, to use the maximum design capacity of this transfer station to remove accumulated refuse from the streets as quickly as possible.

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18. The facility storage limit shall be no more than 634 tons (2818 cubic yards) on the facility loading floor and 48 full containers of waste on each of two barges moored at the facility, plus 48 full containers stacked on the facility's pier, for a total of 3,802 tons.
 19. All work, construction and operation associated with the converted marine transfer station and authorized by this permit must comply with all of the applicable provisions of 6 NYCRR Part 360 (Solid Waste Management Regulations), especially Subparts 360-1 and 360-11. However, if any portion of such documents conflicts with any provision of this permit, such provision must prevail.
 20. Ninety days prior to commencement of operations, the Permittee must submit, one copy of a Final Operations and Maintenance Plan (O&M) to the Regional Solid and Hazardous Materials Engineer (hereinafter, "the DEC Engineer") and one copy to the Regional Permit Administrator, for review and approval. The O&M must include the following documents: Final Transfer, Transport, and Disposal Plan with the inclusion of specific waste transport and disposal contractor(s), final disposal sites, inclusive of all necessary authorizations, a Barge Security Plan, Person Overboard Procedure, and Standard Barge Mooring Procedure. The authorizations must include a certified copy of each permit or other authorization pertaining for the operation of the treatment or disposal facility to which the solid waste will be brought, issued by a governmental entity having jurisdiction over that facility. Written approval of the O&M, by the DEC Engineer, is required, prior to operation of the facility.
 21. No less than five business days prior to the dates that the Permittee proposes to commence both the herein-authorized construction and the herein-authorized operation, the Permittee must deliver three completed copies of the attached "Notice of Intent to Commence Construction" or "Notice of Intent to Commence Operation," as appropriate. Two such copies must be so delivered to the Regional Permit Administrator, and one such copy must be so delivered to the DEC Engineer.
 22. Ninety days prior to the commencement of operations, the Permittee must provide, for approval, to the Regional Permit Administrator and the DEC Engineer, a draft financial assurance for the closure of the facility. Such surety instrument must conform to the requirements of 6 NYCRR Part 360-1.12.

Construction:

23. The construction and operation of the subject facility must not result in substantial off-site erosion or sedimentation. Before any soil is disturbed on the subject site, the Permittee must erect erosion and sedimentation controls which are adequate to contain construction material, debris and sediments from entering the waterway, and prevent erosion and sedimentation off-site. Such practices may include, but are not limited to, construction fencing, staked hay bales, silt fencing, floating platforms, netting, and containment booms. Such controls must be maintained until the disturbed soil is stabilized by pavement, or a self-sustaining cover of vegetation that is adequate to prevent erosion and sedimentation on and off such site. Before such controls are removed, the Permittee must remove and properly dispose all sediment that has accumulated at such controls.
24. Should any demolition or construction debris fall into the waterway or enter the tidal wetlands, it must be removed immediately.

25. During any proposed construction, and any proposed excavation in particular, adequate dust suppression and other appropriate health and safety (H&S) measures must be deployed and maintained. A person who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them, must be present throughout project construction and must witness all proposed excavation work. The Permittee must identify a second health and safety person, who will perform the functions identified above as a contingency measure. The instructions of such person must be followed.
26. All excavated soils must be removed off-site for disposal in accordance with all applicable Federal State and Local laws and regulations. Uncontaminated and recognizable concrete, brick and rock may be reused. Reuse of any excavated soils, including sending material to a solid waste management facility for reuse, must receive prior approval from the Department. Department approval also is required if contaminated soils will be used for backfilling.
27. At least 30 days after the completion of the herein-authorized construction, the Permittee must submit a construction certification report, sealed and signed by a professional engineer licensed by the State of New York, that certifies that the construction was completed in accordance with the terms of the permit, tested in accordance with generally accepted engineering practices, and is in conformance with the documents cited in SC #16, above. A set of Record Drawings, noting all changes to the set contained in Volumes II and III, Appendix J of the Engineering Report that are sealed and signed by a professional engineer licensed by the State of New York, must be included with such certification.

Operation:

28. a) Except as provided in subparagraph (b) of this Special Condition, any proposed change, including but not limited to one that would: (i) affect the hours of facility operation; or (ii) increase the volume(s) or vary the type(s) of any waste accepted at the facility; or (iii) increase the parking or queuing of vehicles associated with the subject facility; or (iv) increase the physical extent of the facility; or (v) increase the transportation, noise, odor, dust, or other impact of the facility, requires prior written authorization from the Department in the form of a permit or permit modification. No such change is to be initiated unless and until obtaining such permit or permit modification.
- b) Any proposed change that would be a minor alteration, such as the re-configuration of the facility's physical plant without the addition of any waste processing equipment, may be performed in accordance with the following procedure: no less than 30 days before initiating any such minor structural or operational alteration(s) to the subject facility, the Permittee must provide written notice, in duplicate, to the DEC Engineer and the Regional Permit Administrator. Such notice must include the following: (i) a revised facility site plan, process flow diagram, or other detailed drawing(s), as appropriate, specifically illustrating such change(s); and (ii) a letter which details such change(s); amends the Permittee's Engineering Report or other material, as appropriate; and identifies the Permittee's proposed date to initiate such change(s). The Permittee must not initiate any such change(s) prior to the Permittee's receipt of the DEC Engineer's written authorization for such change(s). Notwithstanding the foregoing, the Department reserves the right to deny or modify the Permittee's requested change, or to require that it be subjected to a full permit or permit modification process.

