

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID & HAZARDOUS MATERIALS
PART 373 PERMIT MODULE I - GENERAL PROVISIONS**

This Permit authorizes only the hazardous waste units identified in this Permit as permitted units or as exempted units in accordance with 6NYCRR 373-1.1(d). **This Permit does not authorize other units to operate.** The Permittee must close any units which had interim status which are not authorized by this Permit in accordance with the Closure and Post-Closure requirements contained in 6NYCRR 373-3.7 and this Permit, within 365 days of the effective date of this Permit (This requirement is applicable to the closure of the Lagoons/Salts Impoundments as specified in **Module II** of this Permit).

If this Permit conflicts with Regulations which are in effect on the date of final issuance of this Permit, the more stringent requirement applies.

A. EFFECT OF PART 373 PERMIT

The Permittee must comply with all terms and conditions of this Permit. This Permit consists of: the conditions contained herein and in attachments, sections of the Permit Application and other specified documents referenced herein, including any subsequent Department approved changes to the referenced sections of the Application or the specified documents, and the applicable regulations contained in 6NYCRR Parts 370 through 374, 376, 621 and 624. The applicable regulations or requirements are those which are in effect on the date of final issuance of this Permit. However, the Permittee must comply with the following requirements, as applicable:

1. requirements which become effective by statute, including amendments thereto;
2. requirements of 6NYCRR Part 376, as modified (Land Disposal Restrictions);
3. requirements of 6NYCRR 373-3.27, 373-3.28, and 373-3.29, as modified (air emission standards); and
4. other requirements of 6NYCRR 373-1.6(e).

The Permittee is authorized to store, treat, and dispose of hazardous waste in containers, tanks, surface impoundments and a landfill, and is required to conduct corrective action in accordance with the conditions of this Permit. Any storage, treatment, or disposal of hazardous waste not authorized in this Permit is prohibited unless exempt from 6NYCRR Part 373. Issuance of this Permit does not authorize any injury to persons or property, any invasion of other private rights, or any infringement of federal, State or local laws or regulations.

The following hazardous waste management units, activities and types and quantities of hazardous waste to be managed are authorized by this Permit:

Unit Type	# of Areas/Units	Activity Type	Waste Type ¹	Quantity
Containers ² (S01)	33 areas 9335 units	Storage	Solid & Liquid Wastes	1,444,716 gallons
Tanks (S02)	22 areas 40 units	Storage	Liquid Wastes	2,254,962 gallons
Tanks (T01)	5 areas 20 units	Treatment	Liquid Wastes	200,645 gallons 259,180 gallons/day ⁵
Tanks ³ (T04)	1 area 2 units	Stabilization, Immobilization or Encapsulation	Solid & Debris Wastes	40,708 gallons 100 short tons/hour
Surface Impoundments ⁴ (S04)	3 areas 4 units	Storage	Liquid Wastes	117,270,000 gallons
Landfill (RMU-1) (D80)	1 area 1 unit	Disposal	Solid & Debris Wastes	2233 acre-feet

FOOTNOTES:

1. Specific waste types and waste codes are presented in Modules III, IV, V, VI and in Attachment C of this Permit.
2. Specific container types include drums, tankers and roll-offs.
3. Mixing Pit Tanks 1&2.
4. Facultative Ponds 1, 2, 3 & 8.
5. The indicated treatment capacity of 259,180 gallons/day pertains to the flow rate through the entire treatment system. Certain waste types which can be adequately treated without having to pass through the entire system, may be processed at a faster rate.

The Permittee is authorized to manage only hazardous wastes and non-hazardous wastes, except for garbage (putrescible) waste, from off-site generators and which are generated at the Permittee's facility as listed in Waste Characteristics Section C-1 (Tables C-1 & C-2) of the Waste Analysis Plan in Attachment C of the Permit, pursuant to the restrictions in Attachment C and the terms of this Permit. The Permittee is also required to stabilize and cover wastes in the former Lagoons & Salts surface impoundments, and to collect and treat contaminated groundwater at the Permittee's facility, in accordance with **Module II** of this Permit.

All plans, reports, specifications and schedules required by the terms of this Permit and all subsequent amendments to those documents are incorporated by reference into this Permit, upon approval, or acceptance by the Department. Upon incorporation, the provisions of each such document will be binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.

B. PERMIT APPLICATION & OTHER DOCUMENTS

The Permittee’s Hazardous Waste **Part A** Permit Application is incorporated into Attachment A of this Permit. Documents listed in Tables 1 & 2 below, including the indicated Sections & Appendices of the Permit Application, are also incorporated into this Permit either by attachment or by reference. These documents are made part of this Permit, are binding upon the Permittee and have the same legal force and effect as the requirements of this Permit.

TABLE 1.0	
ATTACHMENT	APPLICATION OR OTHER DOCUMENT
A	Section A - Part A Application
B	Section F, Sub-Sections 1.0-1.3 - Preparedness & Prevention - Security
C	Section C - Waste Analysis Plan
D	Appendix D-1 - Containers (Process Description); Appendix D-2 - Surface Impoundments (Process Description); Appendix D-3 - Tanks (Process Description); Appendix D-3, Section VII - Corrective Action Options for Interconnected Tank Systems and Tank Overfill Prevention; Appendix D-3, Section VIII - Tank Ancillary Equipment - Tightness Testing Procedures for Underground Hazardous Waste Transfer Lines; and Appendix D-3, Section IX - Tank System Assessment Table.
E	Corrective Measures for Specific Unit Groups
F	Section F - Preparedness & Prevention
G	Section G - Contingency Plan
H	Section H - Personnel Training Plan
I	Section I - Closure Plan & Post-Closure Plans

TABLE 1.0

ATTACHMENT	APPLICATION OR OTHER DOCUMENT
J	Appendix D-6 - RMU-1 Landfill Drawings; Appendix D-7 - RMU-1 Landfill Technical Specifications; and Appendix D-8 - RMU-1 Landfill Quality Assurance Manual.
K	Appendix D-9 - RMU-1 Landfill Response Action Plan; and Appendix D-11 - RMU-1 Minimum Waste Strength Curves
L	Appendix D-10 - Fugitive Dust Control Plan
M	Surface Water Sampling and Analysis Plan (January 2002)
N	Air & Meteorological Monitoring Plan
O	Major / Minor Modifications

TABLE 2.0**DOCUMENTS INCORPORATED BY REFERENCE**

1. "CWM Meteorological Monitoring Network - Quality Assurance Project Plan" (November 2000)¹
2. "Site-Wide and RMU-1 Closure Cost Estimates" (September 1998 as revised on November 3, 1998)¹ (as originally approved in February 1999 and including all subsequent inflationary adjustments and other increases)
3. "Site-Wide and RMU-1 Post-Closure Cost Estimates and Corrective Measures Cost Estimate" (September 1998 as revised on November 3, 1998)¹ (as originally approved in February 1999 and including all subsequent inflationary adjustments and other increases)
4. "Irrevocable Standby Letter of Credit #SM203351W" issued by Wachovia Bank^{1,2} [6NYCRR 373-2.8(d)&(f)]
5. "Surety Payment Bond #RLB0003207" issued by RLI Insurance Company^{1,2} [6NYCRR 373-2.8(d)&(f)]
6. "Oak Brook Bank Standby Trust Agreement" (Restated on December 27, 1999 with revisions up through May 30, 2003)^{1,2}
7. "Interim Corrective Measures (ICM) Implementation Plans"¹ [6NYCRR 373-2.6(l)]
8. "Interim Corrective Measures (ICM) Operation and Maintenance (O&M) Manual" (February 2000)¹ [6NYCRR 373-2.6(l)]
9. "In-Situ Stabilization Work Plan for the Lagoons/Salts Areas" (October 1998)¹ [6NYCRR 373-2.6(l)]
10. "Corrective Measures for the Lagoons and Salts Area - Final Cover Detail Design" (March 1999)¹ [6NYCRR 373-3.7(g)(2)]
11. "Well Installation Work Plan - Corrective Measures Implementation" (March 2001)¹ [6NYCRR 373-2.6(l)]
12. Part 373 Permit Application, Drawings Section - "Process & Instrumentation Diagrams (PIDs)" for Tank Systems (December 2001)¹ [6NYCRR 373-1.5(c)(4)]
13. Part 373 Permit Application, Appendix D-3, Table entitled - "Aboveground Ancillary Equipment Without Secondary Containment (April 2001)¹ [6NYCRR 373-2.10(d)(6)]
14. "Aqueous Waste Treatment System Operations and Maintenance (O&M) Manual" (April 2000)¹ [6NYCRR 373-2.10(e)]

15. “Operations and Maintenance (O&M) Manual for the Stabilization Facility” (June 1999) ¹ [6NYCRR 373-2.10(e)]
16. Part 373 Permit Application, Appendix D-5 - “RMU-1 Engineering Report” (June 2003) ¹ [6NYCRR 373-2.14©]
17. “RMU-1 Operations and Maintenance (O&M) Manual (November 2002) ¹ [6NYCRR 373-2.14©) & (e)]
18. “RMU-1 Leachate Level Compliance Plan (LLCP) (November 2002) ¹ [6NYCRR 373-2.14©) & (e)]
19. “Groundwater Sampling and Analysis Plan (GWSAP)” (October 2003) ¹ [6NYCRR 373-2.6(h)]

FOOTNOTES:

1. Each document referenced by this footnote includes the above dated original submission and any subsequent Department approved document revisions.
2. Each document referenced by this footnote includes the referenced document and any subsequent Department approved replacement.

The Permittee shall maintain at the facility, throughout the post-closure period, a copy of this Permit and the documents listed in Tables 1.0 & 2.0 above and approved amendments, revisions and modifications to these documents.

The Permittee may submit a written request to the Department for a clarification on compliance with any condition in this Permit. Any such request must be submitted prior to the date on which the Permittee must comply with the condition identified in the clarification request. In response, the Department will provide the Permittee with a written clarification, detailing what constitutes compliance with the identified Permit condition. This clarification process shall in no way relieve the Permittee from the obligation to comply with all the terms and conditions of this Permit.

Future modifications to this Permit, including modifications to the specified sections of the Permit Application and other documents incorporated into this Permit by attachment as listed in Table 1.0 above, shall be addressed according to 6NYCRR 373-1.7. The Permittee must submit copies to the Regional Permit Administrator and as required in **Condition H** of this Module, of the replacement: pages, sections, and/or attachments to the permit along with the application request for a Permit modification. The Permittee shall place a revision date on all pages submitted as part of the proposed Permit modification application.

In accordance with Attachment O of the Permit, the Permittee must maintain a log of all modifications made to this Permit, including modifications made to the Permit attachments as listed in Table 1.0 above. The log in Attachment O of the Permit shall contain at a minimum the following information regarding each modification: (1) the name of the specific documents being modified (e.g., contingency plan, security requirements, hazardous waste unit operations, etc.); (2) the pertinent page, section, and/or attachment of this Permit subject to modification; (3) the revision date of the modifications; (4) a brief statement regarding the nature of the modifications; and (5) the effective date of the modification to this Permit. With each Permit modification request the Permittee shall submit an updated log including the information in Items 1-4 above, pertaining to the requested modification. The Department will indicate the effective date of each Permit modification in the log upon issuance of each such modification.

Upon receipt of a Permit modification issued by the Department, the Permittee must place the updated log in Attachment O of this Permit along with a copy of the Department's approval letter, and replace the pages, sections, and/or attachments in the Permit with the modified pages, sections, and/or attachments as specified in the Department's approval letter, in the Permit copy maintained by the Permittee.

The Permittee may request future revisions of the documents incorporated into this Permit by reference as listed in Table 2.0 above. Such requests must be made to the Department in writing,

and include the appropriate revised pages, figures and/or drawings, as well as an explanation of the requested revision(s). In response to the Permittee's request, the Department may either approve the proposed document revisions; request further information concerning such revisions; deny the Permittee's request; or, if the Department determines that the requested revisions would constitute a substantial alteration of the subject document, require that the Permittee's request be classified as a Permit modification and processed pursuant to 6NYCRR Part 621 and 373-1.7. Upon Department approval of any such request, the Permittee shall revise the document in accordance with said approval, and the revised document will thereafter be a part of this Permit by reference, binding upon the Permittee and have the same legal force and effect as the requirements of this Permit. The Permittee must obtain Department approval of the document revisions before beginning, discontinuing or altering activities as might be specified in such revisions.

C. GENERAL REQUIREMENTS FOR THIS PART 373 PERMIT

The Permittee must comply with 6NYCRR Subpart 373-1 as follows:

1. General 6NYCRR 373-1.1

- a) 6NYCRR 373-1.1(b) - Applicability;
- b) 6NYCRR 373-1.1(c) - Safeguarding Information;
- c) 6NYCRR 373-1.1(f) - Uniform Procedures;
- d) 6NYCRR 373-1.1(g) - Enforcement;
- e) 6NYCRR 373-1.1(h) - Severability; and
- f) 6NYCRR 373-1.1(i) - Terms Used.

2. Signatories to Permit Applications and Reports 6NYCRR 373-1.4(a)(5)

- a) 6NYCRR 373-1.4(a)(5)(i) - Applications;
- b) 6NYCRR 373-1.4(a)(5)(ii) - Reports;
- c) 6NYCRR 373-1.4(a)(5)(iii) - Changes to Authorization; and
- d) 6NYCRR 373-1.4(a)(5)(iv) - Certification.

