

**NEW YORK STATE  
DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION  
(NYSDEC)**

**6NYCRR PART 373  
HAZARDOUS WASTE MANAGEMENT  
PERMIT RENEWAL  
FOR  
MOMENTIVE PERFORMANCE MATERIALS  
SARATOGA COUNTY**

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**NYSDEC  
RESPONSIVENESS  
SUMMARY**

MPM COMMENTS:

**Comment 1:** Table of Contents, the footnote suggesting that documents classified as Confidential Business Information may be requested under FOIL should be omitted.

Response: A determination of confidential business information will be made by the DEC on a case-by-case basis when a request for information is made under FOIL.

**Comment 2:** General Conditions, Conditions A.2 and A.3 should be omitted or in lieu of that, similar to Eastman Kodak Company's (Kodak) permit, a list of potentially relevant guidance documents and policies should be identified.

Response: The language of conditions A.2 and A.3 will be revised to list Department guidance documents and policies which are potentially relevant to the Permit.

**Comment 3: a.** General Conditions, Areas of Concern, The following language should be deleted from the definition of "area of concern": DELETE "All Permit references to and conditions for SWMUs shall apply to areas of concern."

**b.** Exhibit B: Supplement to Module II - Corrective Action. As discussed above, MPM objects to subjecting an "area of concern" to all RCRA program elements prior to its classification as a SWMU. With respect to the concept of area of concern, the following Permit revisions are requested:

Exhibit B, Condition A. 1.b: DELETE

Exhibit B, Condition A. 1.c.: AFTER "any additional SWMUs" INSERT "resulting from AOCs not associated with existing SWMUs"

Exhibit B, Condition A. 1, Paragraph 4 (Page B-2): DELETE

Response: DEC does not agree with this comment. The language in question is similar to that included in other recently issued DEC RCRA permits and DEC has made no changes to the permit. This will keep the definitions and approach consistent for all Permittees. However, a new area may subsequently be defined as part of an existing SWMU. It would still need to be evaluated accordingly.

**Comment 4: a.** Schedule 1 of Module I, Documents Incorporated by Reference, Documents 3 and 4. These documents, negotiated with the prior owner and operator of the site, General Electric Company, more than twenty-five years ago, impose remedial strategies that by any standard are dated and merit improvement. Current best practices call for a site wide strategy. It is of questionable wisdom to incorporate a remedial approach that lends itself to improvement. We submit the better approach is to seek to rescind the Consent Decree and place the requirements for a modern and efficacious remedial strategy in the Permit. The Permit would govern all aspects of site remediation rather than a collateral document.

**b.** Schedule 1 of Module 1, Exhibit G: Closure/Post-Closure Care, Long-Term Site Management. With respect to site-wide, long term site management, the following Permit revisions are requested:

ADD to Exhibit G, Section B, last line on p. G-2: "Notwithstanding this provision, NYSDEC understands that MPM must, at some point in the future, submit a revision to its remedial approach representing a

comprehensive, long-term, site-wide Site Management Strategy for the facility based on the NYSDEC-approved CSM and RSO and that such a modification will supersede this provision without the need for a formal Permit modification."

Response: DEC notes that once certain deliverables are provided in accordance with the draft permit (e.g., conceptual site model, remedial systems optimization, etc.) a permit modification could be pursued in conjunction with addressing the on-going requirements pursuant to the existing consent decree. In the interim, these documents remain incorporated by reference and DEC has made no changes to the permit.

**Comment 5:** Schedule 1 of Module I, Documents Incorporated by Reference, refers to the following documents:

Items 10-17 are Risk Assessment reports/summaries for the incinerators. These reports will not be revised upon completion of future CPTs as discussed in Comment 5 above. MPM concurs that these reports should be retained for verification that no risk-based conditions are warranted, but requests clarification as to what aspects of the reports NYSDEC considers binding permit conditions. It is MPM's opinion that these reports are required to be maintained for informational purposes, but are not part of the Part 373 permit.

Items 18,19, 21, and 27 refer to outdated Trial Run test plans, QAPP plans, and reports from 2004-2008. These documents are irrelevant to the current incinerator operating and monitoring parameters which are now based on CPTs conducted in 2010/2011.

Items 22, 23, 28, 30, 31 include plans and test reports for the 2010/2011 CPTs. The results of these CPTs have been incorporated into the Title V Air Permit as required and should not be duplicated in this RCRA permit.

The Notification of Compliance Status (NOCS) listed in items 26 and 32 are strictly HWC-MACT compliance notifications required to be submitted to the Division of Air and have no place in a RCRA permit. In addition, the NOCS listed in item 26 is not the most recent for the Rotary Kiln Incinerator ("RKI"). NOCS are not required to be submitted to, or approved by, the Division of Environmental Remediation, therefore, this RCRA permit cannot require document revisions per footnote 1.

The SSMPs listed in items 24 and 29 and the CEMS and CMS plans in items 25 and 33 are HWC-MACT controlled documents and are administered through the Title V Air Permit and NYSDEC Division of Air. Review and approval of SSMPs, CEMS plans and CMS plans is managed through the Title V program.

Response: These documents have been removed from Schedule 1 of Module I except the most recent version of the risk assessments. DER retains its authority to require a revised risk assessment. Document 20 "Comprehensive Performance Test (CPT) Plan (August 2010)" has also been removed.

**Comment 6:** Schedule 1 of Module I, Documents Incorporated by Reference, should Document 39 remain incorporated by reference, clarification is needed to indicate whether the Supplemental Spill Reporting Requirements in Document 39 supersede other reporting requirements identified outside of the permit.

Response: These requirements supersede other reporting requirements, Document 39 should remain.

**Comment 7: a.** Schedule 1 of Module I, Condition C, Compliance Schedule, absent rescission of the Consent Decree, the following revisions to the Draft Permit are requested:

Item No. 2 Final Cover Program for Landfill 2 (pages S1-6 and S1-7): DELETE REQUIREMENT

Footnote 2 (pages S1-15 through 16): DELETE FOOTNOTE

**b.** Schedule 1 of Module I, Condition C, Compliance Schedule, the DEC has included, as Item No. 2 in its Compliance Schedule, a Final Cover Program for Landfill 2. Landfill 2 operation predated RCRA and MPM is currently bound to complete the remediation of Landfill 2 under the provisions of the Consent Decree. The Consent Decree (83- CV-77) is enforceable by its own terms and any remedial activities at Landfill 2 should not be incorporated into and thus enforceable under this Part 373 Permit. Only in the event that the NYSDEC rescinds the Consent Decree and ties the outstanding remedial action set forth therein into the Part 373 Permit should the inclusion of specific activities at Landfill 2 be subject to the provisions of the Permit.