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29. The facility is not authorized to receive catch basin waste, or any industrial waste from NYC Department of Environmental Protection water pollution control plants.
 30. In the event of an involuntary shutdown for more than seven consecutive calendar days, the facility must undergo facility shutdown procedures.
 31. Unauthorized waste must be removed from the facility as soon as practicable, but not to exceed 90 days after discovery, by a person authorized to transport such waste to a facility approved to receive it for treatment, disposal or transfer.
 32. The transfer station shall not knowingly or intentionally accept any mercury-added consumer products in accordance with ECL Article 27 Title 21.
 33. All MSW must be removed from the subject facility within 48 hours after receipt. In the event of an contingency (e.g. barge delay), containerized waste may be held for no longer than 4 days.
 34. All MSW shall be containerized within 24 hours of receipt, except for waste received on: i)an operating day immediately prior to a holiday, in which case such waste shall be containerized within 48 hours; or ii) on a Saturday preceding a holiday falling on a Monday, in which case such waste shall be containerized within 72 hours. All floor areas that had MSW on them must be cleaned and cleared of all waste for a one half hour period on a daily basis and records must be maintained to document maintenance activity.
 35. The Permittee must not change facility operator unless and until the Permittee: (a) submits the information included in the application form “Solid Waste Management Facilities - Corporate Data” as it pertains to the proposed new operator, and (b) receives the Department’s written approval of such change.
 36. There shall be no truck queuing on a public street in association with the operation of the subject facility.
 37. Each door of each subject facility building must remain closed, except to allow vehicles, equipment, or personnel to enter or exit such building. Each facility gate must be kept closed whenever the facility is closed., except to allow vehicles, equipment or personnel to enter or exit such gate.
 38. Within 24 hours following the Permittee’s receipt of any and all virgin wood, the Permittee must segregate such wood and transfer it to a facility approved by NYS Department of Agriculture and Markets to accept potential Asian Longhorn Beetle host material. For each delivery of material to the herein-permitted facility, which delivery contains virgin wood, the Permittee must maintain a record of (a) the date of such delivery; (b) the origin of the virgin wood in such delivery; c) the date of the Permittee’s disposition of the virgin wood in such delivery, and (d) the manner of the Permittee’s disposition of the virgin wood in such delivery. Such record must be maintained on-site for no less than seven years.
 39. Daily facility records must include: (a) the date and time of all inbound and outbound trucks; (b) the license plate number of all outbound trucks; and c) the company name or state of registration of all outbound trucks. Such records must be kept on-site for at least seven years.
 40. In order to minimize facility truck traffic, the Permittee will use an electronics package with both inbound and outbound scales with a radio-frequency identifier to uniquely identify each truck. A computer will accept and record the data sent from both the inbound and outbound scales, including: date and time of

weighing transaction; unique truck identifier; measured weights; and calculated “refuse received” weight. A keypad, ticket printer and intercom system will be installed as a contingency in the event that the automatic identification system is not operable.

41. The Permittee must send MSW only to the solid waste disposal facilities identified in the document(s) cited in Special Condition 16, above.
42. Prior to the expiration of any State permit required to operate any such disposal facility, the Permittee must submit to the DEC Engineer, in duplicate, a complete copy of the renewal or extension of such permit. If the Permittee fails to submit such copy, or if, for any reason, any such disposal facility loses any governmental authorization required for its operation (including failure to renew permit, permit suspension, permit revocation, facility closure, cessation of operations, or facility abandonment), the Permittee must immediately cease sending MSW to such facility, and must notify the DEC Engineer of such cessation and the reason(s) for same.
43. For each additional disposal facility, to which the Permittee seeks to send MSW, the Permittee must submit the following data to the DEC Engineer: (a) a complete copy of each State authorization required to operate the disposal facility; and (b) a letter from the operator of the disposal facility stating the amount of MSW it would accept from the Permittee, and any conditions it places on such acceptance. Each such additional disposal facility must be approved by the DEC Engineer in writing. For each disposal facility, to which the Permittee seeks to stop sending MSW, the Permittee must submit written notification to the DEC Engineer.
44. Any closure of the subject facility must conform to 6 NYCRR Part 360, and closure plans specified in the Engineering Report noted in Special Condition No.16 above.
45. Within 60 days of the start of facility operations, the Permittee must provide to the DEC Engineer, monthly or by remote, electronic access to waste management records maintained at the facility, such as those specified in Special Conditions 36, 39 and 40, including quantities of waste materials transported, daily throughput and unauthorized waste storage and transport.