3. Recordkeeping 6NYCRR 373-1.4(g)

4. Permit Conditions 6NYCRR 373-1.6

- a) 6NYCRR 373-1.6(a) - Conditions Applicable to All Permits;
- b) 6NYCRR 373-1.6(a)(1) - Duty to Comply;

- c) 6NYCRR 373-1.6(a)(2) - Duty to Reapply;
- d) 6NYCRR 373-1.6(a)(3) - Need to Halt or Reduce Activity not a Defense;
- e) 6NYCRR 373-1.6(a)(4) - Duty to Mitigate;
- f) 6NYCRR 373-1.6(a)(5) - Proper Operation and Maintenance;
- g) 6NYCRR 373-1.6(a)(6) - Permit Actions;
- h) 6NYCRR 373-1.6(a)(7) - Property Rights;
- i) 6NYCRR 373-1.6(a)(8) - Duty to Provide Information;
- j) 6NYCRR 373-1.6(a)(9)(i) through (iv) - Inspection and Entry;
- k) 6NYCRR 373-1.6(a)(10)(i) through (iii) - Monitoring and Records;
- l) 6NYCRR 373-1.6(a)(11) - Signatory Requirements;
- m) 6NYCRR 373-1.6(a)(12)(i) through (xi) - Reporting Requirements;
- n) 6NYCRR 373-1.6(c) - Establishing Permit Conditions (Any conditions of this permit established pursuant to 6NYCRR 373-1.6(c));
- o) 6NYCRR 373-1.6(d)(1)(i) through (iii) - Schedules of Compliance (The Permittee must comply with the compliance schedules listed in Special **Condition K** of this Module and in **Module II** - (Corrective Action Requirements) of this Permit)
- p) 6NYCRR 373-1.6(d)(2)(i) through (iv) - Alternative Schedules of Compliance.

5. Requirements for Recording and Reporting of Monitoring Results 6NYCRR 373-1.6(b)

The Permittee must comply with the recording, reporting and monitoring requirements listed in this Permit. The Permittee must use, maintain and install monitoring equipment and methods and report monitoring results as specified in this Permit and 6NYCRR Subpart 373-2. The Permittee must conduct required monitoring with the type, intervals and frequency sufficient to yield data which are representative of the monitoring activity including, when appropriate, continuous monitoring.

The Permittee shall perform sampling and analysis of on-site and off-site generated waste in accordance with **Condition F** of this Module and cited attachments to this Permit. The Permittee shall perform sampling and analysis to monitor the air and surface water at the facility in accordance with respective **Conditions P & Q** of this Module and cited attachments to this Permit. The Permittee shall take measurements and perform sampling and analysis to monitor the effectiveness of on-site corrective measures relative to groundwater and surface impoundment waste stabilization, in accordance with **Module II** and Attachment E of this Permit. The Permittee shall take measurements and perform sampling and analysis to monitor the operation of the facilities' tank systems in accordance with **Module IV** of this Permit. The Permittee shall take measurements and perform sampling and analysis to monitor the operation of the facilities' on-site landfill known as Residuals Management Unit - One (RMU-1), in accordance with **Module VI** of this Permit. The Permittee shall take measurements and perform sampling and analysis to monitor the

groundwater relative to on-site land disposal units and corrective measures, in accordance with **Module VIII** and Attachment E of this Permit. Records of monitoring/sampling shall include the information required by **Condition C.4.k** of this Module (i.e. 373-1.6(a)(10)(iii)) and all other specific information as required by the above cited Modules, Conditions and Attachments of this Permit.

Unless otherwise specified elsewhere in this Permit, the Permittee shall prepare a report on a monthly basis (calendar month) containing information and data generated from each month's monitoring/sampling activities which are required to be submitted to the Department in accordance with the above cited Modules, Conditions and Attachments of this Permit. These monthly reports shall be submitted to the Department's Region 9 Hazardous Materials Engineer and as required in **Condition H** of this Module, no later than 90 days from the last day of the calendar month during which the information/data was generated. In addition to providing paper copies of these monthly reports, the Permittee shall provide designated Department staff as specified in **Condition H** of this Module with electronic copies of these reports in a "PDF" computer software format, or other software format as deemed acceptable by the Department.

6. Permit Modifications 6NYCRR 373-1.7

- a) 6NYCRR 373-1.7(a) - Transfer of Permits;
- b) 6NYCRR 373-1.7(b) - Modification of Permits and **Condition B** of this Module;
- c) 6NYCRR 373-1.7(c) - Minor Modifications of RCRA Delegated Permits;
- d) 6NYCRR 373-1.7(d) - Major Modifications;
- e) 6NYCRR 373-1.7(e) - Announcement of Determinations;
- f) 6NYCRR 373-1.7(f) - Temporary Authorizations; and
- g) 6NYCRR 373-1.7(g) - Newly Regulated Wastes and Units.

In addition to the above, the Permittee shall comply with the requirements in 6NYCRR 373-1.6(a)(12)(ii) prior to utilizing any new unit or modified portion of an existing unit to treat, store or dispose of hazardous waste, where such new or modified units are the result of a major modification of this Permit or of the granting of a temporary authorization.

7. Expiration and Continuation of Permits 6NYCRR 373-1.8

The Permit shall be in effect for a fixed term not to exceed five years. Complete applications for permit renewal must be submitted at least 180 days before the expiration date of this Permit pursuant to 6NYCRR 373-1.8(b). Renewal applications with a significant change (as defined in paragraph 373-1.10(a)(1) of this Subpart) are subject to 373-1.10 of this Subpart.

Prior to processing the renewal application the Department will determine whether the application is complete. In order for the renewal application to be complete the Permittee must:

- a) Satisfy the general requirements for complete application contained in 6 NYCRR Part 621 (Uniform Procedure Regulations)
- b) Include all information required, both general and specific to the type of the facility in accordance with the laws, regulations and analytical requirements in effect at the time.

At any time during the review of the renewal application the Department may request in writing any additional information which is necessary for determining the completeness of the application. Failure to provide such information by the date specified in the request may be grounds for denial of the application and the extension allowed pursuant to § 401.2. of the **State Administrative Procedures Act**.

Should the Permittee cease the hazardous waste management activities allowed by this Permit prior to the expiration of this Permit, then, pursuant to 6NYCRR Subpart 373-1.6(d), the Permittee must continue to comply with the applicable closure, post-closure and corrective action conditions and requirements stipulated in this Permit (**refer to Module II Corrective Action**). In addition, the Permittee shall submit a renewal application pursuant to 6NYCRR Subpart 373-1.8(b) prior to this Permit's expiration unless and until all the Permittee's closure, post-closure and corrective action obligations have been completed. In the alternative, the Permittee may execute an order on consent for closure, post-closure and corrective action pursuant to Environmental Conservation Law (ECL) Section 71-2727(3) with the Commissioner at least 180 days prior to the expiration date of this Permit.

D. FINAL STATUS STANDARDS FOR THIS PART 373 PERMIT

The Permittee must comply with 6NYCRR Subpart 373-2, and the referenced conditions and attachments of the Permit, as follows:

1. General 6NYCRR 373-2.1

- a) 6NYCRR 373-2.1(a) - Purpose, Scope and Applicability; and
- b) 6NYCRR 373-2.1(c) - Imminent Hazard Action.

2. General Facility Standards 6NYCRR 373-2.2

- a) 6NYCRR 373-2.2(a) - Applicability;
- b) 6NYCRR 373-2.2(b) - Facility Ownership Transfer;
- c) 6NYCRR 373-2.2(d) - Required Notices;
- d) 6NYCRR 373-2.2(e) - General Waste Analysis, **Condition F** of this Module and Attachment C of the Permit;
- e) 6NYCRR 373-2.2(f) - Security and Attachment B of the Permit;

- f) 6NYCRR 373-2.2(g) - General Inspection Requirements, **Condition N.2** of this Module and Attachment F of the Permit;
- g) 6NYCRR 373-2.2(h) - Personnel Training and Attachment H of the Permit;
- h) 6NYCRR 373-2.2(i) - General Requirements for Ignitable, Reactive, or Incompatible Wastes, **Condition N.1** of this Module and Attachment F of the Permit;
- i) 6NYCRR 373-2.2(j) - Location Standards; and
- j) 6NYCRR 373-2.2(k) - Construction Quality Assurance Program, **Module VI** and Attachment J, Appendix D-8 of the Permit (RMU-1 Landfill).

3. Preparedness and Prevention 6NYCRR 373-2.3

The Permittee must comply with Attachment F of the Permit, 6NYCRR 373-2.3 and referenced conditions as follows:

- a) 6NYCRR 373-2.3(a) - Applicability;
- b) 6NYCRR 373-2.3(b) - Design and Operation of Facility;
- c) 6NYCRR 373-2.3(c) - Required Equipment and **Condition D.4** of this Module;
- d) 6NYCRR 373-2.3(d) - Testing and Maintenance of Equipment;
- e) 6NYCRR 373-2.3(e) - Access to Communications or Alarm System;
- f) 6NYCRR 373-2.3(f) - Required Aisle Space and **Module III, Conditions K.1 & K.2** of this Permit; and
- g) 6NYCRR 373-2.3(g) - Arrangements with Local Authorities.

In addition to the above, the Permittee shall maintain for the duration of this Permit, signed agreements made/renewed with local emergency response agencies (e.g., fire, EMS, police, etc.), or submit to the Department documentation of the Permittee's attempt to obtain such agreements and the outside agencies lack of response, revocation or refusal to enter into said agreements. If the Permittee is unable to obtain a signed agreement from a particular agency, or agencies, or if an agency, or agencies, decide to terminate a previously signed agreement, the above mentioned submission shall indicate what specific additional personnel and/or resources the Permittee will employ to compensate for the deficiency in emergency response.

In addition to the above, the Permittee shall make arrangements for semi-annual inspections of the facility by local fire companies or departments. During each inspection the Permittee shall solicit recommendations from the fire company or department concerning minimum suggested inventories for firefighting and safety equipment to be maintained at the facility. A report of each inspection, including any and all recommendations made by fire company or department inspectors and the Permittee's plans for addressing these recommendations, shall be submitted by the Permittee within seven (7) days of each inspection.

4. Contingency Plan and Emergency Procedures 6NYCRR 373-2.4

The Permittee must comply with Attachment G of the Permit, 6NYCRR 373-2.4 and referenced conditions as follows:

- a) 6NYCRR 373-2.4(a) - Applicability;
- b) 6NYCRR 373-2.4(b) - Purpose and Implementation of Contingency Plan;
- c) 6NYCRR 373-2.4(c) - Content of Contingency Plan;
- d) 6NYCRR 373-2.4(d) - Copies of Contingency Plan;
- e) 6NYCRR 373-2.4(e) - Amendment of Contingency Plan;
- f) 6NYCRR 373-2.4(f) - Emergency Coordinator; and
- g) 6NYCRR 373-2.4(g) - Emergency Procedures.

In addition to the above, the Permittee shall provide a copy of the Contingency Plan containing an inventory sheet listing the amount and location of all emergency equipment available on-site, to all employees involved in emergency response and to personnel at each manned gate or guardhouse.

In addition to the above, in the event of a fire, explosion or a release of hazardous waste that has the potential to impact off-site areas, the Permittee shall, at a minimum, immediately alert the local fire company or department to respond to the scene of the incident or to standby in quarters or at the facilities' main entrance to obtain further instructions from the on-site Emergency Coordinator.

5. Manifest System, Recordkeeping and Reporting 6NYCRR 373-2.5

- a) 6NYCRR 373-2.5(a) - Applicability;
- b) 6NYCRR 373-2.5(b) - Manifest Requirements and **Module VI, Condition D** of the Permit;
- c) 6NYCRR 373-2.5(c) - Operating Record and **Module VI, Condition E** of the Permit;
- d) 6NYCRR 373-2.5(d) - Availability, Retention, and Disposition of Records;
- e) 6NYCRR 373-2.5(e) - Annual Report;

- f) 6NYCRR 373-2.5(f) - Unmanifested Waste Report; and
- g) 6NYCRR 373-2.5(g) - Additional Reports.

The Permittee must retain for inspection by the Department the Permit modification log required by **Condition B** of this Module, the operating record, documentation to demonstrate compliance with the financial requirements of this Permit, the attached and referenced documents and sections of the Permit Application that are made part of this Permit, and any subsequent Department approved changes to the contents of these documents and Application sections.

These documents include, but are not limited to, the most recent Department approved: waste analysis plan; contingency plan; closure plan(s); perpetual post-closure care plan(s); any contingent post-closure plan(s); groundwater monitoring plan(s); security, inspection, and personnel training requirements; and final engineering documents for all hazardous waste treatment, storage, and disposal units subject to this Permit and for all ongoing corrective action remedies pertinent to solid waste management units and areas of concern either remediated or being remediated pursuant to this Permit.

6. Releases from Solid Waste Management Units 6NYCRR 373-2.6

The Permittee must comply with all the applicable provisions stipulated in 6NYCRR 373-2.6(a) through (k) for “regulated units” and with 6NYCRR 373-2.6 (l) for corrective action at solid waste management units; comply with the conditions stipulated in **Module II - Corrective Action Requirements for Solid Waste Management Units and Areas of Concern**; and comply with the groundwater monitoring requirements in **Modules II & VIII** and Attachment E of this Permit, and the “Groundwater Sampling and Analysis Plan (GWSAP)” approved by the Department, including all subsequent revisions approved by the Department which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module, that address the means to implement and achieve compliance with the aforementioned conditions for site-wide contaminated groundwater.

7. Closure and Post-Closure 6NYCRR 373-2.7

The Permittee must comply with Attachment I of the Permit, 6NYCRR 373-2.7 for the closure and perpetual post-closure care of the hazardous waste management unit(s) (i.e., container areas, tank system areas, surface impoundments and landfills) and referenced conditions as follows:

- a) 6NYCRR 373-2.7(a) - Applicability;
- b) 6NYCRR 373-2.7(b) - Closure Performance Standard;

- c) 6NYCRR 373-2.7(c) - Closure Plan; Amendment to Plan;
- d) 6NYCRR 373-2.7(d) - Closure; Time Allowed for Closure;
- e) 6NYCRR 373-2.7(e) - Disposal or Decontamination of Equipment, Structures and Soils;
- f) 6NYCRR 373-2.7(f) - Certification of Closure and Survey Plat;
- g) 6NYCRR 373-2.7(g) - Post-Closure Care and Use of Property and **Conditions U & V** of this Module;
- h) 6NYCRR 373-2.7(h) - Post-Closure Plan; Amendment of Plan; and
- i) 6NYCRR 373-2.7(i) - Post-Closure Notices.