**Response:** The requirements related to the final cover program for landfill 2 at this time are part of the limitation on financial assurance agreed to by the DEC in the amount of \$26,476,000 for corrective action, closure and post closure care costs. Maintaining this level of financial assurance is conditioned upon the Permittee's completion of the items included in C. Compliance Schedule and D. Schedule of Deliverables within the timeframes included therein unless an appropriate time extension is approved by the DEC.

**Comment 8:** Schedule 1 of Module I, Condition C, Compliance Schedule, The requirement to submit RCRA Subpart AA, BB and CC protocols has no regulatory basis. No such documents are required under the federal subparts or in NYCRR § 373-2.27, 2.28 and 2.29. First, Part 373-2.27 (Subpart AA) does not apply to the facility. Second, the requirements of Subpart BB (Part 373-2.28) RCRA LDAR are met through a monitoring and recordkeeping system that is managed through the Leak DAHS program. No additional "protocol" is warranted. In addition, the Subpart BB program is not new. It has been in existence for over 15 years and has previously been reviewed and audited by NYSDEC. A requirement to prepare a "Submit BB protocol" at this time provides added expense to the facility with no environmental or regulatory benefit. Finally, extensive compliance documentation for Part 373-2.29 (Subpart CC) has previously been submitted to the NYSDEC Department of Environmental Remediation in the (i) "Report for NYSDEC RCRA Subpart CC Protocol Information Request" submitted on April 1, 2014; (ii) "Response to June 5, 2014 Letter Concerning RCRA 'Subpart CC Protocol'" dated June 27, 2014; and (iii) "Response Letter to NYSDEC Information Request for Air Emission Requirements" submitted August 22, 2014. No additional "Subpart CC Protocol" will be prepared or submitted per this condition.

**Response:** The submittals referenced by MPM in this comment do not provide any of the protocols which MPM alleges they maintain as 'written plans' albeit electronically. This compliance item requires MPM to actually provide the protocols or basis for their inapplicability as discussed in this comment. No changes have been made.

**Comment 9:** Schedule 1 of Module I, Section D, Schedule of Deliverables Item No. 2 CSM (Page S1- 17): CHANGE Draft Deliverable Date to 360 Days and Final CSM Deliverable Date to 90 Days.

**Response:** DEC has made this change but added a requirement to provide quarterly progress reports, see footnote 3.

**Comment 10:** Schedule 1 of Module I, Section D, Schedule of Deliverables Item No. 3 RSO (Page S1- 17):

CHANGE Draft Deliverable Date to 270 Days and Final CSM Deliverable Date to 90 Days.

Response: DEC has made this change but added a requirement to provide quarterly progress reports, see footnote 3.

**Comment 11:** Condition D.6 of Schedule 1 of Module I - REQUIREMENT FOR ELECTRONIC ACCESS TO DATA-should be omitted from the permit.

Response: DEC has made the requested change.

**Comment 12:** With respect to the provision for Audit of Compliance Monitoring System, MPM requests the following revisions to the Permit: DELETE CONDITION D. 7 of Schedule 1 of Module I.

Response: DEC has made the requested change.

**Comment 13:** Schedule 1 of Module I, Condition E, omit the "incorporated by reference" language in E.1 and provide a narrowly defined work plan, providing MPM the opportunity to review and comment.

Response: The monitor language has been changed based on further discussions between DEC and MPM.

**Comment 14:** Schedule 1 of Module I, Condition E, omit E. 13. This requirement is incorrect because it incorrectly assumes that MPM provides office space for its monitor in a trailer. The monitor is provided with an office in a building. MPM's office space is kept clean and safe for all of its employees, as well as the monitor. To make water tightness, exterior lighting, heating, cooling and snow removal a condition of the Permit is excessive.

Response: DEC has clarified the language to reflect that MPM provides office space.

**Comment 15:** Schedule 1 of Module I, Condition E, Should the site monitor requirement be retained, an objective standard should be established to determine annually whether the monitor, should be retained at all, or on a reduced schedule. The factors should include the efficacy of the Permittee's Environmental Management System, adequacy of compliance measures and compliance history over the prior twelve months. The standard should also include a procedure for allowing the Permittee on an annual basis to seek to modification to the requirement for a site monitor.

Response: The DEC agrees that any re-evaluation of the cost of corrective action, closure and/or post closure care will not occur any sooner than three years after the issuance of this Permit and that such re-evaluation will include an evaluation of the continued need for an environmental monitor at the facility. The evaluation of the continued need for an environmental monitor may include other factors, notably compliance with this Permit. The special financial assurance condition has been modified after further discussions between DEC and MPM's legal staff.

**Comment 16:** Schedule 1 of Module I, Exhibit A, Supplement to Module I - General Provisions

The following Permit revisions are requested with respect to financial assurance in Exhibit A:

Exhibit A, Condition D (Page A-4. Paragraph 2):

Line 1-2 "...adjustment ...is warranted," INSERT "including notification by the Permittee that specific

remediation tasks have been accomplished and remedial objectives met, "  
Line 3 CHANGE "increase" to "increase or decrease"  
Line 4 CHANGE "increase" to "increase or decrease"

Response: The requested revisions have been made.

**Comment 17:** Schedule 1 of Module I, Exhibit G Section A. (closure/post closure) 3. (long term care) b. (calcs)

Line 2 (Page G-2) CHANGE "increase" to "increase or decrease"  
Line 2 (Page G-3) CHANGE "increase" to "increase or decrease"  
Line 3 (Page G-2) REPLACE "establish additional" to "adjust the amount of"  
Line 4 (Page G-2) CHANGE "increase" to "increase or decrease"

Response: Since additional financial assurance is only required when there is an increase, it is not necessary to revise paragraph b.