Environmental Monitor Account:

46.
 - a) Payment, as required to support the Department’s monitoring requirements of the subject facility, must be provided to the Department for the funding of environmental compliance activities related to the construction and operation of the subject facility. Payment is based on annual Environmental Monitor service costs. The Permittee will be billed annually for each fiscal year beginning 1 April XXXX. Subsequent annual payments must be made for the duration of this permit in order to maintain an account balance sufficient to meet the next year’s anticipated expenses.
 - b) The Department may revise the required payment on an annual basis to include all costs of monitoring to the Department. The annual revision may take into account factors such as inflation, salary increases, changes in facility operating hours and procedures, and the need for additional Environmental Monitors. Upon written request by the Permittee, the Department will provide the Permittee with a written explanation of the basis for any such revision. If such revision is required,

the Department will notify the Permittee of such revision no later than 60 days in advance of such revision.

- c) Prior to making its annual payment, the Permittee will receive and have an opportunity to review an annual work plan that the Department will undertake during the year.
- d) Payments must be made within 30 days after the Permittee's receipt of a bill from the Department. The Permittee must deliver such payment to: NYS Department of Environmental Conservation, 625 Broadway - 10th floor, Albany, NY 12233-5012, Attention: Revenue Accounting. Payments for this account must be in addition to any other funds previously paid by the Permittee for environmental monitoring services prior to 1 April 2008.
- e) Failure to make a required environmental monitor payment is a violation of this permit. The Department may take appropriate action to enforce the payment provisions, including suspension or revocation of this permit.
- f) The Environmental Monitor will, when present at the subject site, abide by all of the Permittee's health and safety and operational requirements and policies; provided, however, that this subparagraph must not be construed as limiting the monitor's powers as otherwise provided for by law and must not result in the monitor's being less protected than the monitor would be if he or she were to abide by state and federal health and safety requirements.

DREDGING

47. No less than 60 days prior to the start of dredging at any marine transfer station subject to this permit, the Permittee must submit the following documentation, to the New York State Department of Environmental Conservation, Division of Marine Resources, 47-40 21st Street, Long Island City, NY, 11101, Attention: Steve Zahn, Marine Resources Program Manager.
- a) Two copies of a detailed description of the proposed dredging, specific to the location being dredged and inclusive of the following: (i) a bathymetric survey conducted within the previous 3 months; (ii) existing sediment sampling data and a sediment sampling plan including sampling locations and methods, as applicable ; (iii) sampling results in the form of (a) bulk sediment chemistry and grain size analysis and (b) additional testing required for the dredge deposition or placement at an upland location; (iv) an estimate of amount of material to be dredged; (v) a site plan and cross-sectional diagram with axes, mud lines, dredge lines (historical and proposed), wetlands, and all other pertinent information clearly labeled; (vi) the name and address of dredged material placement location as well as a "letter of acceptance" from the named facility (the Permittee is responsible for conducting all sediment sampling and analysis as required by the selected disposal location); and , (vii) a copy of the permit or other authorization authorizing the activity.

Note: For disposal locations located within the State of New York, the sediment analysis data is to be included with the letter identifying the disposal location. For disposal locations outside of the State of New York, letters of acceptance from the identified location and the State appropriate regulatory agency are to be provided with the letter identifying the disposal location.

48. The attached “Notice of Intent to Commence Work” is to be completed each time a dredging event is scheduled to occur at the subject marine transfer station.
49. All dredging is to be conducted using an environmental bucket.
- a) An environmental bucket is defined as a bucket constructed with sealing gaskets or overlapping sealed design at the jaws.
 - b) Seals or flaps are to be positioned at locations of vent openings to minimize the loss of material during transport through the water column and into the barge.
 - c) Seals or flaps designed and or installed at the jaws and locations of vent openings must tightly cover these openings while the bucket is lifted through the water column and into the barge.
 - d) Excessive loss of water, sediment or both from the time the bucket breaks the water’s surface to the time it crosses the barge gunwale, is not permitted.
Should excessive loss of sediment, water or both be observed the Permittee must halt dredging operations and inspect the bucket for defects.
Dredging operations are to be suspended until all necessary repairs or replacements are made.
50. The dredging operation is to be conducted in such a manner as to minimize water quality impacts:
- a) Bucket hoist speed shall be limited to approximately 2 feet per second. The bucket shall be lifted in a continuous motion through the water column and into the barge;
 - b) The bucket shall be lowered to the level of the barge gunwales prior to the release of load; and,
 - c) There shall be no barge overflow.
51. Upon completion of all dredging activity, authorized by this permit, the attached “Notice of Completion of Work” is to be provided to the Regional Permit Administrator.
52. Within 90 days of the completion of dredging, the Permittee must submit a post-bathymetric survey to the NYS Department of Environmental Conservation, Marine Resources Program Manager.
53. Excavated sediments will be placed directly into the conveyance vehicle in a manner which prevents the material from re-entering the waterway. Side casting (double dipping) or temporary storage of dredge material is prohibited.
54. All side slopes of the dredged area shall have a maximum 1:3 slope.
55. No structures, temporary or permanent, shall be located on subject pier or float without prior written approval from the Department.