Upon notification by the Permittee of any partial closure of a unit or portion thereof, or of final closure of the facility, in accordance with 6NYCRR 373-2.7(c)(4), the Department will determine at the time of said closures whether additional samples, sampling points, sampling techniques/methods and/or sample analysis (i.e. in addition to Closure Plan requirements in Attachment I of this Permit) will be necessary to verify the effectiveness of decontamination or removal of components, equipment, structures and contaminated soils. These determinations will be based upon the past history of operating practices and types of wastes handled at the unit/facility and on the closure regulations and other requirements in effect at the time of closure of the unit/facility. The operating record, the record of spills, the types of waste released, location of spills and the condition of any secondary containment systems will also provide data to be used in these determinations. Also, at the time of said closures, the Department will determine whether more restrictive and/or additional criteria (i.e., more restrictive than, or in addition to Closure Plan criteria in Attachment I of this Permit) will be necessary to verify the effectiveness of decontamination or removal of components, equipment, structures and contaminated soils, based on the Department's regulatory cleanup standards in effect at the time of said closures.

If the Department determines that additional sampling and analysis or more restrictive and/or additional criteria are necessary at the time of unit/facility closure, the Department shall send the Permittee a notice of intent to modify this Permit in accordance with 6NYCRR Part 621 to incorporate these requirements into the Permit. In the event the Department issues such a notice of intent, the Permittee shall be restricted from issuing a certification of closure for the unit/facility in accordance with 6NYCRR 373-2.7(f), until the associated Part 621 Permit modification process is completed and any associated closure requirement(s) that might result from this modification process are satisfied.

In addition to the above, the Permittee shall comply with the perpetual post-closure care requirements in **Conditions U & V** of this Module, and with the closure and perpetual post-closure care requirements in **Module VI, Conditions I and L** of this Permit.

8. Financial Requirements 6NYCRR 373-2.8

The Permittee must comply with Attachment I of the Permit and 6NYCRR Subpart 373-2.8 for meeting the financial requirements for the hazardous waste management unit(s) (i.e., container areas, tank system areas, surface impoundments and landfills) and for corrective action, and referenced conditions as follows:

- a) 6NYCRR 373-2.8(a) - Applicability;
- b) 6NYCRR 373-2.8(b) - Definition of Terms as Used in this Section;
- c) 6NYCRR 373-2.8(c) - Cost Estimates for Closure and **Condition T.1** of this Module;
- d) 6NYCRR 373-2.8(d) - Financial Assurance for Closure and **Condition T.2** of this Module;
- e) 6NYCRR 373-2.8(g) - Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care;
- f) 6NYCRR 373-2.8(h) - Liability Requirements;
- g) 6NYCRR 373-2.8(i) - Incapacity of Owners or Operators, Guarantors, or Financial Institutions;
- h) 6NYCRR 373-2.8(j) - Wording of the Instruments and **Condition X.1** of this Module;
- i) 6NYCRR 373-2.6(l) - Required Corrective Action for Solid Waste Management Units and **Conditions W & X** of this Module;
- j) 6NYCRR 373-2.8(e) - Cost Estimate for Post-Closure Care and **Condition W** of this Module; and
- k) 6NYCRR 373-2.8(f) - Financial Assurance for Post-Closure Care and **Condition X** of this Module.

9. Air Emission Standards 6NYCRR 373-2.28 and 373-2.29

The Permittee must comply with 6NYCRR 373-2.28 and 373-2.29 and referenced conditions as follows:

- a) 6NYCRR 373-2.28 Air Emission Standards for Equipment Leaks, and **Module III, Condition J** and **Module IV, Condition J** of this Permit; and
- b) 6NYCRR 373-2.29 Air Emission Standards for Tanks and Containers, and **Module III, Condition J** and **Module IV, Condition J** of this Permit.

The Permittee may not manage hazardous waste in surface impoundments that would subject these units to 6NYCRR 373-2.29.

E. LAND DISPOSAL RESTRICTIONS

The Permittee must comply with all applicable provisions in the current 6NYCRR Part 376 for the land disposal of hazardous waste except for hazardous waste generated by on-site remediation or corrective action activities for placement in an on-site corrective action management unit (CAMU) approved by the Commissioner on a case-by-case basis. The Permittee may store at the facility, wastes which are restricted from land disposal for up to one (1) year from their arrival, in accordance with 6NYCRR 376.5(a)(2). The Permittee may store such wastes at the facility for longer than one (1) year provided such storage is in compliance with 6NYCRR 376.5(a)(3). Beyond the one (1) year storage period, the Permittee must provide, upon Department request, information which proves that such storage is solely for the purpose of accumulation in accordance with 6NYCRR 376.5(a)(3).

The Permittee must also comply with additional land disposal restrictions in **Module VI** of this Permit with regard to the RMU-1 landfill, and in **Module VII** of this Permit regarding specific intermediate hazardous waste management activities.

F. WASTE ANALYSIS AND QUALITY ASSURANCE

The Permittee must comply with the Waste Analysis Plan in Attachment C of the Permit and 6NYCRR 373-2.2(e), and the conditions presented below.

The Permittee must obtain representative samples of wastes and other materials to be analyzed pursuant to the Waste Analysis Plan in Attachment C and the conditions in this Permit. The Permittee must perform the sampling and analysis required by this Permit in accordance with “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846 Third Edition (November 1986), as amended by Updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995) and III (December 1996) and later EPA approved revisions, hereinafter referred to as “SW-846”; Appendix 19 of 6NYCRR Part 371; or an equivalent method approved by the Department.

The Permittee shall conduct a quality assurance program to ensure that the sampling, analysis and monitoring data are technically accurate and statistically valid. The quality assurance program must be in accordance with Chapter One and the requirements of applicable method(s) of SW-846, or an equivalent method approved by the Department.

As required by ECL 03-0119, any laboratory (Permittee or contract) used by the Permittee to perform analysis pursuant to this Permit must be certified by the New York State Department of Health (NYSDOH) in accordance with 6NYCRR Subpart 370.1(f), in the appropriate categories

of analysis, if NYSDOH issues certifications in such categories. If the Permittee uses a contract laboratory to perform analysis required by this Permit, then the Permittee shall inform the laboratory in writing that it must operate under the waste analysis and quality assurance provisions of this Permit.

G. ORAL REPORTS

The oral reports required by 6NYCRR 373-1.6(a)(12)(vi) and 373-2.4(g)(4)(ii) must be made to both the Department using the New York State 24-hour oil and hazardous material spill notification number (800) 457-7362 and the National Response Center using its 24-hour number (800) 424-8802, or any designated telephone numbers which may subsequently replace those listed above. The Permittee shall also provide such oral reports to Department staff that are on-site at the time of, or subsequent to a reportable incident.

H. PLANS, REPORTS, SPECIFICATIONS, IMPLEMENTATION SCHEDULES AND OTHER SUBMITTALS

1. Submittals required by the Permit as indicated below, must be submitted to the addresses and titles (or designees) listed below.

a) One (1) copy of all submittals to:

Regional Solid & Hazardous Materials Engineer
New York State Department of Environmental Conservation
Region 9 Office
270 Michigan Avenue
Buffalo, New York 14203-2999

and one (1) copy of the following:

- any reports on international transport of hazardous waste;
- the “greater than six months drum inventory report”;
- any documentation of incoming wastes incorrectly labeled; and
- only the cover letters of documents which pertain to tanks and containers.

to:

Chief, RCRA Programs Branch
Division of Environmental Planning and Protection
U.S. Environmental Protection Agency, Region II
290 Broadway [22nd floor]
New York, NY 10007-1866

- b) One (1) copy of all submittals except for those specific only to financial assurance and waste reduction to:

Director, Bureau of Hazardous Waste and Radiation Management
Division of Solid & Hazardous Materials
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7258

This includes all submittals pertaining to the permitted hazardous waste management units and activities and/or pertaining to the corrective action requirements in **Module II** and Attachment E of the Permit.

- c) One (1) copy of all financial assurance and waste reduction documents to:

Director, Bureau of Hazardous Waste Regulation
Division of Solid & Hazardous Materials
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-7251

- d) One (1) copy of all modification requests pertaining to this Permit to:

Regional Permit Administrator
Division of Environmental Permits
New York State Department of Environmental Conservation
Region 9 Office
270 Michigan Avenue
Buffalo, New York 14203-2999

An additional copy of all such Permit modification requests shall be submitted to the Director of the Bureau of Solid Waste and Corrective Action at the address

indicated in sub-section (b), above.

- e) One (1) copy of all submittals required by Module II, Condition J of the Permit to:

Assistant Director, Bureau of Environmental Radiation Protection
New York State Department of Health
Flanigan Square
547 River Street
Troy, New York 12180-2216

2. For all submittals containing greater than fifty (50) pages and all revised Permit pages associated with Permit modification requests, the Permittee shall provide designated Department staff in the Division of Solid and Hazardous Materials with electronic copies of these submittals in a "PDF" computer software format, or other software format as deemed acceptable by the Department, in addition to providing paper copies as specified above.
3. The Permittee shall submit plans, reports, specifications, implementation schedules and any subsequent amendments required by this Permit to the Department for review and comment. If the Department determines that any plan, report, specification, schedule or respective amendment required by this Permit is deficient either in whole or in part, the Permittee shall either promptly respond to the comments or make revisions to the submission consistent with the Department's comments. Within a reasonable time frame specified by the Department, final plans, reports, specifications, schedules or respective amendments which require Department approval shall be submitted to the Department for such approval. An extension of the due date for any submittal may be granted by the Department based on the Permittee's documentation that sufficient justification for the extension exists.
4. Copies of transmittal letters for all reports, plans, schedules, correspondence or other documents sent to the Department in accordance with this Permit, shall be simultaneously sent to the Niagara County Health Department (NCHD) unless otherwise authorized by this agency. Copies of any enclosures or attachments shall be provided to the NCHD at their request .

I. WASTE REDUCTION REQUIREMENTS

The Permittee shall comply with the requirements of Article 27, Title 9, Section 27-0908 of the New York State Environmental Conservation Law. All reports and submittals required by Section 27-0908 to be submitted to the Commissioner shall be sent to the address specified in **Condition H.1.c** of this Module.

J. DEFINITIONS

For the purpose of this Permit, terms used herein shall have the same meaning as those in 6NYCRR 370 through 374 and 376 and the terms defined in this Permit, unless this Permit specifically states otherwise. Where terms are not otherwise defined, the meaning associated with such terms shall be as defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term.

1. Action Levels. For purposes of this Permit, action levels are hazardous constituent concentrations for a specific environmental medium which if exceeded indicate a potential threat to human health or the environment. The exceedence of action levels may trigger further investigations, studies, and corrective measures. Where available, action levels are based on appropriate promulgated standards established for a specific environmental medium. When promulgated standards are not available, action levels can be media-specific hazardous constituent concentrations derived from non-promulgated human health risk data or environmental risk data with the latter levels being protective of aquatic life or wildlife. An action level may be set at the background level for a hazardous constituent for which data are inadequate to set a human health or environmental health-based level.
2. Areas of Concern (AOC). Pursuant to the authority granted by 6NYCRR 373-1.6(c)(2), an area of concern has been defined for purposes of this Permit to mean an area at the facility, or an off-site area, which is not at this time known to be a solid waste management unit (SWMU), where hazardous waste and/or hazardous constituents are present, or are suspected to be present, as a result of a release from the facility. The term shall include areas of potential or suspected contamination as well as actual contamination. Such area(s) may require study and a determination of what, if any, corrective action may be necessary. All permit references to and conditions for SWMUs shall apply to areas of concern.
3. Environment. Pursuant to ECL Article 27, Title 9, Section 27-0901, environment means any water, water vapor, any land including land surface or subsurface, air, fish, wildlife, biota and all other natural resources.
4. Release. For purposes of this Permit, release includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment of any hazardous waste, including hazardous constituents, unless expressly authorized under the terms of this Permit or otherwise permitted under law (e.g., SPDES permitted discharges).
5. Solid Waste Management Unit (SWMU). For purposes of this Permit, SWMU includes any discernible unit at which solid wastes have been placed at any time, irrespective of whether

the unit was intended for the management of hazardous or solid wastes. Such units include any area at the facility at which solid wastes have been routinely and systematically released.

K. COMPLIANCE SCHEDULES

The Permittee shall complete the following activities within the scheduled times indicated below.

1. Concrete Sealant Application [373-2.9(f)(1)(i)]

For the Container Storage Areas (CSAs) listed in sub-section (a) below that are used for the storage of containers holding free liquids, the Permittee shall apply a sealant to the concrete containment to provide a sufficiently impervious surface as required by 6NYCRR Subpart 373-2.9(f)(1)(i). The sealant to be applied shall be “CHEMTEC One” manufactured by CHEMTEC INTL as specified in Attachment D, Appendix D-1 of this Permit, or a Department approved equivalent product. The sealant must be applied to all interior surfaces of the concrete containment (i.e., base, walls, curbs), and these surfaces shall be adequately cleaned prior to sealant application to insure the sealant is able to penetrate the concrete. The Permittee shall apply the sealant in strict accordance with the product manufacturer’s instructions and/or guidelines. This activity must be completed on all CSAs listed in sub-section (a) below within the time periods specified in sub-section (b) below.

a) The sealant shall be applied to the concrete containment of the following CSAs:

- Drum Management Building (DMB) West Ramp;
- South Trailer Parking Area;
- Stabilization Facility - Trailer Parking Areas III & IV;
- Aqueous Treatment (AT) Tanker Unloading Area (only un-coated areas);
- T.O. Building Loading Ramp;
- T-130 Loading / Unloading Area;
- T-108 Loading / Unloading Area;
- T-109 Loading / Unloading Area; and
- T-158 Loading / Unloading Area.

b) The Permittee shall complete sealant application on all CSAs listed in sub-section (a) above **within 120 days of Permit issuance or in accordance with an alternative Department approved schedule not to exceed one (1) year from the date of Permit issuance.** The Permittee must submit to the Department, a written notification **within 14 days** of completing sealant application on all CSAs listed in sub-section (a) above, in accordance with 6NYCRR Subpart 373-1.6(d)(1)(iii). The Permittee must also submit a

detailed written report within 30 days of completing all such sealant applications.