**Comment 18:** MODULE VII – INCINERATORS and Schedule 1 of Module I, Exhibit E, MPM raised concerns with the Inclusion of Duplicative Conditions Contradicts EPA Intent and Guidance, Duplication of Conditions and Inclusion of Less Stringent NYSDEC Permit Conditions, Creates Unnecessary Burden, NYSDEC Failure to Adopt USEPA's Regulatory Transition from RCRA to HWC-MACT Creates Unnecessary Duplication and the Need for Future Permit Modification, Trial Burns, Risk Burns or Risk Assessments, Operational Flexibility Limited by Two Different Sets of Operating Limits, Reporting Requirements and other concerns related to conflicting requirements of the RCRA and Title V programs.

RESPONSE: The DEC will regulate hazardous waste combustor(s) in accordance with the Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) found at 40 CFR Part 63 Subpart EEE and incorporated by reference into the state regulations in accordance with 6 NYCRR Part 200.10. Accordingly, DEC has removed Exhibit E of Schedule 1 from the draft permit and revised Module VII of the permit to include the applicable RCRA requirements only.

MPM DRAFT PART 373 PERMIT REFERENCE	PAGE	BASIS	MPMCOMMENT
MODULE 1: GENERAL CONDITIONS. D. PERMIT MODIFICATION AND PERMIT TRANSFER.	1-7	Regulatory Concern	Permit transfer regulatory requirements are very specific and should not be paraphrased here. The Permittee must process all changes in Facility ownership and/or operational control in accordance with the requirements of 6 NYCRR 373-1.7(a). Strike remainder of paragraph.

Response: The referenced paragraph requires the Permittee to meet the requirements of the cited regulation and provides a framework for the timely and efficient transfer of the permit. No changes have been made.

MODULE 1: GENERAL CONDITIONS. H. COMPLIANCE SCHEDULE.	1-9	Clarification	Please clarify requirements and consider building a flexible permit schedule.
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Response: Clarification of the requirements is provided in Schedule 1 of Module I. In many cases, compliance items allow for the submission of a request for additional time. The DEC will consider reasonable request for time extensions which provide flexibility. No changes have been made.

MODULE 1: GENERAL CONDITIONS. N. DATA AND DOCUMENT STANDARDS.	1-10	Administrative Flexibility	Data validation on all data is an administrative and financial burden. Strike out "The Permittee must have all closure, post- closure and corrective action data validated by a third party prior to submission to the Department."
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Response: Validation of data used in decision making (e.g., determining final limits of soil excavation) is both prudent and required in all DEC programs. Data validation ensures quality data and provides greater assurance related to final decision making. No changes have been made.

MODULE 1: GENERAL CONDITIONS. R. MISCELLANEOUS. 6.	1-15	Clarification	Please clarify the condition and provide the regulatory basis for this condition. MPM is concerned this may limit interactions between NYSDEC and MPM. Verbal and email exchanges are dynamic and the 30-day window may not be appropriate.
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Response: This condition is not intended to limit informal interaction between DEC and the Permittee. This condition ensures clarifications related to compliance are both timely and memorialized in writing. No changes have been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES.	SI-1	Clarification	Add Storage and Maintenance to activity type.
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Response: No changes have been made, since "managed" includes maintenance.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES: Unit Type: Transfer Areas (S99)	S1-1	Clarification	The transfer area units and quantity within the permit are inconsistent with the volume in the permit application. Revise the container information to be consistent with permit application.
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Response: The areas are consistent, but the areas are referenced by different names in the application. T61/62 listed in the application is the RKI transfer area. Note that B35 is a satellite accumulation area and is not listed in the permit as a transfer area. MPM should update its application accordingly.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES: Unit Type: Miscellaneous Units	S1-1	Operational Requirement	Miscellaneous units are used for on-site storage and maintenance in accordance with regulatory requirements.
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Response: The permit authorizes the Permittee to manage hazardous waste in the miscellaneous units, which includes storage and maintenance.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES: Unit Type: Tanks (S02)	S1-1	Clarification	The tank volume quantity in the permit is inconsistent with the volume in the permit application. Revise the container information to be consistent with the permit application.
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Response: DEC has placed a storage limit on tanks of 90% of the tank capacity or less to minimize overtopping. No changes have been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES: Unit Type: Incinerators (T03)	S1-1	Operational Requirement	A BTU/Hour limit on incinerator operation is an operational restriction and is not protective of human health and the environment. Quantity for Incinerators should be "Not Applicable."
SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: A. PERMITTED ACTIVITIES: Unit Type: Incinerators (T03)	S1-1	Clarification	The capacity limit for the incinerators is listed in terms of thermal throughput. The incinerators already include mass- based limits for feed rates.

Response: These items have been removed.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: C. COMPLIANCE SCHEDULE: Item No. 2. Final Cover Program for Landfill No. 2	S1-6	Operational Requirement	A five year inspection cycle was recommended by the testing company. A three year inspection cycle for destructive testing has the potential to shorten the effective life of the cover. Revise the inspection cycle referenced in the first bullet to "every five years thereafter."
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Response: No changes have been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: C. COMPLIANCE SCHEDULE: Item No. 2. Final Cover Program for Landfill No. 2	S1-6	Operational Requirement	The Engineering Design Report should only become necessary in the event that the tests of the existing cover show it fails to protect human health and the environment. Under the schedule it should state "Within one year of a test result that demonstrates the existing cover cannot be repaired and is at risk of failing to protect human health and the environment, MPM shall submit an Engineering Design Report to DEC."
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Response: One year is considered too long for prompt corrective action. No changes have been made.

<p>SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS:  C. COMPLIANCE SCHEDULE: Item No.  3. Secondary Containment Capacity - Loading/Unloading Areas</p>	<p>S1-7</p>	<p>Administrative Flexibility</p>	<p>Although Momentive will make this structural upgrade to our transfer stations, many of the transfer stations cannot be coated unless area operations are shut down. This type of work is typically scheduled for our annual plant shut down, during which major and multiple minor maintenance projects are undertaken. Due to resource limitations during plant shut downs, Momentive proposes the work be scheduled over the course of three annual shut downs. Suggested revision to under compliance date: Allow 90 days for the work plan and 3 years for implementation.</p>
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Response: No change has been made.

<p>SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS:  C. COMPLIANCE SCHEDULE: Item No.  4. Secondary Containment Capacity - Interconnected Tanks and Containment Areas</p>	<p>S1-8</p>	<p>Regulatory Concern</p>	<p>There is no known regulatory guidance that valves have to be automated to provide tank isolation. Manual valve operation is sufficient to functionally isolate the tanks. Suggest revision: Strike item No. 4a.</p>
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Response: DEC considers automation to provide tank isolation to be a best management practice. No change has been made.