Natural Resources Mitigation

57. Within 60 days of permit issuance, the Permittee shall submit a proposed conceptual mitigation plan for review and approval to the New York State Department of Environmental Conservation’s, Marine Resources Program Manager. Said plan shall include the following: sites where appropriate wetland restoration activities could occur; an initial estimate of the potential types and amounts of habitat restoration at the site(s); mechanisms for delivering projects at the site(s) (i.e. NYC Department of Sanitation construction, City agency or other partnerships); and an estimate of when the project(s) may be ready to proceed.

58. Within 60 days of the approval of the conceptual mitigation plan by the Department, the Permittee and its agent(s) will meet with the Marine Resources Regional Manager and the Regional Permit Administrator to develop a formal plan of action and time line for the implementation of the proposed plan.
59. No later than 120 days after the approval of the conceptual plan by the Department, the Permittee shall submit a formal plan for Departmental review and acceptance. In addition to mitigation project details, said plan shall include a monitoring plan developed and based upon the "NYS Salt Marsh Restoration and Monitoring Guidelines."

Air Pollution Control:



New York State Department of Environmental Conservation
Facility DEC ID: 2620400007

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 and any Special Conditions included as part of this permit.

Permit Administrator: JOHN F CRYAN
DIVISION OF ENVIRONMENTAL PERMITS
ONE HUNTERS POINT PLAZA, 47-40 21ST STREET
LONG ISLAND CITY, NY 11101-5407

Authorized Signature: _____

Date: _____

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Notification of Other State Permittee Obligations

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law 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 to carry out the activities that are authorized by this permit.

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.



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Facility Level

- 4 Submission of Applications for Permit Modification or Renewal-REGION 2
HEADQUARTERS
- 4 Submission of application for permit modification or renewal-REGION 2
HEADQUARTERS

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DEC GENERAL CONDITIONS

****** General Provisions ******

GENERAL CONDITIONS - Apply to ALL Authorized Permits.

Condition 1: Facility Inspection by the Department
Applicable State Requirement: ECL 19-0305

Item 1.1:

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).

Item 1.2:

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

Item 1.3:

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 or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

Condition 2: Relationship of this Permit to Other Department Orders and Determinations
Applicable State Requirement: ECL 3-0301.2(m)

Item 2.1:

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.

Condition 3: Applications for permit renewals, modifications and transfers
Applicable State Requirement: 6NYCRR 621.11

Item 3.1:

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.

Item 3.2:

The permittee must submit a renewal application at least 180 days before expiration of permits for Title V Facility Permits, or at least 30 days before expiration of permits for State Facility Permits.

Item 3.3:

Permits are transferrable with the approval of the Department unless specifically prohibited by the statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

Condition 4: Permit modifications, suspensions or revocations by the Department

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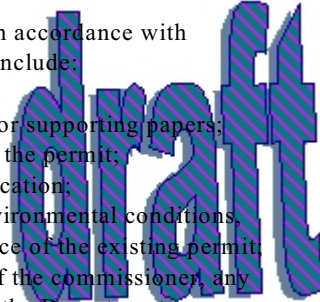


Applicable State Requirement: 6NYCRR 621.13

Item 4.1:

The Department reserves the right to modify, suspend, or revoke this permit in accordance with 6NYCRR Part 621. The grounds for modification, suspension or revocation include:

- a) materially false or inaccurate statements in the permit application or supporting papers;
- b) failure by the permittee to comply with any terms or conditions of the permit;
- c) exceeding the scope of the project as described in the permit application;
- d) newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.



****** Facility Level ******

Condition 5: Submission of application for permit modification or renewal-REGION 2 HEADQUARTERS

Applicable State Requirement: 6NYCRR 621.6(a)

Item 5.1:

Submission of applications for permit modification or renewal are to be submitted to:
NYSDEC Regional Permit Administrator
Region 2 Headquarters
Division of Environmental Permits
1 Hunters Point Plaza, 4740 21st Street
Long Island City, NY 11101-5407
(718) 482-4997



New York State Department of Environmental Conservation
Permit ID: 2-6204-00007/00016 Facility DEC ID: 2620400007

Air Pollution Control Permit Conditions
WORKING COPY

Permit Under the Environmental Conservation Law (ECL)

ARTICLE 19: AIR POLLUTION CONTROL - AIR STATE FACILITY PERMIT

IDENTIFICATION INFORMATION

draft

Permit Issued To: NYC DEPT OF SANITATION
125 WORTH ST
NEW YORK, NY 10013-4006

Facility: NYC-DOS EAST 91ST ST MTS
EAST 91ST ST & EAST RIVER
NEW YORK, NY 10028

Authorized Activity By Standard Industrial Classification Code:
4212 - LOCAL/TRUCKING WITHOUT STORAGE
4953 - REFUSE SYSTEMS