2. Drum Management Building (DMB) Re-Design [373-2.9(f)(1) & 2.9(h)(3)]

- a) The Permittee must submit for Department approval, detailed plans for the re-design of the containment and incompatible waste separation devices within the Drum Management Building (DMB) to maintain compliance with 6NYCRR Subparts 373-2.9(f)(1) and 373-2.9(h)(3). The detailed plans must be based on the design depicted on Figure D-1A in Attachment D, Appendix D-1 of this Permit, and must be submitted to the Department **within 60 days of Permit issuance**. These plans must include a detail of the concrete curbing in section view depicting the waterstop to be keyed into the concrete floor, and a detail showing the location and design of any area access ramps. The Permittee must also provide with these plans, information on the concrete mixture to be used for the curbing/access ramps and on the chemical resistance of the selected waterstop product.
- b) The Permittee shall construct concrete containment curbing and any access ramps for CSAs I-IV in the DMB in strict accordance with Figure D-1A in Attachment D, Appendix D-1 of this Permit and the Department approved detailed plans submitted in accordance with sub-section (a) above. The Permittee shall complete construction of this concrete containment **within 180 days of the Department's approval of the detailed plans submitted in accordance with sub-section (a) above, unless the Department approves an extension or an alternative schedule. All concrete containment construction must be completed within one (1) year of Permit issuance.**
- c) In addition to curbing/access ramp construction, the Permittee shall apply a sealant to all new concrete surfaces and any sealed/coated concrete surfaces damaged during construction (i.e., floor, curbs) within the DMB to provide a sufficiently impervious surface as required by 6NYCRR Subpart 373-2.9(f)(1)(i). The sealant to be applied shall be "CHEMTEC One" manufactured by CHEMTEC INTL as specified in Attachment D, Appendix D-1 of this Permit, or a Department approved equivalent product. Prior to sealant application, all existing concrete coatings must be completely removed and the concrete surfaces shall be adequately cleaned to insure the sealant is able to penetrate the concrete. The Permittee shall apply the sealant in strict accordance with the product manufacturer's instructions and/or guidelines. The Permittee shall complete sealant application in all indicated areas of the DMB **within 180 days of the Department's approval of the detailed plans submitted in accordance with sub-section (a) above, unless the Department approves an extension or an alternative schedule. All sealant application must be completed within one (1) year of Permit issuance.**

- d) The Permittee must submit to the Department, a written notification **within 14 days** of completing the DMB concrete containment curb/access ramp construction and sealant application, in accordance with 6NYCRR Subpart 373-1.6(d)(1)(iii). The Permittee must also submit a written report on the curb/access ramp construction and sealant application **within 30 days** of completing these activities. This report must include a certification statement from an independent, qualified, professional engineer registered in New York attesting that the concrete containment curb/access ramp has been constructed and the sealant applied in strict accordance with Figure D-1A in Attachment D, Appendix D-1 of this Permit and the Department approved detailed plans submitted in accordance with sub-section (a) above. The report must also include as-built drawings and other documentation in support of the certification statement.
- e) From the date of Permit issuance, any storage of containers holding free liquids and/or incompatible wastes in the DMB is allowed under the conditions contained in **Module III** of this Permit. In addition, starting 180 days after the date the Department approves the detailed plans submitted in accordance with sub-section (a) above, the Permittee must also operate the DMB under the following additional restrictions and practices, unless prior to this date, the Permittee has completed the DMB concrete containment curb/access ramp construction and sealant application in accordance with sub-sections (b) & (c) above. If said construction/application is not completed within the above 180 day time period, these additional restrictions and practices shall remain in effect until such time as this construction/application is complete.
- i) The Permittee must either reduce to no more than 117, the number of 55-gallon drums containing free liquids stored inside the DMB at any given time, based on the secondary containment capacity of the existing floor trench as calculated in Attachment D, Appendix D-1 of this Permit, or, for the temporary storage of any more than 117, 55-gallon drums containing free liquids, provide new containment pallets and/or operate existing modular units in accordance with additional restrictions/requirements, for such storage. Operational requirements for each of these storage options are as follows:
- ‘a’) Drum Storage Using DMB Containment Only -
- All drums containing free liquids that are not on containment pallets, must be stored at least 2 feet within the perimeter of the existing floor trench at all times;
 - Drums containing wastes which are incompatible with other wastes or materials that are not on containment pallets, must be separated from these wastes/materials by a minimum distance of 6 feet.

‘b’) Drum Storage on New Containment Pallets -

- If the Permittee elects to utilize containment pallets they must have bottoms and sides, and be made of materials that are compatible with the drummed waste. Drums stored on such pallets must be single stacked, fit entirely within the confines of each pallet, and the number of drums on each such pallet must facilitate compliance with the secondary containment requirements specified by 6NYCRR 373-2.9(f)(1) based on the liquid holding capacity of each pallet. Drums containing wastes that are incompatible with one another shall not be stored on the same containment pallet. Drums must be stored on these pallets no more than two (2) wide and all pallets must be arranged so that a minimum two (2) foot aisle space is provided between pallets, between pallets and other drums, and between pallets and building walls.

‘c’) Drums Stored on Existing Modular Units -

- All drums containing free liquids that are stored on existing modular units, must be stored at least 2 feet within the perimeter of the existing floor trench at all times;
- Drums containing wastes which are incompatible with other wastes or materials that are stored on existing modular units, must be separated from these wastes/materials by a minimum distance of 6 feet;
- Drums containing wastes with free liquids which are incompatible with other wastes or materials, may only be stored in the DMB on existing modular containment units with no drum closer than 2 feet from the edges of the modular units;
- Any existing modular containment units used in the storage of drums containing wastes with free liquids which are incompatible with other wastes or materials, must have a watertight bond to the floor with a sealant that is chemically resistant to the containerized liquids being stored; and
- Any existing modular containment units used in the storage of drums containing wastes with free liquids which are incompatible with other wastes or materials, must be hydrostatically tested (i.e. filled with water and observed for leakage) to verify the integrity of the unit to floor seal. Any defects in the seal must be repaired, and the unit re-tested. This testing must be done each time any drums containing wastes with incompatible free liquids are placed on modular units prior to their placement on the units, and must be repeated if the unit is dislodged or relocated.

3. Aqueous Treatment Drum Dock Area Coating Application [373-2.9(f)(1)(i) & 2.9(h)(3)]

The Permittee shall apply an impermeable coating to all surfaces of the concrete containment and steel dividers within the Aqueous Treatment (AT) Drum Dock Area to prevent contact between spilled waste and the concrete/steel. The coating to be applied must be chemically resistant to the containerized liquid waste being stored in this area (e.g., acids & bases). The Permittee shall submit to the Department **within 30 days of Permit issuance**, information from the manufacturer of the selected coating product on the product's resistance to chemical degradation from the specific wastes stored in this CSA, and obtain the Department's approval of the selected product prior to its application. The concrete and steel surfaces shall be adequately cleaned prior to coating application and the coating shall be applied in strict accordance with the product manufacturer's instructions and/or guidelines. The Permittee shall complete application of the coating in the AT Drum Dock Area **within 60 days of the Department's approval of the selected coating product**. The Permittee must submit to the Department, a written notification **within 14 days** of completing the coating application, in accordance with 6NYCRR Subpart 373-1.6(d)(1)(iii). The Permittee must also submit a detailed written report within 30 days of completing the coating application.

If application of the coating will not be completed within 90 days of Permit issuance, to store containers holding free liquid wastes that are incompatible with the concrete secondary containment or steel dividers in the AT Drum Dock Area (e.g., acids, bases), the Permittee must provide one of the following:

- A temporary liner for the concrete secondary containment made of 10-mil or thicker high density polyethylene or other Department approved material; or
- Temporary containment units made of 200-mil or thicker high density polyethylene or other Department approved material.

4. Tank System Repair [373-2.2(g)(3)]

For the Tank Systems listed in sub-section (a) below, the Permittee shall complete repairs to defects in the tanks and/or the tanks' ancillary equipment (e.g., pipes, pumps, nozzles, air emission controls, etc.) that were identified in the "1999 Tank Assessment Report" (dated November 1999) and in the "2001 Tank Assessment Report" (dated December 2001). These repairs must be completed **within 30 days of Permit issuance**. Upon completion of the repairs, the Permittee must have the Tank Systems listed in sub-section (a) below, re-inspected by an independent, qualified, professional engineer registered in New York. The Permittee must submit to the Department, a written notification on these repairs **within 14 days** of their completion. The Permittee must also submit a detailed written report within 30 days of completing these repairs, including a certification and supporting documentation from

the engineer, attesting that the Tank Systems listed in sub-section (a) below, have been re-inspected and found to be in satisfactory condition.

- a) The following is a list of Tank Systems that were identified in the “1999 & 2001 Tank Assessment Reports” as having defects in the tanks and/or the tanks’ ancillary equipment that have subsequently not been indicated as having been repaired. This listing also indicates the locations in the reports where these defects are identified and described:

<u>Tank Systems Requiring Repair</u>	<u>Locations in Reports Where Tank System Defects Are Described</u>
Tank T-157	1999 Report - Section 3.3.11, Pg. 3-7; (App. K)
Tank T-1010	1999 Report - Section 3.3.13, Pg. 3-9; (App. M)
Tank T-1020	1999 Report - Section 3.3.14, Pg. 3-9; (App. N)
Tank T-1112	1999 Report - Section 3.3.15, Pg. 3-10; (App. O)
Tank T-3007	1999 Report - Section 3.3.19, Pg. 3-12; (App. S)
Tank T-3008	1999 Report - Section 3.3.20, Pg. 3-13; (App. T)
Tank T-8002	1999 Report - Section 3.3.23, Pg. 3-15; (App. W)
Tank T-159	2001 Report - Section 3.3.7, Pg. 3-4; (App. I)

5. Correction of Interconnected Tank Systems [373-2.10(d)(5)(i)(‘a’)]

For each of the Tank Systems listed in sub-section (a) below, the Permittee must select a re-design option from the lists in Attachment D, Appendix D-3, Section VII of this Permit, to correct tank interconnections in compliance with 6NYCRR Subpart 373-2.10(d)(5)(i)(‘a’). The Permittee shall submit for Department approval, detailed plans which are based on the selected re-design option from Attachment D, Appendix D-3, Section VII of this Permit, for each Tank System listed in sub-section (a) below. These plans must be submitted to the Department within 90 days of Permit issuance, and must, at a minimum, include detailed specifications for all new ancillary equipment (e.g., piping, valves, level sensors, anti-siphon devices, etc.), revised Process & Instrumentation Diagrams (PIDs) for affected tank systems and electrical system diagrams for all affected pumps, sensors, alarms and electrically operated valves.

The Permittee shall install all equipment/piping as indicated in the plans, including electrical wiring where applicable, for each Tank System listed in sub-section (a) below. Any and all new electrically operated systems containing automatic pump disabling switches, liquid sensors, alarm devices and electrically operated valves, shall be tested upon completion of their installation, to insure these systems function as designed. All new equipment/piping shall be inspected by, and, where applicable, tested in the presence of an independent, qualified installation inspector or an independent, qualified, professional engineer registered

in New York, in accordance with 6NYCRR Subpart 373-2.10(c)(2). Also, Department staff shall be given 24 hour advance notice of any electrically operated systems' testing. The Permittee shall complete installation and testing (where applicable) of all new all equipment/piping for each and every Tank System listed in sub-section (a) below, **within 180 days of the Department's approval of the detailed plans or in accordance with an alternative Department approved schedule. Equipment/piping installation and testing on all listed tank systems must be completed within one (1) year of Permit issuance.**

The Permittee must submit to the Department, a written notification **within 14 days** of completing all installation and testing on the equipment/piping for all Tank System's listed in sub-section (a) below, in accordance with 6NYCRR Subpart 373-1.6(d)(1)(iii). The Permittee must also submit a written report within 60 days of completing all such installation and testing activities. This report must include a written certification statement and supporting documentation from the independent, qualified installation inspector or the independent, qualified, professional engineer registered in New York, attesting that all new equipment/piping for the Tank Systems listed in sub-section (a) below, has been properly installed and, where applicable, demonstrated to function as designed in concurrence with the Department approved detailed plans, in accordance with 6NYCRR Subpart 373-2.10(c)(7).

- a) The following is a list of Tank Systems that require installation of new equipment/piping to correct tank interconnections and/or to provide more effective overfill prevention controls:

<u>Areas</u>	<u>Tank Systems</u>
Leachate Tank Farm	T-101, T-102, T-103
Stabilization (South)	TA-1, TA-2
AT (East)	T-210, T-230
AT (East) & Solids Separation Bldg.	T-310, T-3012
AT (East) & WWT (East)	T-320, T-3002
AT (East) & AT Bldg.	T-210 or T-230 & AT Bldg.
AT (North) & WWT (East)	T-100, T-3001/T-3002
Leachate Tank Farm & WWT (East)	T-101/T-102/T-103 & T-3003
Leachate Tank Farm & AT (East)	T-101/T-102/T-103 & T-210/T-230

6. Addition of Hazard Protection for Tank T-3009 [373-2.3(b)]

The Permittee shall install permanent highway-grade guard rails or tightly spaced posts between tank T-3009 and the adjacent road to protect this double-walled tank from possible road traffic damage, in accordance with 6NYCRR Subpart 373-2.3(b). The Permittee shall complete this installation **within 30 days of Permit issuance.**

7. Scheduling Repairs [373-2.2(g)(3)]

Upon the date of Permit Issuance, the Permittee shall comply with the procedures for scheduling repairs required by **Condition N.2** of this Module.