<p>SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS:  C. COMPLIANCE SCHEDULE: Item No.  4. Secondary Containment Capacity - Interconnected Tanks and Containment Areas</p>	<p>S1-8</p>	<p>Regulatory Concern</p>	<p>Momentive completed a robust review of chemical handling and shared containment areas in response to the NYSDEC's technical comments on our original permit submission. As a result of this review, which included all hazardous materials managed at the plant, including hazardous waste, Momentive provided a detailed description of what controls are in place of potentially incompatible materials in interconnected containment areas in Section IV-8.1 of Momentive's RCRA permit application. A work plan, engineering report, and tank/containment modifications would constitute repeating these efforts by a third party, at a high cost for a limited benefit. Furthermore, the results of this work would not be expected to change how we manage hazardous materials at our Plant. Suggest revision: Strike item No. 4b.</p>
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Response: DEC envisions changes that will alter how waste is managed at the plant in order to meet the intent of this condition. Tanks 28A&B have the potential for incompatible wastes to commingle. No change has been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: C. COMPLIANCE SCHEDULE: Item No. 6. Tanks 539 A & B Fire Protection Plans	S1-9	Operational Requirement	Momentive engaged a Fire Protection Project Engineer to assess insulation requirements dictated by NFPA and State Building and Fire Codes. The Engineer reported there is no requirement for insulation on liquid storage tanks and advised MPM to evaluate the adequacy of venting equipment on the tanks. It was determined the venting equipment is adequate for fire protection. Therefore, a Work Plan, Draft Engineering Report, Final Engineering Report, and Fire Protection improvements are not necessary to document the adequacy of a fire protection plan for tanks 539 A & B. Strike item No. 6.
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Response: MPM provided the fire protection project engineer's report and a NY P.E. certification. This item has been removed from the compliance schedule.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: COMPLIANCE SCHEDULE: Item No. 8. Underground piping inspection	S1-12	Clarification	DEC provides no guidance on the standards for procedures. MPM requests DEC to provide procedural guidance and allow adequate time for Momentive to prepare a proposal and to implement such procedures.
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Response: This condition requires MPM to develop procedures which should be in accordance with industry standards. MPM has performed underground piping inspections in the past on their leachate line which could be used as a guide. No changes have been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: COMPLIANCE SCHEDULE: Item No. 9. Underground piping inspection	S1-12	Regulatory Concern	Protocols are not required by the regulation. Remove Item No. 9 from the table in Condition C.
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Response: This compliance item requires MPM to provide the protocols. No changes have been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: COMPLIANCE SCHEDULE: Item No. 10. Building 78 Transfer Station-Upgrade of Secondary Containment.	S1-14	Operational Requirement	Revise compliance date from 90 days to "Within one year of NYSDEC approval of Final Engineering Report."
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Response: No change has been made.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: C. COMPLIANCE SCHEDULE: Item No.11. Site Institutional Controls, Footnote 3	S1-16	Clarification	MPM suggests revision to resolve consistency with regulatory requirements. Strike blanket language regarding requirement to conduct an evaluation of the vapor intrusion potential.
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Response: This is a standard provision of an Institutional Control related to the protection of human health and has not been removed.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: D. SCHEDULE OF DELIVERABLES: Item No. 8.	S1-19	Operational Requirement	Propose extending deadline for evaluation and proposal for 3 years and 6 months to complete the work following DEC's approval of proposal.
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Response: DEC has revised the deadlines but has added a requirement to submit quarterly progress reports.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: D. SCHEDULE OF DELIVERABLES: Footnotes	S1-20	Regulatory Concern	Momentive has all the documents required by regulation available for review. These documents provide comprehensive site-wide documentation regarding the environmental status of the site. This footnote demonstrates there is no regulatory requirement associated with items 2, 4, and 5. MPM requests DEC to honor MPM's position regarding the NYSDEC's permit requirements for a web based electronic management database, RSO, and waste code audit. If there is a regulatory requirement, please cite it here.
SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS:  D. SCHEDULE OF DELIVERABLES: Footnote 2. Development of a "Web-Based" Electronic Waste Management Database	S1-21	Operational Requirement; Clarification	Suggested revision to resolve inconsistency with regulatory requirements: WAP data is currently managed separately within an excel spreadsheet. Per current negotiations between MPM and NYSDEC, MPM will update default values annually. These calculations are supported by the current WAP management system. There is no known regulatory basis for this requirement and developing a new database system presents a significant burden to MPM. The current control system for the incinerators incorporates many of the features described herein and a requirement is already stated in section C to provide remote monitoring of the system. Default values are currently programmed directly into the control system. Having an additional web based link into a control system provides a potentially dangerous "back door" into the control system and would reduce the effectiveness of current security measures that prevent non-authorized personnel from changing the controls of on-site processes. MPM requests a discussion which results in a functionally equivalent proposal that avoids some of these serious concerns. Please Strike this requirement.

Response: DEC notes that the use of "web-based" is confusing and has been removed. There is no intention that this system be accessed via the web.

SCHEDULE 1 of MODULE I: FACILITY-SPECIFIC CONDITIONS: F. ROUTINE REPORTING AND COMPLIANCE ACTIVITIES. 16. CALIBRATION ERROR TEST REPORT.	S1-27	Regulatory Concern	There is no regulatory requirement to submit these reports to DEC and currently these tests are not followed up by a report. It is an administrative burden to require submission of the reports within 5 days of testing.
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Response: This has been removed as well as other reports associated with the incinerators.

EXHIBIT A: SUPPLEMENT TO MODULE I - GENERAL PROVISIONS: A. GENERAL CONDITIONS, 1.	A-1	Operational Requirement	We have an onsite brigade that handles these inspections. This condition requires that MPM make arrangements for semi-annual inspections. MPM has no jurisdiction over local fire companies. It is recommended this condition be rephrased so it is not a permit violation should the local fire department decline.
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Response: The language for this condition has been revised to require that MPM make “reasonable attempts” in organizing appropriate training for, and semi-annual inspections of the Facility by, local fire companies and other departments.