Permit Effective Date:

Permit Expiration Date:



PAGE LOCATION OF CONDITIONS

PAGE

FEDERALLY ENFORCEABLE CONDITIONS

Facility Level

| | | |
|----|----|--|
| 7 | 1 | 6NYCRR 201-7.2: Facility Permissible Emissions |
| 7 | *2 | 6NYCRR 201-7.2: Capping Monitoring Condition |
| 8 | 3 | 6NYCRR 225.1(a)(3): Compliance Demonstration |
| 9 | 4 | 6NYCRR 225.1(a)(3): Compliance Demonstration |
| 10 | 5 | 6NYCRR 227-1.3(a): Compliance Demonstration |

STATE ONLY ENFORCEABLE CONDITIONS

Facility Level

| | | |
|----|---|--|
| 12 | 6 | ECL 19-0301: Contaminant List |
| 13 | 7 | 6NYCRR 201-1.4: Unavoidable noncompliance and violations |
| 14 | 8 | 6NYCRR 201-5: Hollow permit. |
| 14 | 9 | 6NYCRR 211.2: Air pollution prohibited |

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NOTE: * preceding the condition number indicates capping.



FEDERALLY ENFORCEABLE CONDITIONS

**** Facility Level ****

NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS

This section contains terms and conditions which are federally enforceable. Permittees may also

have other obligations under regulations of general applicability

Draft

Item A: Sealing - 6NYCRR Part 200.5

The Commissioner may seal an air contamination source to prevent its operation if compliance with 6 NYCRR Chapter III is not met within the time provided by an order of the Commissioner issued in the case of the violation. Sealing means labeling or tagging a source to notify any person that operation of the source is prohibited, and also includes physical means of preventing the operation of an air contamination source without resulting in destruction of any equipment associated with such source, and includes, but is not limited to, bolting, chaining or wiring shut control panels, apertures or conduits associated with such source.

No person shall operate any air contamination source sealed by the Commissioner in accordance with this section unless a modification has been made which enables such source to comply with all requirements applicable to such modification.

Unless authorized by the Commissioner, no person shall remove or alter any seal affixed to any contamination source in accordance with this section.

Item B: Acceptable Ambient Air Quality - 6NYCRR Part 200.6

Notwithstanding the provisions of 6 NYCRR Chapter III, Subchapter A, no person shall allow or permit any air contamination source to emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any applicable ambient air quality standard and/or cause air pollution. In such cases where contravention occurs or may occur, the Commissioner shall specify the degree and/or method of emission control required.

Item C: Maintenance of Equipment - 6NYCRR Part 200.7

Any person who owns or operates an air contamination source which is equipped with an emission control device shall operate such device and keep it in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacturer's specifications, required to operate such device effectively.

Item D: Unpermitted Emission Sources - 6NYCRR Part 201-1.2



If an existing emission source was subject to the permitting requirements of 6NYCRR Part 201 at the time of construction or modification, and the owner and/or operator failed to apply for a permit for such emission source then the following provisions apply:

(a) The owner and/or operator must apply for a permit for such emission source or register the facility in accordance with the provisions of Part 201.

(b) The emission source or facility is subject to all regulations that were applicable to it at the time of construction or modification and any subsequent requirements applicable to existing sources or facilities.

draft

Item E: Emergency Defense - 6NYCRR Part 201-1.5

An emergency constitutes an affirmative defense to an action brought for noncompliance with emissions limitations or permit conditions for all facilities in New York State.

(a) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and that the facility owner and/or operator can identify the cause(s) of the emergency;

(2) The equipment at the permitted facility causing the emergency was at the time being properly operated;

(3) During the period of the emergency the facility owner and/or operator took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(4) The facility owner and/or operator notified the Department within two working days after the event occurred. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(b) In any enforcement proceeding, the facility owner and/or operator seeking to establish the occurrence of an emergency has the burden of proof.

(c) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Item F: Recycling and Salvage - 6NYCRR Part 201-1.7

Where practical, any person who owns or operates an air contamination source shall recycle or salvage air contaminants collected in an air cleaning device according to the requirements of 6 NYCRR.



Item G: Prohibition of Reintroduction of Collected Contaminants to the Air - 6NYCRR Part 201-1.8

No person shall unnecessarily remove, handle, or cause to be handled, collected air contaminants from an air cleaning device for recycling, salvage or disposal in a manner that would reintroduce them to the outdoor atmosphere.

Item H: Proof of Eligibility for Sources Defined as Exempt Activities - 6 NYCRR Part 201-3.2(a)

The owner and/or operator of an emission source or unit that is eligible to be exempt, may be required to certify that it operates within the specific criteria described in 6 NYCRR Subpart 201-3. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to 6 NYCRR Subpart 201-3, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations, or law.