8. Facility Stormwater Control System Inspections [373-2.2(g)]

Upon the date of Permit Issuance, the Permittee shall comply with the facility stormwater control inspection procedures required by **Condition P.1** of this Module.

9. Drum Management Building Load/Unload Ramp Container Management [373-2.9(f)]

Upon the date of Permit Issuance, the Permittee shall comply with the procedures for managing containers holding free liquids and/or incompatible wastes on the Drum Management Building Load/Unload Ramp required by **Condition L.1** in **Module III** of this Permit.

10. Tank & Container Secondary Containment Annual Independent Assessment [373-2.2(g)]

Upon the date of Permit Issuance, the Permittee shall comply with the procedures for the annual independent assessment of tank & container secondary containment areas required by **Condition K.4** in **Module III** and **Condition K.5** in **Module IV** of this Permit.

11. RMU-1 Landfill Run-off Management System [373-2.14(c)(8)&(9)]

Upon the date of Permit Issuance, the Permittee shall comply with the inspection and waste mass survey procedures to insure adequate run-off containment capacity within the landfill as required by **Condition H.1** in **Module VI** of this Permit.

12. RMU-1 Landfill Land Disposal Restrictions (LDR) Compliance [376]

Upon the date of Permit Issuance, the Permittee shall comply with the additional procedures to insure compliance with land disposal restrictions required by **Conditions D.7 & D.8** in **Module VI** of this Permit.

13. RMU-1 Landfill Land Disposal Restrictions (LDR) - Interim Waste Storage Piles [376]

Upon the date of Permit Issuance, the Permittee shall comply with the procedures for managing LDR interim waste storage piles in the RMU-1 landfill required by **Condition D.6** in **Module VI** of this Permit.

L. Special Storage & Intra-Facility Waste Tracking Conditions

1. Duration of Waste Storage

Within 14 days from the end of each calendar month, the Permittee shall submit to the Commissioner a list of all waste which has been stored on-site longer than six months and a plan for the ultimate treatment and/or disposal of this inventory.

2. Intra-Facility Waste Tracking

The Permittee shall operate and maintain a record management system for waste tracking at the facility. The system shall be capable of recording the date of each off-site generated waste's arrival at the facility, each waste's fingerprint analyses, all internal waste transfers (e.g., container to tank, container to landfill, etc.), the nature and quantities of waste generated at the facility, and the method, location, and dates of any treatment, any placement into storage, disposal in the RMU-1 landfill or shipment off-site for each waste at the facility. Each waste shall be cross-referenced to waste manifests and waste profile numbers. The data from the waste tracking system shall become part of the facility's operating record required by **Condition D.5.c** of this Module.

The Permittee shall use codes or other means of identifying the ultimate disposition of each waste, whether the waste is intended for treatment in the facility's aqueous treatment system, whether the waste is intended to undergo on-site fuels blending, whether the waste requires stabilization, encapsulation or other treatment prior to on-site land disposal, any conditions associated with on-site disposal such as segregation of acid-generating and acid-sensitive wastes or dust suppression activities, and each waste's degree of hazard from reactivity, toxicity and flammability. For wastes disposed in RMU-1, the disposal location will be documented in accordance with **Condition E.5.i** in **Module VI** of this Permit.

M. Special Waste Transportation Conditions

1. Waste Transport To and From the Facility

All trucks transporting, in bulk, blended fuels, PCB contaminated oils, or liquid or solid materials which present a risk of a vapor release or fuming will be scheduled to arrive or depart the facility between 5:00 a.m. and 7:00 a.m. or between 4:00 p.m. and 9:00 p.m. The Permittee will obtain a copy of the Lew-Port School "event" calendar and attempt to schedule shipments of the aforesaid materials so as to avoid events that are expected to be heavily attended.

No trucks carrying hazardous waste will be scheduled for arrival or departure between 7:30 a.m. and 9:00 a.m. or between 2:15 p.m. and 3:45 p.m. on days when the Lewiston-Porter School complex is in session. Trucks may be moved from CWM's transportation facility at 1135 Balmer Road to the TSDf site at 1550 Balmer Road during these hours.

Trucks carrying hazardous waste to the facility and arriving via I-190 shall use the existing designated route. Trucks carrying hazardous wastes to the facility arriving from the eastern part of Niagara County shall use the designated state highways to Balmer Road. The Permittee will designate an alternate inbound route for trucks arriving via I-190 if adequate traffic safety devices (signals) are installed at the cloverleaf off ramp left turn onto Rt. 104 East.

The Permittee shall explicitly incorporate the above requirements in all authorizations that are granted to transporters who list the Model City facility site at 1550 Balmer Road in the Towns of Lewiston and Porter, Niagara County, on their New York State Part 364 hazardous waste transporter permits.

It is intended that the above requirements be applied to all transporters (including those operating under the control of the Permittee, its parent corporation or any other corporate affiliate of the Permittee) and enforced by the Permittee as provided for in the "CWM Model City Transportation Rules and Regulations", as amended by the Site Operations Plan (Appendix 1 of the CAC Agreement dated July 21, 1993). The Permittee's failure to explicitly incorporate the conditions referenced above in signing a transporter's Part 364 permit form or its failure to enforce those conditions as provided for in the CWM Model City Transporter Rules and Regulations, as amended by the Site Operations Plan, shall constitute a violation of this Permit, and hence a violation of the Environmental Conservation Law ("ECL"). It is however, recognized that the CWM Model City Transporter Rules and Regulations allow a measure of discretion to the Permittee in determining the sanctions to be imposed on any transporter.

A failure of Permittee owned vehicles to comply with any of the above conditions shall constitute a violation of this Permit and hence a violation of the ECL.

It is also recognized that these conditions are almost identical to certain provisions in the CAC Agreement and that the parties to that Agreement intended that the terms of that Agreement may be amended from time to time as the situation warrants and the parties agree. Any changes in the corresponding provisions of the CAC Agreement shall require the Permittee to immediately request a modification of this Permit to incorporate these changes into this Permit. Since the same requirements are contained in the CAC Agreement, it is intended that the parties to the CAC Agreement, particularly the Towns of Lewiston and

Porter and the County of Niagara, will be the principal parties responsible for the enforcement of these conditions and the resolution of any disputes concerning the implementation thereof.

2. Waste Transport Within the Facility

The Permittee shall inspect the vehicles and Waste Transporter Permits of all waste haulers upon their arrival at the facility. If the Waste Transporter Permit has expired, that discrepancy shall be recorded in the facility's operating record and Department staff shall be notified the date of the waste's arrival if staff is present on-site or if not present on-site, within one (1) business day.

The Permittee shall maintain in the facility's operating record, documentation of all leaking vehicles, including dump trailers and roll-off containers, and invalid permits identified during the Waste Transporter Permit review and vehicle inspection as required above. The following information is to be included in the operating record:

- The waste hauler's name;
- The trailer (waste containing section of the vehicle) license number;
- The Permit number;
- Any discrepancies noted in the hauler's Waste Transport Permit or any leakage noted during the vehicle inspection;
- In the event of vehicle leakage, documentation of the actions taken to correct the problem and to cleanup any released waste; and
- In the event of any discrepancies or leakage, note when on-site Department staff were notified.

3. Waste Transport Vehicles and Other Equipment Which Contacts Hazardous Waste

Vehicles or equipment entering the RMU-1 landfill or a lagoons/salts area coming in contact with wastes, waste residues or contaminated media therein, shall have all surfaces which may have contacted such material cleaned/decontaminated prior to leaving the landfill or lagoons/salts areas. For the RMU-1 landfill, all vehicles and equipment shall be cleaned/decontaminated at the truck wash facility located within the landfill, in accordance with **Condition E.7** in **Module VI** of the Permit. For the lagoons/salts areas, all vehicles and equipment coming in contact with wastes, waste residues or contaminated media shall be cleaned/decontaminated in accordance with the October 1998 and any subsequently Department approved revisions of the "In-Situ Stabilization Work Plan for the Lagoons/Salts Areas", which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module.

N. Special Safety and Repair Conditions

1. Precautions in Flammable & Oxidizer Waste Storage Areas

No machinery shall be permitted in flammable and oxidizer waste storage areas or any process area where a flammable atmosphere may exist unless it has been fitted with safeguard devices required for a Gasoline Safety (GS), Liquid Petroleum Safety (LPS), or Diesel Safety (DS) classification by Underwriters Laboratories (UL), such classifications to be certified by an authorized representative of UL. Only spark resistant tools and appurtenances shall be used in these storage areas.

2. Scheduling of Repairs

The Permittee shall remedy any deterioration or malfunction of equipment or structures having to do with hazardous waste management as described below by this condition, in accordance with 6NYCRR 373-2.2(g). The Permittee shall indicate the date the defect was identified, the date repairs were completed and a brief description of said repairs, in the facility's operating record.

- a) Defects Identified in Hazardous Waste Containment Units - For any defect (e.g., severe rust, structural deformity, etc.) or leak identified in a container (e.g., drum, roll-off, tanker, etc.) holding hazardous waste, the Permittee must take immediate action as necessary to prevent or stop a release (e.g., diapering of a minor roll-off leak, etc.), and shall take steps in accordance with **Conditions C & J in Module III** of this Permit. For any identified leak or defect which creates the potential for leakage in a tank or in a tank's ancillary equipment (e.g., piping, pump, valve, etc.) containing hazardous waste, the Permittee must take immediate action in accordance with **Conditions F & J in Module IV** of this Permit. The secondary containment for containers and tanks must be maintained free of cracks or gaps by the Permittee in accordance with **Condition B in Module III** of this Permit for containers, and **Conditions C & F in Module IV** of this Permit for tanks. For any identified defect in the integrity of the RMU-1 landfill primary liner (e.g., hole, tear, seam failure, etc.), the Permittee must take immediate action as necessary to prevent or stop waste and/or primary leachate from passing through the defect, and shall take steps to repair the defect in accordance with **Module VI, Conditions B.1 & C.2** of this Permit.

- b) Other Identified Defects - For any identified deterioration or malfunction of equipment or structures associated with a hazardous waste management unit which do not result in a release or create the potential for a release of hazardous waste from the unit's primary or secondary containment (i.e., defects other than those described in

“a” above), except for specific defects where other Permit conditions or the regulations require repairs within other specified time periods (e.g., Module IV, Condition J (tank air emission standards), etc.), the Permittee must either:

- Schedule and complete repairs to the defect within thirty (30) days as measured from the date the defect was first identified; or
- Submit an Environmental Work Order (EWO) for Department approval within seven (7) days as measured from the date the defect was first identified, if it is anticipated that it will take longer than 30 days to complete repairs. The submitted EWO must include the scheduled date for completing repairs which shall be within the six (6) month period as measured from the date when the defect was identified. The Permittee may request, and the Department may approve extensions to the scheduled date for completing repairs within or beyond the 6 month period, provided the Permittee has adequately demonstrated that the extension is needed due to unforeseen circumstances or circumstances beyond the Permittee’s control and that the problem will not lead to an environmental or human health hazard.

O. Special Document Submission Conditions

1. Standard Division Practices (SDPs)

The Permittee shall provide the Department's on-site or Region 9 staff with copies of all new SDPs dealing with management of waste in advance of any new activity involving hazardous waste management practices specified by the new SDPs. The Permittee shall also give written or verbal notification to Department staff in advance of any modification to an SDP activity involving hazardous waste management, and provide such staff with copies of all SDP modifications within one (1) business day of Department notification. All SDPs must be consistent with, and in no way conflict with the conditions, attachments and referenced documents of this Permit. The Permittee shall not implement any SDP or modification to an SDP for which it has received notification from the Department of apparent inconsistencies between the SDP and this Permit.

2. Permittee’s Organizational Chart

The Permittee shall submit a new organizational chart to the Commissioner within 15 working days of any change to the key management personnel such as Managers, Supervisors and Foremen.

3. Ten-Year Plan

On the even year anniversary dates of the effective date of this Permit, the Permittee shall submit a comprehensive update of its' Ten Year Plan. This report shall contain a projection of the site activities including proposed site developments, modifications to existing facilities, in place and projected utilization of improved technologies for waste management, and other information the Permittee believes to be pertinent.

4. Compliance Information

No sooner than one (1) year and no later than 180 days before the expiration of this Permit, the Permittee shall provide to the Department with a report regarding the matters identified in ECL 27-0913(3) and occurring within two years of the date of the report. The report shall include any such matters involving the permitted facility, all other Chemical Waste Management facilities and any duly incorporated parent or subsidiary managing hazardous wastes within the United States. The Permittee shall supply such documents and pertinent details regarding the matters in the report as may be requested by the Department.

P. Special Surface Water Monitoring Conditions

The Permittee must comply with the surface water monitoring requirements as specified in the Surface Water Sampling and Analysis Plan (SWSAP) in Attachment M of this Permit, and the requirements specified below. In addition, all discharges of on-site surface water to off-site surface water bodies must be in accordance with the State Pollutant Discharge Elimination System (SPDES) Article 17, Title 8 of the ECL.

1. Surface Water Monitoring Points

The Permittee shall, at a minimum, perform weekly inspections of control gates at all Surface Water Monitoring Points (SMPs) at the facility, except for SMP 2. The inspector shall verify that each gate is closed and not leaking, unless the surface water at the SMP has been tested and approved for discharge in accordance with the SWSAP in Attachment M of this Permit.

Q. Special Air Quality & Meteorological Conditions

1. Fugitive Dust Control

The Permittee shall perform dust suppression and control in accordance with the Fugitive

Dust Control Plan in Attachment L, Appendix D-10 of this Permit.