EXHIBIT A: SUPPLEMENT TO MODULE I - GENERAL PROVISIONS: A. GENERAL CONDITIONS, 3.	A-1	Clarification	This requirement is boundary-less and without distinct guidelines. It is unclear as to whether DEC may require MPM to confirm past historical operating practices and/or releases (i.e. burden of proof). Additionally, this requirement questions the value of the closure plan criteria.
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Response: These conditions do not impose requirements on MPM for confirmation of past historic operating practices and/or releases. These conditions exist in order to ensure the effectiveness of decontamination verification at the time of partial closure of a unit or closure of the Facility. In the event any more restrictive changes are deemed necessary at the time of closure, a permit modification will first be required. As the two conditions are directly related, they are being combined into one Condition 3.

EXHIBIT A: SUPPLEMENT TO MODULE I - GENERAL PROVISIONS: A. GENERAL CONDITIONS: 4.	A-2	Regulatory Concern	373-1.6 (C)(4) requires that incorporations must be in effect prior to final issuance of the permit. Also incorporations must include citation to the applicable regulation or requirement.
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Response: The cited requirement requires all permit conditions to be incorporated expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be provided. No changes have been made.

EXHIBIT A: SUPPLEMENT TO MODULE I - GENERAL PROVISIONS: A. GENERAL CONDITIONS: 4.	A-2	Administrative Flexibility	Additionally, if reported to DEC Monitor, it would then classify the release as reportable to DEC and require notification to the Town of Waterford.
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Response: Informal notification of spills below reportable thresholds can and should be made to the environmental monitor so that the environmental monitor is aware of the situation. No changes have been made.

EXHIBIT A: SUPPLEMENT TO MODULE I - GENERAL PROVISIONS: A. GENERAL CONDITIONS: 4.	A-2	Regulatory Concern	Suggested revision to resolve inconsistency with regulatory requirements. Strike the paragraph and use the following language from the regulation: "The Regulatory framework presented in 6 NYCRR 621.13 allows for the permit to be modified, suspended, or revoked when: materially false or inaccurate statements in the permit application or supporting papers; failure by the Permittee to comply with any terms or conditions of the permit; exceeding the scope of the project as described in the permit application; newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit; noncompliance with previously issued permit conditions, orders of the commissioner, or any provisions of the Environmental Conservation Law or regulations of the department related to the permitted activity."
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Response: DEC has received comments from other applicants on the previous condition A.3 which is directly related to A.4. Regarding Section A.3, other applicants suggested “removing this from the Permit as the Permittee is required to perform closure in accordance with the approved Closure Plan. If the Department deems additional sampling and analysis or more restrictive and/or additional criteria are necessary at the time of unit/facility closure, the Department must invoke its authority to modify this Permit.”

DEC notes that these provisions (A.3 and A.4) were there to allow flexibility in implementing a closure plan (regarding # of samples and sample locations). DEC points out that A.4 sets forth the Department’s authority to modify the Permit if it deems more restrictive requirements are necessary at the time of closure. For clarity, DEC has combined conditions A.3 and A.4, making them A.3 (a) and (b), but no changes to the language were made.

EXHIBIT C: SUPPLEMENT TO MODULE III -USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES, 1.	C-1	Operational Requirement	Storage restriction for RKI Feed Pad does not allow for storage of wastes to be disposed/reclaimed. Additionally, both DSS areas are restricted to wastes listed in Table C-1 on page C-2. This will pose logistical challenges for managing waste streams not identified on the list. This may also impact hazardous liquid inventories on 90-day pads due to inability to move materials to permitted DSS.
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Response: DEC believes the storage restriction limits the wastes to those listed in the table, except for wastes to be disposed or reclaimed off-site which can be stored on the Drum Storage Structure.

If MPM wants to add a waste type to Table C-1 in the future, MPM will need to submit a permit modification request. This will allow DEC to evaluate new waste types and determine if there are any concerns, including incompatibility with other waste types stored at this location.

Regarding the 90-day comment, MPM is limited to 8,800 gallons of liquid hazardous waste stored at these areas unless secondary containment is provided. MPM has the option to ship hazardous waste liquids directly from the 90-day areas instead of storing them at the drum storage structure.

No changes have been made.

<p>EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES, 1: Table C-1 - Waste Streams Authorized at the Drum Storage Structure (DSS) and RKI Feed Pad (RKI)</p>	<p>C-2</p>	<p>Clarification</p>	<p>This line implies it is not permitted to handle non-hazardous waste on the RKI drum pad. This would prohibit the combustion of non-hazardous waste drums, including paper, etc. What is the specific regulatory reason or requirement that prevents MPM from handling non-hazardous materials on the RKI drum pad?</p>
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Response: The Table has been modified to allow this. The Non Hazardous Waste/Raw Materials has been separated into two separate rows. Non hazardous waste is approved for storage on the RKI feed pad. To limit this waste to only that which will be incinerated, the requirement “Only drums containing waste streams approved for incineration in the RKI incineration unit may be sampled at the RKI Feed Pad” has been changed to “Only drums containing waste streams approved for incineration in the RKI incineration unit may be stored or sampled at the RKI Feed Pad”.

<p>EXHIBIT C: SUPPLEMENT TO MODULE III -USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES 1. Table C-1 ·Waste Streams Authorized at the Drum Storage Structure (DSS) and RKI Feed Pad (RKI): Caustic Liquids - High pH</p>	<p>C-2</p>	<p>Clarification</p>	<p>Momentive's RCRA permit application identifies waste codes for caustic liquid high pH that are different in the permit. Revise caustic liquid high pH from D001, D002 to "D002" only.</p>
<p>EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES 1. Table C-1 ·Waste Streams Authorized at the Drum Storage Structure (DSS) and RKI Feed Pad (RKI): Non-Polar Solvents (NPS)</p>	<p>C-2</p>	<p>Clarification</p>	<p>Momentive's RCRA permit application identifies waste codes for NPS that are different in the permit. Revise NPS from "D001, D009, D011, F003, F005" to "D001, D009, D039, F003, F005"</p>
<p>EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES 1. Table C-1 - Waste Streams Authorized at the Drum Storage Structure (DSS) and RKI Feed Pad (RKI): Silicone Solids</p>	<p>C-2</p>	<p>Clarification</p>	<p>Momentive's RCRA permit application identifies waste codes for silicone solids that are different in the permit. Revise Silicone Solids from "D001, D002, D003, D018, D021, F002, F003, F005, F039" to "D001, D003, D018, F002, F003, F005, F039"</p>