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Item I: Proof of Eligibility for Sources Defined as Trivial Activities - 6 NYCRR Part 201-3.3(a)

The owner and/or operator of an emission source or unit that is listed as being trivial in 6 NYCRR Part 201 may be required to certify that it operates within the specific criteria described in 6 NYCRR Subpart 201-3. The owner or operator of any such emission source must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility which contains emission sources or units subject to 6 NYCRR Subpart 201-3, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations, or law.

Item J: Required Emission Tests - 6 NYCRR Part 202-1.1

An acceptable report of measured emissions shall be submitted, as may be required by the Commissioner, to ascertain compliance or noncompliance with any air pollution code, rule, or regulation. Failure to submit a report acceptable to the Commissioner within the time stated shall be sufficient reason for the Commissioner to suspend or deny an operating permit. Notification and acceptable procedures are specified in 6NYCRR Part 202-1.

Item K: Visible Emissions Limited - 6 NYCRR Part 211.3

Except as permitted by a specific part of this Subchapter and for open fires for which a restricted burning permit has been issued, no person shall cause or allow any air contamination source to emit any material having an opacity equal to or greater than 20 percent (six minute average) except for one continuous six-minute period per hour



of not more than 57 percent opacity.

Item L: Open Fires - 6 NYCRR Part 215

No person shall burn, cause, suffer, allow or permit the burning in an open fire of garbage, rubbish for salvage, or rubbish generated by industrial or commercial activities.

Item M: Permit Exclusion - ECL 19-0305

The issuance of this permit by the Department and the receipt thereof by the Applicant does not and shall not be construed as barring, diminishing, adjudicating or in any way affecting any legal, administrative or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against the Applicant for violations based on facts and circumstances alleged to have occurred or existed prior to the effective date of this permit, including, but not limited to, any enforcement action authorized pursuant to the provisions of applicable federal law, the Environmental Conservation Law of the State of New York (ECL) and Chapter III of the Official Compilation of the Codes, Rules and Regulations of the State of New York (NYCRR). The issuance of this permit also shall not in any way affect pending or future enforcement actions under the Clean Air Act brought by the United States or any person.

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Item N: Federally Enforceable Requirements - 40 CFR 70.6(b)

All terms and conditions in this permit required by the Act or any applicable requirement, including any provisions designed to limit a facility's potential to emit, are enforceable by the Administrator and citizens under the Act. The Department has, in this permit, specifically designated any terms and conditions that are not required under the Act or under any of its applicable requirements as being enforceable under only state regulations.

FEDERAL APPLICABLE REQUIREMENTS
The following conditions are federally enforceable.

Condition 1: Facility Permissible Emissions
Effective for entire length of Permit

Applicable Federal Requirement: 6NYCRR 201-7.2

Item 1.1:

The sum of emissions from the emission units specified in this permit shall not equal or exceed the following

Potential To Emit (PTE) rate for each regulated contaminant:

CAS No: 0NY210-00-0

PTE: 45,000 pounds per year



New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007

Name: OXIDES OF NITROGEN

Condition 2: Capping Monitoring Condition
Effective for entire length of Permit

Applicable Federal Requirement: 6NYCRR 201-7.2

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Item 2.1:

Under the authority of 6 NYCRR Part 201-7, this condition contains an emission cap for the purpose of limiting emissions from the facility, emission unit or process to avoid being subject to the following applicable requirement(s) that the facility, emission unit or process would otherwise be subject to:

6NYCRR 201-6

Item 2.2:

Operation of this facility shall take place in accordance with the approved criteria, emission limits, terms, conditions and standards in this permit.

Item 2.3:

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

Item 2.4:

On an annual basis, unless otherwise specified below, beginning one year after the granting of an emissions cap, the responsible official shall provide a certification to the Department that the facility has operated all emission units within the limits imposed by the emission cap. This certification shall include a brief summary of the emissions subject to the cap for that time period and a comparison to the threshold levels that would require compliance with an applicable requirement.

Item 2.5:

The emission of pollutants that exceed the applicability thresholds for an applicable requirement, for which the facility has obtained an emissions cap, constitutes a violation of Part 201 and of the Act.

Item 2.6:

The Compliance Demonstration activity will be performed for the Facility.

Regulated Contaminant(s):

CAS No: 0NY210-00-0 OXIDES OF NITROGEN

Item 2.7:

Compliance Demonstration shall include the following monitoring:

Capping: Yes

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

The NOx (oxides of nitrogen) emissions are capped at 22.5 tons per year.

New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007



The owner or operator shall maintain a record of the quantity of each fuel fired at the facility. Also, the owner or operator shall calculate (based on the fuel quantity) using the following formula:

$R(0.075) + D(0.02) + G(100) + E(0.44) + N(3400) < 45,000$ lbs/yr of Oxides of Nitrogen emissions.