2. Air Quality Monitoring

The Permittee shall operate and maintain a Department approved Ambient Air Monitoring Network at the facility. The Permittee shall perform ambient air monitoring for particulates in accordance with the Air & Meteorological Monitoring Plan in Attachment N of this Permit. This air monitoring shall be in addition to that required by **Condition D.9** of this Module, and that required by the October 1998 “In-Situ Stabilization Work Plan for the Lagoons/Salts Areas”, with subsequent Department approved revisions, which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module. In addition, should the Department determine it necessary, the Permittee shall submit an air monitoring plan for Volatile Organic Compounds (VOCs) and/or Polychlorinated Biphenyls (PCBs) within thirty (30) days of receiving a written Department request. Within sixty (60) days of the Department's approval of this VOC and/or PCB air monitoring plan, with any modifications the Department deems necessary, the Permittee shall implement the approved plan and submit resultant data to the Department on a periodic basis as determined appropriate by the Department.

3. On-Site Meteorological Monitoring

The Permittee shall operate and maintain a Meteorological Monitoring Network at the facility to obtain meteorological data in accordance with the Air & Meteorological Monitoring Plan in Attachment N of this Permit.

R. Special Department On-Site Environmental Monitor Conditions

The account to fund the Environmental Monitor(s) as established under this Permit shall continue as follows:

1. Funds as required to support the monitoring requirements shall be provided to the Department for funding of environmental compliance activities related to the Permittee's Facility. This sum is based on annual Environmental Monitor service costs and is subject to annual revision. Subsequent annual payments shall be made for the duration of this Permit to maintain an account balance sufficient to meet the next year's anticipated expenses. The Permittee shall be billed annually for each fiscal year beginning April 1, 2004. The Permittee shall make payment 30 days in advance of April 1, 2004 and the other fiscal year annual dates.

2. 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 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 that entity with a written explanation of the basis for any modification. If such a revision is required, the Department will notify the Permittee of such a revision no later than 60 days in advance of any such revision.
3. 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.
4. Payments are to be in advance of the period in which they will be expended.
5. 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, Bureau of Revenue Accounting, 625 Broadway 10th Floor, Albany, New York 12233-5012.
6. Failure to make the required payments shall be a violation of this Permit. The Department reserves all rights to take appropriate action to enforce the above payment provisions.
7. The Environmental Monitor(s) shall, when present at any the Permittee's facility, abide by all of the Permittee's health and safety and operational requirements and policies; provided, however, that this subparagraph shall not be construed as limiting the Environmental Monitors' powers as otherwise provided for by law and shall not result in the Environmental Monitor's being less protected than the Environmental Monitor(s) would be if he or she were to abide by State and Federal health and safety requirements.
8. The New York State Department of Environmental Conservation Environmental Monitor(s) shall receive from the Permittee all general safety training which is normally given to new site employees. This training will be a supplement to the mandatory safety training that Environmental Monitors receive from the Department.
9. The Permittee shall furnish to the Environmental Monitor(s) a current site policy and procedures manual for health and safety issues. Within fifteen (15) days of any revision to the health and safety plan, the Permittee shall notify the Department, in writing, of such modification.

The specific daily responsibilities of the Environmental Monitor are dynamic in scope. In general, the Monitor's function is to monitor the Permittee's hazardous and non-hazardous waste management activities, and work with facility staff to maximize permit and regulatory compliance.

The specific duties of the Environmental Monitor include, but are not necessarily limited to:

- Inspection of all hazardous waste tank and container storage areas at the facility for Permit and regulatory compliance;
- Inspection of all hazardous waste tank treatment processes and any container/tank hazardous waste transfer activities at the facility for Permit and regulatory compliance;
- Inspection of all operating surface impoundments (FAC Ponds) at the facility for Permit and regulatory compliance;
- Inspection of all closed land disposal units at the facility for Permit and regulatory compliance;
- Inspection of the operating and closed portions of the RMU-1 landfill at the facility for Permit and regulatory compliance;
- Inspection of all ongoing closure activities associated with the RMU-1 landfill or other hazardous waste management unit at the facility for Permit and regulatory compliance;
- Inspection of all ongoing corrective measures activities at the facility for Permit and regulatory compliance;
- Provide/approve clarifications on the conditions, attachments and referenced documents in this Permit;
- Provide assistance in any minor or major modification of this Permit;
- Review waste profiles and other information on each waste proposed for disposal in the RMU-1 landfill in accordance with **Module VI** of this Permit;
- Inspection and acceptance of each soil and geosynthetic layer of the RMU-1 final cover prior to burying or otherwise obscuring each layer in accordance with **Module VI** of this Permit; and
- Review and acceptance of closure and construction certification reports.

S. Special Closure Conditions for Specific Land Disposal Units

1. Lagoons/Salts Inactive Surface Impoundments

The Permittee shall close Inactive Lagoons 1, 2, 5, 6, & 7 and Inactive North, East & West Salts impoundments in strict accordance with **Module II** of this Permit and with the October 1998 "In-Situ Stabilization Work Plan for the Lagoons/Salts Areas", and the March 1999 "Corrective Measures for the Lagoons and Salts Area - Final Cover Detail Design", with

subsequent Department approved revisions, which are both incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module. Closure of all inactive Lagoons/Salts impoundments, including the submission of closure certification, must be completed within one (1) year as measured from the effective date of this Permit.

2. RMU-1 Landfill

The Permittee shall close the RMU-1 landfill in strict accordance with **Condition D.7** of this Module, the RMU-1 Closure Plan in Attachment I, Section I.1 of this Permit, and **Module VI** of this Permit.

T. Special Closure Cost Estimate & Closure Financial Assurance Conditions

1. Closure Cost Estimate

The Permittee must maintain a Department approved detailed closure cost estimate in current dollars, in accordance with 6NYCRR 373-2.8(c)(1), which reflects the cost of closure in accordance with the Closure Plans in Attachment I, Section I.1 of this Permit. The Department approved closure cost estimate for the Permittee's facility shall be the September 1998 "Site-Wide and RMU-1 Closure Cost Estimates" as revised on November 3, 1998 (approved February 1999) and any subsequent increases, inflationary adjustments or Department approved revisions thereof. The above closure cost estimates are incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module.

a) The Permittee must annually adjust the closure cost estimate for inflation within 60 days prior to the anniversary date on which the initial financial assurance instrument was established (November 30th) as required by 6NYCRR 373-2.8(c)(2), and establish financial assurance to cover the amount of any increase in the closure cost estimate in accordance with **Condition T.2** of this Module. This annual inflationary adjustment must be completely independent of any request by the Permittee for a reduction in the approved closure cost estimate. The Permittee shall make this annual adjustment by either:

i) Using the inflation factor derived from the most recent annual Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its' Survey of Current Business. The first adjustment is made by dividing the latest published annual deflator by the deflator for the year of the most recent Department approved closure cost estimate, and multiplying the resultant inflation factor by the total amount of the most recent Department

approved closure cost estimate. Subsequent annual adjustments are made by dividing the latest published annual deflator by the deflator for the previous year, and multiplying the resultant inflation factor by the total amount of the latest adjusted approved closure cost estimate.

or

- ii) Recalculating the maximum costs of closure in current dollars. If the Permittee selects this option for making the annual inflationary adjustment, the Permittee must submit and obtain Department approval of the recalculated cost estimate based on current unit costs for performing each task specified in the Closure Plans, Attachment I, Section I.1 of this Permit, from a third party or parties who is/are neither a parent nor subsidiary of the Permittee, in order to justify the amount of the adjustment. If the Permittee fails to provide current third party unit costs or if the Department does not grant written approval of the recalculated cost estimate by thirty (30) days prior to the annual anniversary date (November 30th), the Permittee shall make the annual inflationary adjustment of the closure cost estimate in accordance with “I” above no later than the annual anniversary date (November 30th).

- b) The Permittee must revise the closure cost estimate within thirty (30) days of a modification of this Permit involving a change in the Closure Plans, Attachment I, Section I.1 of this Permit, which increases the cost of closure, as required by 6NYCRR 373-2.8(c)(3), and establish financial assurance to cover the amount of the increase in the closure cost estimate in accordance with **Condition T.2** of this Module. If the Permittee requests a modification of the Closure Plans in Attachment I, Section I.1 of this Permit which may increase the cost of closure, the Permittee shall submit with any such request a detailed estimate of the cost increase in current dollars, with appropriate third party justification.

- c) The Permittee shall not decrease the amount of the Department approved closure cost estimate without the express written authorization of the Department. The Department may, at its discretion, review any and all aspects of the previously approved closure cost estimate prior to granting any Permittee request for a decrease in the estimate.

- d) As part of the facility’s Annual Report required by **Condition D.5.e** of this Module, the Permittee must submit information indicating the maximum and average annual quantities of each waste type and associated disposal method (e.g. RCRA/TSCA solid wastes landfilled, RCRA/TSCA solid wastes stabilized and landfilled, Non-hazardous solid wastes landfilled, RCRA aqueous wastes treated and discharged, PCB/Organic

liquids sent for incineration, PCB/Organic solids sent for incineration, etc.) for the previous year's waste storage inventory to determine whether waste storage inventory type and disposal method quantity assumptions in the Department approved closure cost estimate still represent a worst-case scenario in terms of estimating inventory disposal costs at closure.

- i) If the Permittee determines at any time during the course of facility operations that there has been a significant increase in the historic waste storage inventory of a particular waste type, or types, above the storage quantities assumed in the Department approved closure cost estimate for each waste type, the Permittee must increase the amount of the approved closure cost estimate within thirty (30) days of making this determination. The amount of the increase shall be calculated by multiplying the difference between the actual historic and previously assumed waste storage inventories for the particular waste type, or types, by the unit costs, in current dollars, for disposal/treatment of the waste type(s) as presented in the approved closure cost estimate. The Permittee must also establish financial assurance to cover the amount of the increase in the closure cost estimate in accordance with **Condition T.2** of this Module.

- ii) If the Department determines at any time during the course of facility operations that there has been a significant increase in the historic waste storage inventory of a particular waste type, or types, above the storage quantities assumed in the Department approved closure cost estimate for each waste type, the Department will notify the Permittee in writing and the Permittee must increase the amount of the approved closure cost estimate within thirty (30) days from the date of receipt of the Department's notification. The amount of the increase shall be calculated by multiplying the difference between the actual historic and previously assumed waste storage inventories for the particular waste type, or types, by the unit costs, in current dollars, for disposal/treatment of the waste type(s) as presented in the approved closure cost estimate. The Permittee must also establish financial assurance to cover the amount of the increase in the closure cost estimate in accordance with **Condition T.2** of this Module.

- iii) Until the closure cost estimate is increased in accordance with "i" or "ii" above and the Permittee provides a financial assurance mechanism for the increased estimate which is approved by the Department, the Department may, at its discretion, temporarily limit or restrict the quantities of particular waste types which are stored at the facility.

e) The Permittee shall perform topographic surveys in the RMU-1 landfill and calculate its remaining available capacity in accordance with **Module VI, Condition H.1** of this Permit. Any time the on-site available land disposal capacity in the RMU-1 landfill determined in accordance with **Module VI, Condition E.5.h** of this Permit is found to be less than 1.5 times the volume necessary to dispose of the total land disposal waste storage inventory present at the time of facility closure as estimated in the Department approved closure cost estimate, the Permittee must, within thirty (30) days of such an occurrence, submit for Department approval, a separate, detailed cost estimate for the off-site transport and disposal of the total land disposal waste storage inventory estimated in the Department approved closure cost estimate. The Permittee must, in accordance with **Module VI, Condition E.5.h** of this Permit, maintain on-site available land disposal volume in the RMU-1 landfill greater than the total land disposal waste storage inventory volume estimated in the Department approved closure cost estimate until:

- i) The Department has approved the detailed cost estimate for the off-site transport and disposal of the total land disposal waste storage inventory estimated in the Department approved closure cost estimate; and
- ii) The Permittee has increased the Department approved closure cost estimate by the amount of the cost estimate in “I” above; and
- iii) The Permittee has submitted and received Department approval of the financial assurance mechanism for the increase in the closure cost estimate in accordance with **Condition T.2** of this Module.

2. Financial Assurance for Facility Closure

a) Financial Assurance Instrument(s) for Facility Closure

The Permittee shall maintain Department approved financial assurance instrument(s) for facility closure in accordance with 6NYCRR 373-2.8(d) in at least the current dollar amount of the Department approved closure cost estimate required by **Condition T.1** of this Module. The Department approved financial assurance instruments for closure shall be those listed in **Condition B** (Table 2.0) of this Module and any Department approved revisions thereof, or Department approved replacements for these financial instruments selected by the Permittee from the instrument types specified in 6NYCRR 373-2.8(d)(1) through (4), which are incorporated by reference into this Permit. Changes in existing financial assurance instruments or replacement of existing financial assurance instruments, must be approved by the Department. The Permittee shall provide annual evidence to the Department within thirty (30) days prior to the anniversary on which the

initial approved financial assurance instrument was established (November 30), that all instruments listed in **Condition B** (Table 2.0) have been maintained and not allowed to lapse.

i) Within sixty (60) days after any increase in the approved closure cost estimate, the Permittee must, in accordance with 6NYCRR 373-2.8(d), either:

‘a’) Revise one or more of the Department approved financial assurance instrument(s) for closure to increase the amount of the total penal sum by at least the amount of the increase in the approved closure cost estimate and submit the revised instrument(s) for Department approval; or

‘b’) Submit an additional financial assurance instrument, or instruments from the instrument types specified in 6NYCRR 373-2.8(d)(1) through (4) with a penal sum(s) equal to at least the amount of the increase in the approved closure cost estimate and submit the additional instrument(s) for Department approval.

ii) If the Permittee elects to replace any of the instruments listed in **Condition B** (Table 2.0) of this Module for closure financial assurance, with new financial assurance instrument(s) as specified by 6NYCRR 373-2.8(d)(1) through (4), the new instruments must be issued by an entity, or entities, that are legally and fiscally separate and distinct from the Permittee and any parent or subsidiary thereof.

b) Financial Assurance Standby Trust Fund for Facility Closure

The Permittee shall maintain a Standby Trust Fund as established by the Standby Trust Agreement between the Permittee and the Oak Brook Bank incorporated in the State of Illinois, dated December 27, 1999 including all Department approved revisions up through and including the April 20, 2001 revisions, and any subsequent Department approved revisions, or Department approved replacement of this Trust Agreement, which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module. The Standby Trust Fund shall be maintained to receive deposits of all payments from the approved financial assurance instruments as referred to in **Condition T.2.a** of this Module. The Commissioner shall, in accordance with 6NYCRR 373-2.8(d) and the wording of the instruments as required by 6NYCRR 373-2.8(j), direct that such payments be deposited in the Standby Trust Fund.