Response: The requested revisions have been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES 2. Authorized Transfer Areas	C-3	Operational Requirement	Allow all hazardous waste drums that may be stored on the one year pad to be stored on at the RKI feed pad.
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Response: DEC considers limiting waste at the RKI Feed Pad to waste streams approved for incineration to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES, 2. Authorized Transfer Areas	C-3	Operational Requirement	Strike the columns "Largest Container Permitted in TA".  Replace "Maximum Quantity of hazardous waste and/or containers allowed in TA" with "Maximum Storage Volume for hazardous waste containers."
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Response: The table lists the transfer stations and authorized waste type(s) and container size(s). The maximum storage volumes were reviewed to ensure there is adequate secondary containment. If MPM wants to modify the containers in the future, then MPM will need to submit a permit modification request. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES, 2. Authorized Transfer Areas, Footnote 1	C-4	Regulatory Concern	Product containers are not regulated under the RCRA permit. Suggested revision to resolve inconsistency with regulatory requirements: strike footnote 1.
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Response: DEC considers these conditions to be relevant and appropriate since these product containers are placed within secondary containment and may have incompatibility with the hazardous waste stored there. No changes have been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES 3. Authorized Containers Subject to 373-2.29 Level 2 Controls or complying with 373-2.29(j)(10), Permitted Containers.	C-4	Regulatory Concern	There is no regulatory basis for regulating individual containers (e.g. tank wagons) used on-site. Doing so limits Momentive's operational flexibility to modify its fleet to meet its business needs. Furthermore, the vacuum trailers are not owned by Momentive. Suggested revision to resolve inconsistency with regulatory requirements: strike "Permitted Containers" column from the permit.
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Response: DEC considers these conditions to be relevant and appropriate since the tank wagons are used to handle hazardous waste on-site. No changes have been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: A. AUTHORIZED STORAGE AREAS, WASTE TYPES AND STORAGE VOLUMES: 3. Authorized Containers Subject to 373-2.29 Level 2 Controls or complying with 373-2.290)(10), Permitted Containers, Footnote 1	C-5	Regulatory Concern	There is no regulatory basis for limiting how much a container may be filled. Suggested revision to resolve inconsistency with regulatory requirements: strike footnote 1.
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Response: DEC considers this requirement to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: B. SPECIAL CONDITIONS FOR CONTAINERS (GENERAL), 3.a.	C-6	Regulatory Concern	There is no RCRA requirement to maintain concrete sealants in container storage areas. Sometimes sealants are used in lieu of re-pouring a concrete slab. In the event a concrete slab is re-poured, would it then have to be resealed when the objective is to provide an impervious surface in accordance with Momentive's best management practices? Suggested revision to resolve inconsistency with regulatory requirements and to provide operational flexibility: strike B.3.a
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Response: DEC considers sealing concrete to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: B. SPECIAL CONDITIONS FOR CONTAINERS (GENERAL), 4.	C-6	Regulatory Concern	There is no RCRA requirement defining where waste containers may be opened. Suggested revision to resolve inconsistency with regulator; requirements and to provide operational flexibility: strike B.4
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Response: DEC considers opening containers within secondary containment to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: B. SPECIAL CONDITIONS FOR CONTAINERS (GENERAL), 6.	C-6	Regulatory Concern	USDOT packaging specifications not required if container is not in commerce.
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Response: DEC considers storing materials in accordance with USDOT packaging specifications to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 1.b.	C-7	Operational Requirement	If a container is <90 days of age, operational flexibility would allow the drum to be returned to the 90-day area.
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Response: DEC considers limiting the movement of waste to and from the drum storage structure to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 2.b.	C-7	Operational Requirement	If a container is <90 days of age, operational flexibility would allow the drum to be returned to the 90-day area.
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Response: DEC considers limiting the movement of waste to and from the RKI Feed Pad to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 2.c.	C-7	Clarification	Why must the containers must be opened and visually inspected to verify the amount of material in the drum and its visible physical characteristics?
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Response: DEC considers these visual checks prior to actual incineration to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 2.h.	C-7	Clarification	This condition does not specify allowable areas for which sampling may occur for other waste streams. This conflicts with the restriction on page C1 which places restrictions on RKI Feed Pad storage.
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Response: The conditions do not necessarily conflict but 2.h supplements the restrictions on page C-1. DEC considers limiting waste at the RKI Feed Pad to waste streams approved for incineration to be a best management practice. Waste streams which are not approved for incineration should be sampled elsewhere. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 2.h.	C-7	Operational Requirement	Sampling is performed on the RKI Feed Pad as there are the appropriate grounding stations and ample work space, if needed.
EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 2.h.	C-7	Operating Requirement	Drums may need to be sampled to confirm waste characteristics at the RKI Feed Pad. Suggested revision to improve operational flexibility: strike C.2.h.

Response: DEC considers limiting waste at the RKI Feed Pad to waste streams approved for incineration to be a best management practice. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 3.a-iii.	C-7,8	Clarification	In regard to container Level 2 requirements and utilizing Method 27 for vapor tightness, why is method 21 not acceptable?
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Response: The principle of Method 27 is pressure and vacuum are applied alternately to the compartments of a container and the change in pressure or vacuum is recorded after a specified period of time (i.e., pressure vacuum test). Method 21 is not equivalent. No change has been made.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 4.	C-8	Clarification	Table 3 may need a footnote referencing C.4 because it is unclear as to whether temporary placement of containment is a violation of the permit.
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Response: Temporary placement of appropriate containment is not a violation of the permit as long as the requirements of C.4 are met. DEC notes that temporary containment used in the past (e.g., kiddie pool) is not an acceptable or appropriate solution.

EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 4.	C-8	Regulatory Concern	The RCRA regulations do not require management of individual containers that may be stored in specific storage areas. Suggested revision to resolve inconsistency with regulatory requirements: strike C.4
EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 4.a.	C-8	Regulatory Concern	The RCRA regulations do not require the NYSDEC to be notified of the movement and storage of specific hazardous waste containers. Suggested revision to resolve inconsistency with regulatory requirements: strike C.4.a
EXHIBIT C: SUPPLEMENT TO MODULE III - USE AND MANAGEMENT OF CONTAINERS: C. SPECIAL CONDITIONS FOR CONTAINERS (SPECIFIC), 4.e.	C-9	Regulatory Concern	Hazardous waste transfer areas are permitted for 90 day storage. Furthermore, the container may be brought to our waste treatment plant to dispose of its contents. Suggested revision to resolve inconsistency with regulatory requirements: strike C.4.e

Response: DEC considers these special conditions for containers to be a best management practices. No change has been made.