Where:

R = 12-month rolling total of residual oil fired (from boilers) in gals/yr

D = 12-month rolling total of distillate oil fired (from boilers) in gals/yr

G = 12-month rolling total of natural gas fired (from boilers) in MMSCF/yr

E = 12-month rolling total of distillate oil fired (from engines) in gals/yr

N = 12-month rolling total of natural gas fired (from engines) in MMSCF/yr

draft

Parameter Monitored: OXIDES OF NITROGEN

Upper Permit Limit: 22.5 tons per year

Monitoring Frequency: MONTHLY

Averaging Method: ANNUAL MAXIMUM ROLLED MONTHLY

Reporting Requirements: ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

Subsequent reports are due every 12 calendar month(s).

Condition 3: Compliance Demonstration
Effective for entire length of Permit

Applicable Federal Requirement: 6NYCRR 225.1(a)(3)

Item 3.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 3.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

No person shall sell, offer for sale, purchase or use any distillate oil which has sulfur content greater than 0.20 percent by weight. A log of the sulfur content in oil per delivery must be maintained on site for a minimum of five years after the date of the last entry.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: DISTILLATES - NUMBER 1 AND NUMBER 2 OIL

Parameter Monitored: SULFUR CONTENT

New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007



Upper Permit Limit: 0.20 percent by weight
Monitoring Frequency: PER DELIVERY
Reporting Requirements: SEMI-ANNUALLY (CALENDAR)
Reports due 30 days after the reporting period.
Subsequent reports are due every 6 calendar month(s).

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Condition 4: Compliance Demonstration
Effective for entire length of Permit

Applicable Federal Requirement: 6NYCRR 225.1(a)(3)

Item 4.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 4.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: WORK PRACTICE INVOLVING SPECIFIC OPERATIONS

Monitoring Description:

No person shall sell, offer for sale, purchase or use any residual oil which has sulfur content greater than 0.30 percent by weight. A log of the sulfur content in oil per delivery must be maintained on site for a minimum of five years after the date of the last entry.

Work Practice Type: PARAMETER OF PROCESS MATERIAL

Process Material: NUMBER 6 OIL

Parameter Monitored: SULFUR CONTENT

Upper Permit Limit: 0.30 percent by weight

Monitoring Frequency: PER DELIVERY

Reporting Requirements: SEMI-ANNUALLY (CALENDAR)

Reports due 30 days after the reporting period.

Subsequent reports are due every 6 calendar month(s).

Condition 5: Compliance Demonstration
Effective for entire length of Permit

Applicable Federal Requirement: 6NYCRR 227-1.3(a)

Item 5.1:

The Compliance Demonstration activity will be performed for the Facility.

Item 5.2:

Compliance Demonstration shall include the following monitoring:

Monitoring Type: MONITORING OF PROCESS OR CONTROL DEVICE
PARAMETERS AS SURROGATE

Monitoring Description:

No person shall operate a stationary combustion installation which exhibits greater than 20 percent opacity (six minute average), except for one-six-minute period per hour of not more than 27 percent opacity.

New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007



The Department reserves the right to perform or require the performance of a Method 9 opacity evaluation at any time during facility operation.

The permittee will conduct observations of visible emissions from the emission unit, process, etc. to which this condition applies at the monitoring frequency stated below while the process is in operation. The permittee will investigate, in a timely manner, any instance where there is cause to believe that visible emissions have the potential to exceed the opacity standard.

Draft

The permittee shall investigate the cause, make any necessary corrections, and verify that the excess visible emissions problem has been corrected. If visible emissions with the potential to exceed the standard continue, the permittee will conduct a Method 9 assessment within the next operating day of the sources associated with the potential noncompliance to determine the degree of opacity and will notify the NYSDEC if the method 9 test indicates that the opacity standard is not met.

Records of visible emissions observations (or any follow-up method 9 tests), investigations and corrective actions will be kept on-site. Should the Department determine that permittee's record keeping format is inadequate to demonstrate compliance with this condition, it shall provide written notice to the permittee stating the inadequacies, and permittee shall have 90 days to revise its prospective record keeping format in a manner acceptable to the Department.

Parameter Monitored: OPACITY

Upper Permit Limit: 20 percent

Monitoring Frequency: DAILY

Averaging Method: 6-MINUTE AVERAGE (METHOD 9)

Reporting Requirements: AS REQUIRED - SEE MONITORING DESCRIPTION



STATE ONLY ENFORCEABLE CONDITIONS

**** Facility Level ****

NOTIFICATION OF GENERAL PERMITTEE OBLIGATIONS

This section contains terms and conditions which are not federally enforceable. Permittees may also

have other obligations under regulations of general applicability

Draft

Item A: Public Access to Record keeping for Facilities With State Facility Permits - 6NYCRR Part 201-1.10(a)

Where emission source owners and/or operators keep records pursuant to compliance with the operational flexibility requirements of 6 NYCRR Subpart 201-5.4(b)(1) , and/or the emission capping requirements of 6 NYCRR Subparts 201-7.2(d), 201-7.3(f), 201-7.3(g), 201-7.3(h)(5), 201-7.3(i) and 201-7.3(j), the Department will make such records available to the public upon request in accordance with 6 NYCRR Part 616 - Public Access to Records. Emission source owners and/or operators must submit the records required to comply with the request within sixty working days of written notification by the Department of receipt of the request.