Subsequent to payments being deposited in the Standby Trust Fund, the fund shall be

managed in accordance with 6NYCRR 383-2.8(d)(1), 6NYCRR 373-2.8(f)(1), and the wording in the approved Standby Trust Agreement.

U. Special Perpetual Post-Closure Care Conditions

The Permittee shall provide post-closure care in perpetuity for the land disposal units listed below beginning immediately after completion of each unit's closure. This perpetual post-closure care shall be conducted in accordance with:

- the conditions of this Permit and the Post-Closure Plans in Attachment I of this Permit, including but not necessarily limited to final cover maintenance, landfill leachate removal and treatment;
- the Groundwater Monitoring Program in **Module VIII** of this Permit;
- the Groundwater Sampling and Analysis Plan (GWSAP) which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module; and
- the groundwater corrective measures in **Module II** and Attachment E of this Permit, including but not necessarily to the extraction and treatment of contaminated groundwater.

Perpetual Post-Closure Care requirements are applicable to the following land disposal units:

1. Landfills - Secure Landfills' (SLFs) 1-6, 7, 10, 11 & 12, and RMU-1.
2. Surface Impoundments - Lagoons 1, 2, 5, 6 & 7, and Salts North, East & West.
3. Former Process Area Tank Locations - L-1, L-3, L-6, T-44, FOD-1, FOD-2, T-29, TO-9, TO-10, TO-12, T-64, T-65, FD-1, FD-2, TO-3, TO-6, T-48, T-47 & Carbon Bldg. Sump, as defined on figures in the Corrective Measures Requirements in Attachment E of the Permit.
4. Other Areas - All Solid Waste Management Units (SWMUs) listed in Module II, Table II-4 of the Permit.

V. Special Perpetual Post-Closure Care Conditions for Specific Land Disposal Units

1. Closed Secure Landfills (SLFs) 1-6, 7, 10, 11 & 12

a) General Requirements for SLF 1-6, 7, 10, 11 and 12 Leachate Collection and Removal

i) Primary leachate in all landfill standpipes shall be monitored and pumped automatically using permanently installed sensors, alarms, and pumping equipment, with the exception indicated by **Condition V.1.f.ii** of this Module. Power failure alarms shall be installed for the pumps in SLFs 1-6 and SLF 12 **within sixty (60) days** of Permit issuance. Additional pumps and other spare parts shall be available on-site at all times for ready replacement. Primary leachate pumps shall be fitted with power failure and high leachate level indicator alarms which shall be electronically monitored on a continuous basis. If a sustained high level alarm is noted, a manual level measurement will be taken within 24 hours of the time that the alarm occurs and a determination made whether an exceedence of the maximum allowable leachate level has occurred. The operation of the pump will then be investigated.

Inoperable primary pumps and secondary pumps (where applicable) shall be replaced within forty-eight (48) hours of failure.

- ii) On a quarterly basis and every time the leachate level indicator probes are moved, the liquid level shall be manually measured. This manual measurement shall be used to confirm compliance with maximum leachate level requirements and to check pump activation and alarm level settings. In addition, such measurements will be compared to the results of the automatic data read-out to calibrate the leachate level indicators (probes) on landfills where such devices are present.
- iii) If a statistically significant change in the groundwater quality is noted for SLF 1-6, 7, 10 or 11A and such change indicates that the landfill may be impacting the groundwater, the standpipe(s) nearest to the affected monitoring well(s) will be sampled for the same suite of parameters and at the same frequency indicated in the Groundwater Monitoring Program in **Module VIII** of this Permit until the source of the potential problem is identified and corrected to the satisfaction of the Department.
- iv) Standpipes are to be covered at all times, except when being attended.

- v) Proper operation of all electronic leak detection systems installed at buildings and piping manholes, shall be verified at least quarterly by visually checking for liquids at all locations where a visual check can be performed. On an annual basis, sensor/probes shall be manually placed in water, or electronically simulated in locations where a manual check would require confined space entry, to verify that the alarm is electronically triggered.

b) SLF 1-6 Leachate Collection and Removal

- i) The maximum leachate level, as measured in the standpipes of SLF 1-6, except standpipes listed in “ii” below, shall not exceed a depth of two feet (2') directly above the base of the standpipe, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence.
- ii) The maximum leachate levels for the following standpipes shall not exceed the listed elevation, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence:

<u>Standpipe #</u>	<u>Elevation (ft., msl)</u>
1	320.4
2	325.9
3	322.9
5	312.1
7T	324.4
10	318.5
17	321.9

c) SLF-7 Leachate Collection and Removal

The maximum leachate level in the standpipes shall not exceed 2 feet above the lowest elevation of the floor of the area being drained in the standpipe, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence. The sump in the standpipe has 6 inches of concrete at the bottom which is set on top of the floor and therefore the compliance level is 18 inches above the sump bottom.

d) SLF-10 Leachate Collection and Removal

The maximum leachate level in the standpipes shall not exceed 2 feet above the lowest elevation of the floor of the area being drained in the standpipe, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence.

e) SLF-11 Leachate Collection and Removal

- i) The maximum leachate level in the standpipes shall not exceed 1 foot above the primary liner as measured from the liner's lowest elevation at the edge of the sump in each landfill cell, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence.
- ii) Secondary leachate in the SLF 11B/C Secondary Leachate Collection System (SLCS) will be sampled biannually for Volatile Organic Compounds (VOCs) and annually for Organic Priority Pollutants and Priority Pollutant Metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, zinc).
- iii) If a statistically significant change in the SLF-11B or 11C SLCS water quality is noted and is not clearly attributable to a sampling or analytical error, then response actions will be taken in accordance with **Condition V.1.g** of this Module.
- iv) Using either manual or automatic pumping methods, the Permittee shall, on a weekly basis, remove all secondary leachate from the SLCS in each SLF 11B & 11C landfill cell to pump's refusal (i.e., when all pumpable liquids have been removed), and measure and record the volume removed (in gallons). At the end of each calendar month, the Permittee shall add up the secondary leachate volumes removed from each cell's SLCS for each pumping in the month and record the summed volumes (in gallons). The Permittee shall determine the SLCS average daily flow rate (in gallons per acre per day) for each SLF 11B & 11C cell in accordance with 6NYCRR 373-2.14(n)(2) by dividing the above mentioned summed volume removed from each cell by the respective cell's area (in acres) based on as-built surveys. That resultant value shall be divided by the number of days between the last pumping event in the preceding month and the last pumping event of the current month. The SLCS average daily flow rates shall be recorded and reported each month in accordance with **Condition C.5** of this Module.

v) For each calendar month, the Permittee shall compare the SLCS average daily flow rate (in gallons per acre per day) for each SLF 11B & 11C cell, determined in accordance with “v” above, with the Response Rate for SLF 11B & 11C of 20 gallons per acre per day (gpad). If the SLCS average daily flow rate for any given cell exceeds the 20 gpad Response Rate, then response actions will be taken in accordance with **Condition V.1.g** of this Module.

f) SLF-12 Leachate Collection and Removal

- i) The maximum leachate level in the standpipes shall not exceed a depth of one (1) foot above the primary liner as measured from the liner’s lowest elevation at the edge of the sump in each landfill cell, unless such exceedence is clearly attributable to a pump or other obvious leachate removal system malfunction which is corrected within 48 hours of the exceedence.
- ii) The leachate in Standpipe #54 can be pumped manually, provided the Permittee maintains compliance at all times with **Condition V.1.f.(i)** of this Module.
- iii) Secondary leachate in the SLF 12 Secondary Leachate Collection System (SLCS) will be sampled biannually for Volatile Organic Compounds (VOCs) and annually for Organic Priority Pollutants and Priority Pollutant Metals (antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, zinc).
- iv) If a statistically significant change in the SLF-12 SLCS water quality is noted and is not clearly attributable to a sampling or analytical error, then response actions will be taken in accordance with **Condition V.1.g** of this Module.
- v) Using either manual or automatic pumping methods, the Permittee shall, on a weekly basis, remove all secondary leachate from the SLCS in each SLF 12 landfill cell to pump’s refusal (i.e., when all pumpable liquids have been removed), and measure and record the volume removed (in gallons). At the end of each calendar month, the Permittee shall add up the secondary leachate volumes removed from each cell's SLCS for each pumping in the month and record the summed volumes (in gallons). The Permittee shall determine the SLCS average daily flow rate (in gallons per acre per day) for each SLF 12 cell in accordance with 6NYCRR 373-2.14(n)(2) by dividing the above mentioned summed volume removed from each cell by the respective cell's area (in acres) based on as-built surveys. That resultant value shall be divided by the number of days between the last pumping event in the preceding month and the last pumping

event of the current month. The SLCS average daily flow rates shall be recorded and reported each month in accordance with **Condition C.5** of this Module.

- vi) For each calendar month, the Permittee shall compare the SLCS average daily flow rate (in gallons per acre per day) for each SLF 12 cell, determined in accordance with “v” above, with the Response Rate for SLF 12 of 20 gallons per acre per day (gpad). If the SLCS average daily flow rate for any given cell exceeds the 20 gpad Response Rate, then response actions will be taken in accordance with **Condition V.1.g** of this Module.

g) Response Actions for SLF 11B, 11C & 12 SLCSs

If a statistically significant change in SLCS water quality is noted for any SLF 11B, 11C or SLF 12 landfill cell in accordance with **Conditions V.1.e.(iii) or V.1.f.(iii)** of this Module, the Permittee shall notify the Department within three (3) business days and re-sample and analyze the SLCS liquid from the subject cell for the parameters specified in **Conditions V.1.e.(iii) or V.1.f.(iii)** of this Module. If the SLCS average daily flow rate for any given cell exceeds the 20 gpad Response Rate, as determined in accordance with **Conditions V.1.e.(vi) or V.1.f.(vi)** of this Module **or** if the above re-sampling and analysis confirms a noted change in SLCS water quality for a given landfill cell, the Permittee must:

- i) For the landfill cell, or cells involved, immediately implement the response actions required by 6NYCRR 373-2.14(o)(2&3) and continue implementation of remedial actions and monthly reporting in accordance with 6NYCRR 373-2.14(o)(2)(vi) until the SLCS flow has been mitigated to the Department’s satisfaction.
- ii) Immediately increase SLCS liquid removal/pumping frequency for the involved cell, or cells, from weekly to daily, and maintain daily removal/pumping until a level actuated automatic pumping system is installed or the Permittee requests and the Department approves a return to weekly pumping as a result of other measures taken that adequately mitigate the SLCS flow. Measure, record and report the daily SLCS flow rate (in gpad), and the 30-day rolling average daily SLCS flow rate (in gpad).
- iii) Immediately increase SLCS liquid sampling and analysis frequency for the involved cell, or cells, from biannual to monthly for the parameters specified in **Conditions V.1.e.(iii) or V.1.f.(iii)** of this Module or other Department approved parameters, and maintain this monthly frequency until the Department approves a

return to biannual sampling and analysis as a result of other measures taken that adequately mitigate the SLCS flow.

- iv) Sample the wells located down-gradient of the involved cell, or cells, within (14) days of an SLCS water quality or volumetric exceedence and increase the groundwater monitoring frequency for these wells to monthly. All such samples shall be analyzed for the indicator parameters specified by the Groundwater Protection program in **Module VIII** of this Permit and any other parameters as deemed necessary by the Department. The monthly frequency shall be maintained until the Department approves a reduced frequency as a result of other measures taken that adequately mitigate the SLCS flow.
- v) The Permittee shall implement other remedial actions as deemed necessary, by the Department, to adequately mitigate the SLCS flow in the involved cell, or cells.

2. Closed Process Area Tank Systems

For the currently closed process area tank systems as listed in **Condition U.3** of this Module located south of Lagoons 1,2,5,6&7 and north of the East & West Salts Impoundments as defined on figures in the Corrective Measures Requirements in Attachment E of the Permit and any currently operating tank systems within this same area that are closed in accordance with 6NYCRR 373-2.10(h)(2) (i.e., closure as a landfill) due to remaining soil contamination, the Permittee must perform the following additional perpetual post-closure care activities.