EXHIBIT D: SUPPLEMENT TO MODULE IV -TANK SYSTEMS: A AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 15	D-1	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.
EXHIBIT D: SUPPLEMENT TO MODULE IV - TANK SYSTEMS: A AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 250	D-2	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.
EXHIBIT D: SUPPLEMENT TO MODULE IV -TANK SYSTEMS: A AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 251	D-2	Clarification	Suggested revision to resolve inconsistency with RCRA Permit Application. The Waste Codes listed for NPS and APS do not match the RCRA permit application: add D039 to the EPA Hazardous Waste Code.

EXHIBIT D: SUPPLEMENT TO MODULE IV -TANK SYSTEMS: A AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 252	D-2	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.
EXHIBIT D: SUPPLEMENT TO MODULE IV -TANK SYSTEMS: A AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 539A	D-2	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.
EXHIBIT D: SUPPLEMENT TO MODULE IV - TANK SYSTEMS: A. AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 539B	D-3	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.
EXHIBIT D: SUPPLEMENT TO MODULE IV - TANK SYSTEMS: A. AUTHORIZED STORAGE TANK, WASTE TYPES AND STORAGE VOLUME, 1: Tank System I.D. 538	D-3	Clarification	The Waste Codes listed for NPS and APS do not match the RCRA permit application. Suggested revision to resolve inconsistency with RCRA Permit Application: add D039 to the EPA Hazardous Waste Code.

Response: The application does not include D039 for APS, but it does for NPS. D039 has been added for NPS to Exhibit D.

EXHIBIT E: SUPPLEMENT TO MODULE VII - INCINERATORS: A: AUTHORIZED INCINERATION UNITS, 1: TableA-1: Permitted Incineration Units	E-1	Clarification	The waste sources identified in Table D-1 and E-1 of this permit only allow for incineration of hazardous waste and we request adding non-hazardous waste.
EXHIBIT E: SUPPLEMENT TO MODULE VII - INCINERATORS: A: AUTHORIZED INCINERATION UNITS, 1: TableA-1: Permitted Incineration Units	E-1	Regulatory Concern	There is no provision under Section 373 for limitation of the thermal input to an incinerator nor is it an appropriate limitation for control of emissions from such units. Mass throughput limitations are more appropriate and are already included in this permit. Remove thermal limitations from this table and replace with mass-based limitations contained later in this Exhibit.
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C.GENERAL CONDITIONS, 1.b.	E-2	Regulatory Concern	The RKI monitors for CO concentration in the emissions. There is no "PIC" CEMS unit currently installed. What is the regulatory basis for requirement of a thermal limit? Use of CO monitoring for determining Destruction Removal Efficiency is common and well documented in both NYCRR and Federal MACT standards. This would be the first time MPM would be made aware of PIC monitoring requirements. This item should be re-worded to only include a requirement for CO monitoring and data recording.

EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C. GENERAL CONDITIONS, 1.c.	E-2	Regulatory Concern	There are no regulations under Part 373-2.15 that limit thermal capacities. There is no need or requirement to include these limits and there are no associated monitoring requirements thermal capacity. This paragraph overreaches the Part 373-2.15 regulation. Remove paragraph C.1.c in its entirety as it not required by Part 373-2.15.
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C. GENERAL CONDITIONS, 1.h.ii.	E-4	Regulatory Concern	The requirement as written is too broad and leads to easy misinterpretation of when it is applicable. Revise regulatory language to reference applicable requirement in 6 NYCRR 373-1.7.
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C. GENERAL CONDITIONS, 2.b.	E-4	Clarification	Permit clarification required in Exhibit C because non- hazardous waste streams are not listed as an allowed waste <b>stream for incineration</b> .
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C. GENERAL CONDITIONS, 3.b.iii	E-8	Regulatory Concern	Requires MPM to report instances where CO monitor exceeds acceptable daily drift of less than 3% of span value. This <b>differs from current guidance</b> . A <b>scenario explains this easiest</b> : If CO monitor low range span is 200ppm, and then 3% is 6ppm. If CO cal gas is 150ppm on day 1, instrument reads 146ppm then there is a 2.0ppm drift. On Day 2 if the instrument reads 153ppm, there is a total drift of 7ppm which would require reporting. Current requirements allow for +/- 3% drift from the cal gas concentration. By operation in this fashion, Day 2 would only show a +3.0 ppm drift and would not be reportable.
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:C. GENERAL CONDITIONS, 4.c.	E-9, E-10	Operational Requirement	Emergency stack openings absent a waste feed are irrelevant towards compliance with this permit. Modify language to indicate that the required notifications are only applicable to openings that occur when waste feed is in the system.
EXHIBIT E: SUPPLEMENT TO MODULE VII-INCINERATORS:D. ROTARY KILN INCINERATOR (RKI) CONDITIONS, 1.c.iv.	E-12	Clarification	The use of the term "energetic materials" absent a clear definition may be too broadly interpreted. Please provide a regulatory definition for energetic materials
EXHIBIT E: SUPPLEMENT TO MODULE VII - INCINERATORS: D. ROTARY KILN INCINERATOR (RKI) CONDITIONS, 1.d.	E-12	Regulatory Concern	There is no provision under Section 373 for limitation of the thermal input to an incinerator nor is it an appropriate limitation for control of emissions from such units. Mass throughput limitations are more appropriate and are already included in this permit. Remove paragraph D.1.d.
EXHIBIT E: SUPPLEMENT TO MODULE VII - INCINERATORS: D. ROTARY KILN INCINERATOR (RKI) CONDITIONS, 2.c.i.	E-18	Clarification	The values at which each parameter causes the ESV to open need to be updated.