Item B: General Provisions for State Enforceable Permit Terms and Condition - 6 NYCRR Part 201-5

Any person who owns and/or operates stationary sources shall operate and maintain all emission units and any required emission control devices in compliance with all applicable Parts of this Chapter and existing laws, and shall operate the facility in accordance with all criteria, emission limits, terms, conditions, and standards in this permit. Failure of such person to properly operate and maintain the effectiveness of such emission units and emission control devices may be sufficient reason for the Department to revoke or deny a permit.

The owner or operator of the permitted facility must maintain all required records on-site for a period of five years and make them available to representatives of the Department upon request. Department representatives must be granted access to any facility regulated by this Subpart, during normal operating hours, for the purpose of determining compliance with this and any other state and federal air pollution control requirements, regulations or law.

STATE ONLY APPLICABLE REQUIREMENTS

The following conditions are state only enforceable.

**Condition 6: Contaminant List
Effective for entire length of Permit**

New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007



Applicable State Requirement: ECL 19-0301

Item 6.1:

Emissions of the following contaminants are subject to contaminant specific requirements in this permit (emission limits, control requirements or compliance monitoring conditions).

CAS No: 0NY210-00-0

Name: OXIDES OF NITROGEN

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**Condition 7: Unavoidable noncompliance and violations
Effective for entire length of Permit**

Applicable State Requirement: 6NYCRR 201-1.4

Item 7.1:

At the discretion of the commissioner a violation of any applicable emission standard for necessary scheduled equipment maintenance, start-up/shutdown conditions and malfunctions or upsets may be excused if such violations are unavoidable. The following actions and recordkeeping and reporting requirements must be adhered to in such circumstances.

(a) The facility owner and/or operator shall compile and maintain records of all equipment maintenance or start-up/shutdown activities when they can be expected to result in an exceedance of any applicable emission standard, and shall submit a report of such activities to the commissioner's representative when requested to do so in writing or when so required by a condition of a permit issued for the corresponding air contamination source except where conditions elsewhere in this permit which contain more stringent reporting and notification provisions for an applicable requirement, in which case they supercede those stated here. Such reports shall describe why the violation was unavoidable and shall include the time, frequency and duration of the maintenance and/or start-up/shutdown activities and the identification of air contaminants, and the estimated emission rates. If a facility owner and/or operator is subject to continuous stack monitoring and quarterly reporting requirements, he need not submit reports for equipment maintenance or start-up/shutdown for the facility to the commissioner's representative.

(b) In the event that emissions of air contaminants in excess of any emission standard in 6 NYCRR Chapter III Subchapter A occur due to a malfunction, the facility owner and/or operator shall report such malfunction by telephone to the commissioner's representative as soon as possible during normal working hours, but in any event not later than two working days after becoming aware that the malfunction occurred. Within 30 days thereafter, when requested in writing by the commissioner's representative, the facility owner and/or operator shall submit a written report to the commissioner's representative describing the malfunction, the corrective action taken, identification of air contaminants, and an estimate of the emission rates. These reporting requirements are superceded by conditions elsewhere in this permit which contain reporting and notification provisions for applicable requirements more stringent than those above.

(c) The Department may also require the owner and/or operator to include in reports described under (a) and (b) above an estimate of the maximum ground level concentration of each air contaminant emitted and the effect of such emissions depending on the deviation of the malfunction and the air contaminants emitted.

(d) In the event of maintenance, start-up/shutdown or malfunction conditions which result in emissions exceeding any applicable emission standard, the facility owner and/or operator shall take



New York State Department of Environmental Conservation

Permit ID: 2-6204-00007/00016

Facility DEC ID: 2620400007

appropriate action to prevent emissions which will result in contravention of any applicable ambient air quality standard. Reasonably available control technology, as determined by the commissioner, shall be applied during any maintenance, start-up/shutdown or malfunction condition subject to this paragraph.

(e) In order to have a violation of a federal regulation (such as a new source performance standard or national emissions standard for hazardous air pollutants) excused, the specific federal regulation must provide for an affirmative defense during start-up, shutdowns, malfunctions or upsets.

Draft

**Condition 8: Hollow permit.
Effective for entire length of Permit**

Applicable State Requirement: 6NYCRR 201-5

Item 8.1: This is a synthetic minor hollow permit, where all of the sources associated with this facility are either exempt from permitting or trivial in size. The permittee has accepted a cap below the emissions applicability thresholds of Title V. Neither the application nor the permit contain emission unit, emission point, process, or source data.

**Condition 9: Air pollution prohibited
Effective for entire length of Permit**

Applicable State Requirement: 6NYCRR 211.2

Item 9.1:

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.