- a) Inspect and maintain all final covers for the closed tank systems within the process area. The Permittee shall inspect these covers on at least a semi-annual basis for defects (e.g., cracks, gaps, holes, separated joints, areas of differential settlement, etc.) which visually expose the underlying soil and which could allow migration of soil contaminants. The Permittee shall record these inspections in the facility's operating record. The Permittee shall repair any and all such defects by application of cover materials or a weather-resistant caulk or sealant, in accordance with **Condition N.2.b** of this Module. In lieu of making these specific repairs, the Permittee may submit and the Department may approve, an alternative cover design to replace or enhance any existing cover, including a schedule for its construction. Once approved by the Department, the Permittee shall construct the alternative cover in accordance with the approved schedule.
- b) Within thirty (30) days as measured from the effective date of this Permit, the Permittee shall submit for Department approval, a Process Area Investigation Plan and a schedule for its' implementation. The plan shall, at a minimum, include surface water sampling and analysis, with at least three (3) rounds of sample collection in the vicinity of Surface

Water Monitoring Points (SMPs) 03, 04 & 05. At each SMP the plan shall require the collection of surface water samples during flowing conditions at locations upstream and downstream of existing carbon screens. The plan shall also include provisions for other sampling and analysis (surface water, sediment or soil) as may be deemed necessary by the Department to investigate and identify potential contaminant migration sources. The plan shall require that all samples be analyzed for PCBs and Volatile Organic Compounds (VOCs) and include data quality assurance requirements for all analyses. The Permittee shall provide the Department with a written report containing the analytical results in accordance with the plan's implementation schedule. If this investigation identifies suspected sources of elevated levels of PCBs or VOCs which the Department considers as having the potential to cause exceedences of the facilities' SPDES stormwater discharge limits, the Permittee shall, upon written notification from the Department, enhance and/or expand the covers in the area of the suspected source(s), or take other actions as deemed necessary by the Department to lower the levels of these hazardous constituents in process area surface water.

3. Closed Lagoons & Salts Surface Impoundments

The Permittee shall inspect and make all necessary repairs to the final cover of Lagoons 1, 2, 5, 6 & 7, and Salts North, East & West, and mow and fertilize these covers in accordance with Section 1.3, Section 1.5 and Table 1 of the Site Wide Post-Closure Plan in Attachment I, Section I.2 of this Permit.

4. RMU-1 Landfill

The Permittee shall perform perpetual post-closure care for the RMU-1 landfill in accordance with the RMU-1 Post-Closure Plan in Attachment I, Section I.2 of this Permit and **Module VI** of this Permit.

W. Special Post-Closure and Corrective Measures Cost Estimate Conditions

The Permittee must maintain a Department approved detailed post-closure and corrective measures cost estimates in current dollars, in accordance with 6NYCRR 373-2.8(e)(1), which reflects the cost of perpetual post-closure care and corrective measures in accordance with the Post-Closure Plans in Attachment I, Section I.2 of this Permit, **Conditions U & V** of this Module, and **Module II** and Attachment E of this Permit. The Department approved post-closure care and corrective measures cost estimates for the Permittee's facility shall be the September 1998 "Site-Wide and RMU-1 Post-Closure Cost Estimates and Corrective Measures Cost Estimate" as revised on November 3, 1998 (approved February 1999) and any subsequent

increases, inflationary adjustments or Department approved revisions thereof. The above post-closure and corrective measures cost estimates are incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module.

1. Annual Inflationary Adjustment

The Permittee must annually adjust the post-closure and corrective measures cost estimates for inflation within 60 days prior to the anniversary date on which the initial financial assurance instrument was established (November 30th) as required by 6NYCRR 373-2.8(e)(2) and establish financial assurance to cover the amount of any increase in the post-closure and corrective measures cost estimates in accordance with **Condition X** of this Module. This annual inflationary adjustment must be completely independent of any request by the Permittee for a reduction in the approved post-closure and corrective measures cost estimates. The Permittee shall make this annual adjustment by either:

- a) Using the inflation factor derived from the most recent annual Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business. The first adjustment is made by dividing the latest published annual deflator by the deflator for the year of the most recent Department approved post-closure and corrective measures cost estimates, and multiplying the resultant inflation factor by the total amount of the most recent Department approved post-closure and corrective measures cost estimates. Subsequent annual adjustments are made by dividing the latest published annual deflator by the deflator for the previous year, and multiplying the resultant inflation factor by the total amount of the latest adjusted approved post-closure and corrective measures cost estimates.

or

- b) Recalculating the maximum costs of post-closure and corrective measures in current dollars. If the Permittee selects this option for making the annual inflationary adjustment, the Permittee must submit and obtain Department approval of the recalculated cost estimates based on current unit costs for performing each task specified in the Post-Closure Plans, Attachment I, Section I.2 of this Permit and the Corrective Measures in **Module II** and Attachment E of this Permit, from a third party or parties who is/are neither a parent nor subsidiary of the Permittee, in order to justify the amount of the adjustment. If the Permittee fails to provide current third party unit costs or if the Department does not grant written approval of the recalculated cost estimates by thirty (30) days prior to the annual anniversary date (November 30th), the Permittee shall make the annual inflationary adjustment of the post-closure and corrective measures cost

estimates in accordance with “a” above no later than the annual anniversary date (November 30th).

2. Permit Modifications and Cost Estimate Increases

The Permittee must revise the post-closure and corrective measures cost estimates within thirty (30) days of a modification of this Permit involving a change in the Perpetual Post-Closure Plans, Attachment I, Section I.2 of this Permit, a change in the Perpetual Post-Closure requirements of **Conditions U & V** of this Module, or a change in the Corrective Measures specified by **Module II** and Attachment E of this Permit, which increases the cost of perpetual post-closure, as required by 6NYCRR 373-2.8(e)(3) and/or corrective measures, and establish financial assurance to cover the amount of the increase in the post-closure and corrective measures cost estimates in accordance with **Condition X** of this Module. If the Permittee requests a modification of the Post-Closure Plans in Attachment I, Section I.2 of this Permit or a modification of **Conditions U & V** of this Module or a modification of **Module II** or Attachment E of this Permit, which may increase the cost of perpetual post-closure and/or corrective measures, the Permittee shall submit with any such request a detailed estimate of the cost increase in current dollars with appropriate third party justification.

3. Leachate Generation & Extracted Groundwater Cost Estimate Increases

The actual quantities of leachate and contaminated groundwater removed from hazardous waste landfills and by on-site contaminated groundwater extraction systems must be included in the Permittee’s annual report in accordance with 6 NYCRR 373-2.5(e). If either the Permittee or the Department determines that there has been a significant change in the annual quantities of leachate and/or contaminated groundwater being removed that would increase the cost of annual post-closure care and/or corrective measures indicated in the approved post-closure and corrective measures cost estimates, the Permittee must revise the post-closure and corrective measures cost estimates to cover the increased cost. The amount of the increase shall be calculated using the unit costs for pumping and treating the leachate and/or contaminated groundwater in current dollars from the approved post-closure and corrective measures cost estimates, and the most current annual leachate/contaminated groundwater generation data. The Permittee shall submit, for Department approval, the proposed total amount of the cost estimate increase and accompanying calculations within thirty (30) days of the Permittee’s determination or a written notification by the Department that an increase in the cost estimate is necessary due to a significant increase in leachate and/or contaminated groundwater generation. Subsequent to Department approval of the cost estimate increase, the Permittee shall establish financial assurance to cover the amount of the increase in the post-closure and corrective measures cost estimates in accordance with

Condition X of this Module.

4. Approval of Cost Estimate Reductions

The Permittee shall not decrease the amount of the Department approved post-closure and corrective measures cost estimates without the express written authorization of the Department. The Department may, at its discretion, review any and all aspects of the previously approved post-closure and corrective measures cost estimates prior to granting any Permittee request for a decrease in the estimates.

5. Cost Estimate Reductions for Completed Post-Closure Care

For any closed landfill or surface impoundment listed in **Condition U** of this Module, the Permittee may petition the Department for unit-specific reductions in the approved post-closure and corrective measures cost estimates predicated on the Permittee's adequate completion of annual post-closure care for the unit(s) during any previous calendar year. Any such petition must be accompanied by documented justification that the Permittee has adequately completed all required post-closure care tasks during the previous calendar year. The amount of the proposed cost estimate reduction shall be calculated separately for each unit as indicated below, based on the difference between the unit's post-closure cost estimate as derived from the required 30-year post-closure period and its post-closure cost estimate as derived from present value cost formula for perpetual care as presented in the Post-Closure Plans in Attachment I, Section I.2 of the Permit.

- a) The amount of the unit's Annual Post-Closure Cost (APCC) estimate, in current dollars, shall be multiplied by the number of years remaining in the unit's 30-year post-closure care period to derive the total 30-year post-closure cost estimate for each unit in accordance with 6 NYCRR 373-2.8(e)(1)(ii).
- b) Using the unit's APCC estimate, calculate the present value of the unit's cost of perpetual post-closure care according to the present value formula and the discount rate presented in the Post-Closure Plans in Attachment I, Section I.2 of the Permit.
- c) The proposed amount of each unit's cost estimate reduction shall be determined by taking the difference between the amounts calculated in "a" and "b" above, but shall at no time be less than the amount necessary for perpetual post-closure care as calculated in "b" above.

The Department may, at its discretion, review any and all aspects of the previously approved post-closure and corrective measures cost estimates prior to granting the Permittee's petition

for a decrease in the estimates.

6. Evaluation of the Perpetual Care Cost Present Value Discount Rate

The Permittee must submit an updated evaluation and calculation of the real risk free discount rate from an independent Certified Public Accountant (CPA) for the Perpetual Post-Closure Care and Corrective Measures cost estimates, no later than 180 days before the expiration date of this Permit. The real risk free discount rate for the Perpetual Post-Closure Care and Corrective Measures cost estimates shall be determined by calculating the arithmetic average Annual Total U.S. Long Return, adjusted by the Consumer Price Index (CPI) for the period 1800 through the year preceding the update.

X. Special Post-Closure and Corrective Measures Financial Assurance Conditions

1. Financial Assurance Instrument(s) for Facility Post-Closure & Corrective Measures

The Permittee shall maintain Department approved financial assurance instrument(s) for facility perpetual post-closure care and corrective measures in accordance with 6NYCRR 373-2.8(d) and 6NYCRR 373-2.6(l)(3) respectively, in at least the total current dollar amount of the Department approved post-closure care and corrective measures cost estimates required by **Condition W** of this Module. The Department approved financial assurance instruments for perpetual post-closure and corrective measures shall be those listed in **Condition B** (Table 2.0) of this Module and any Department approved revisions thereof, or Department approved replacements for these financial instruments selected by the Permittee from the instrument types specified in 6NYCRR 373-2.8(f)(1) through (4), which are incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module. Changes in existing financial assurance instruments or replacement of existing financial assurance instruments, must be approved by the Department, and any replacement instruments shall be worded in accordance with 6NYCRR 373-2.8(j) except that the words “perpetual post-closure and corrective action” shall be substituted for the words “post-closure” in any such replacement instrument. The Permittee shall provide annual evidence to the Department within thirty (30) days prior to the anniversary on which the initial approved financial assurance instrument was established (November 30), that all instruments listed in **Condition B** (Table 2.0) have been maintained and not allowed to lapse.

- a) Within sixty (60) days after any increase in the approved post-closure and corrective measures cost estimates, the Permittee must, in accordance with 6NYCRR 373-2.8(d), either:

- i) Revise one or more of the Department approved financial assurance instrument(s) for post-closure and corrective measures to increase the amount of the total penal sum by at least the amount of the increase in the approved post-closure and corrective measures cost estimates and submit the revised instrument(s) for Department approval; or
 - ii) Submit an additional financial assurance instrument, or instruments from the instrument types specified in 6NYCRR 373-2.8(f)(1) through (4) with a penal sum(s) equal to at least the amount of the increase in the approved post-closure and corrective measures cost estimates and submit the additional instrument(s) for Department approval.
- b) If the Permittee elects to replace any of the instruments listed in **Condition B** (Table 2.0) of this Module for post-closure and corrective measures financial assurance, with new financial assurance instrument(s) as specified by 6NYCRR 373-2.8(f)(1) through (4), the new instruments must be issued by an entity, or entities, that are legally and fiscally separate and distinct from the Permittee and any parent or subsidiary thereof.

2. Financial Assurance Standby Trust Fund for Facility Perpetual Post-Closure and Corrective Measures

The Permittee shall maintain an interest-bearing Standby Trust Fund as established by the Standby Trust Agreement between the Permittee and the Oak Brook Bank incorporated in the State of Illinois, dated December 27, 1999 including all Department approved revisions up through and including the April 20, 2001 revisions and any subsequent Department approved revisions, or Department approved replacement of this Trust Agreement, which is incorporated by reference into this Permit by **Condition B** (Table 2.0) of this Module. Any replacement of the approved Standby Trust Agreement shall be worded in accordance with 6NYCRR 373-2.8(j)(1) except that the words “perpetual post-closure and corrective action” shall be substituted for the words “post-closure” in any such replacement standby trust agreement. The interest-bearing Standby Trust Fund shall be maintained to receive deposits of all payments from the approved financial assurance instruments as referred to in **Condition X.1** of this Module. The Commissioner shall, in accordance with 6NYCRR 373-2.8(f) and the wording of the instruments as required by 6NYCRR 373-2.8(j), direct that such payments be deposited in the interest-bearing Standby Trust Fund.

Subsequent to payments being deposited in the interest-bearing Standby Trust Fund, the fund shall be managed in accordance with 6NYCRR 383-2.8(d)(1), 6NYCRR 373-2.8(f)(1), and the wording in the approved Standby Trust Agreement.

Y. Special Conditions Concerning Future State and/or Federal Laws or Regulations

In the event that any State statutory or regulatory requirements are enacted, adopted or promulgated which are applicable to the Permittee's facility and address the need for and/or the nature and extent of perpetual post-closure care and/or corrective measures, and such statutory or regulatory requirements are deemed by the Commissioner to be more stringent than the perpetual post-closure care and/or corrective measures requirements stipulated in this Permit, such statutory and regulatory requirements shall supersede the pertinent requirements of this Permit.

In the event that any federal statutory or regulatory requirements are enacted, adopted or promulgated which are applicable to the Permittee's facility and address the need for and/or the nature and extent of perpetual post-closure care and/or corrective measures, such statutory or regulatory requirements shall supersede the pertinent requirements of this Permit to the extent that it is determined by the Commissioner that such statutory or regulatory requirements afford equal protection to continuing perpetual post-closure care and/or corrective measures as is afforded by this Permit.