<p>EXHIBIT E: SUPPLEMENT TO MODULE VII - INCINERATORS: D. ROTARY KILN INCINERATOR (RKI) CONDITIONS, 3.a. Table D-6 - Monitoring Systems: Locations and Calibrations</p>	<p>E-19</p>	<p>Regulatory Concern</p>	<p>Instrument tag numbers and equipment tag numbers are used for internal recordkeeping purposes only and their inclusion in this table creates an arbitrary reference that has no regulatory significance. Furthermore, "routine" and "Comprehensive" are used without any clarification as to their definition.</p> <p>Additionally, there are items included in this table that are not monitored for regulatory compliance and are also not required to calculate a regulated parameter. Monitoring of parameters including, but not limited to, parameters such as instrument air header pressure and fuel oil flow rates, etc. provides no documented protection of human health or the environment</p> <p>Suggested Revisions: Remove columns entitled "Equipment" and "Tech Identification No." Provide regulatory definitions for "routine" and "comprehensive" as well as basis for their inclusion. Remove parameters which do not provide for protection of human health and the environment.</p>
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Response: DEC has removed Exhibit E of Schedule 1 from the draft permit.

<p>EXHIBIT F: SUPPLEMENT TO MODULE X - HAZARDOUS WASTE MISCELLANEOUS UNITS: B. SPECIAL CONDITIONS FOR MISCELLANEOUS UNITS (GENERAL), 1.</p>	<p>F-1</p>	<p>Operational Requirement</p>	<p>Containment or protective barrier to prevent damage of the coating during water blasting activities. Formal inspection required within 24 hours of using a bucket loader/heavy equipment. If damage is noted then repair must be made within 30 days and noted in the inspection log.</p>
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Response: DEC considers the protective barrier to prevent damage of the coating during water blasting activities to be a best management practice. No change has been made.

<p>MODULE II: CORRECTIVE ACTION REQUIREMENTS: B. STANDARD CONDITIONS FOR CORRECTIVE ACTION, 5.e.</p>	<p>II-3</p>	<p>Clarification</p>	<p>Request revision to resolve consistency with the existing consent order. As this is currently written, these provisions conflict with existing requirements. Suggested revision: strike B.5.e</p>
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Response: DEC disagrees with this comment. This is a notification requirement for newly discovered releases. If MPM believes there is a conflict, providing the more stringent notification with respect to timing will resolve any issue. As discussed elsewhere, MPM has stated its intention is to pursue a permit modification in conjunction with addressing the on-going requirements pursuant to the existing consent decree. Therefore, DEC will keep the condition as written to standardize the reporting requirement across all facilities.

MODULE II: CORRECTIVE ACTION REQUIREMENTS: C. SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED SWMUs AND AOCs, 5.	II-5	Clarification	As this is currently written, these provisions conflict with existing requirements and consent order. Suggested edits include describing current reporting requirements and replacing 5 with "5. SWMU/AOC Sampling and Analysis Report: The Permittee must follow reporting requirements in any approved Plan. The Permittee must provide analytical data generated during the SWMU investigation with the quarterly SWMU report."
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Response: DEC disagrees with the proposed change. The Permittee can continue to submit the data in the quarterly SWMU report in addition to meeting the requirements of this condition. No change has been made.

MODULE II: CORRECTIVE ACTION REQUIREMENTS: E. OTHER REQUIREMENTS, Item No. 4-DISPUTE RESOLUTION	II-11	Clarification	These regulations should not be paraphrased in the permit due to potential conflicts in word changes and potential regulatory modifications. Suggested revision: Strike section and replace with "Disputes related to Department decisions shall be administered in accordance with 6 NYCRR 621."
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Response: DEC disagrees with these proposed changes and, therefore, no changes have been made.

MODULE III - USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS: E. INSPECTIONS [6 NYCRR 373-2.9(e)] AND REPAIR/REMEDIAL ACTION [6 NYCRR 373-2.2(g)(3)]. 6.	III-2	Operational Requirement	Suggest revising the first sentence to read: "The Permittee must repair all identified defects and deficiencies of the secondary containment system for containers in accordance with 6 NYCRR 373-2.2(g)(3) and Conditions E.8 of this Module."
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Response: DEC disagrees with these proposed changes and, therefore, no changes have been made.

MODULE III-USE AND MANAGEMENT OF CONTAINERS: D. MANAGEMENT OF CONTAINERS	III-2	Regulatory Concern	Suggest revising to strike "All container storage areas must comply with the applicable sections of the New York State Fire Code and the National Fire Protection Association (NFPA) 30 - 'Flammable and Combustible Liquids Code.' The Permittee must demonstrate compliance with the applicable portions of the New York State Fire Code and the NFPA 30 to the satisfaction of the Department." and replace with "Container storage areas must be maintained in accordance with building codes at the time of construction."
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Response: DEC disagrees and has adopted this condition as the minimum requirement for container storage areas to help ensure safe storage protective of human health and the environment. No change has been made.

MODULE III-USE AND MANAGEMENT OF CONTAINERS: E. INSPECTIONS AND REPAIR/REMEDIAL ACTION	III-2	Regulatory Concern	Containers in a satellite accumulation area do not have written inspection logs. Suggest revising to strike E.3 and replace with "Records and results of inspections will be maintained as required by 6 NYCRR 373-2.2(g)(4)."
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Response: DEC requires leaks or defects in secondary containment to be recorded in the operating record so the information will be available at the time of closure, to guide closure activities. No change has been made.

MODULE III – USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS: E. INSPECTIONS [6 NYCRR 373-2.9(e)] AND REPAIR/REMEDIAL ACTION [6 NYCRR 373-2.2(g)(3)]. 8.	III-3	Clarification	Please revise to clarify the written requirement.
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Response: No clarification is needed. Permittee is required to schedule and complete needed repairs within 30 days, or if it is anticipated to take longer than 30 days submit a schedule and complete repairs within six months.

MODULE III – USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS: E. INSPECTIONS [6 NYCRR 373-2.9(e)] AND REPAIR/REMEDIAL ACTION [6 NYCRR 373-2.2(g)(3)]. 8.b.	III-3	Operational Requirement	Suggested revision: If repairs take longer than 30 days to complete, the Permittee must submit a proposed schedule for Department approval. The proposed schedule must include the date for completing the repairs which must be within six (6) months from the date when the defect was identified.
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Response: DEC prefers to know within 7 days if repairs are anticipated to take longer than 30 days and to get a proposed schedule within that timeframe. No change has been made.

MODULE III – USE AND MANAGEMENT OF CONTAINERS: J. AIR EMISSION STANDARDS [6 NYCRR 373-2.9(j)]. 1.	III-4	Operational Requirement	Suggested revision: strike J.1. and replace with "1. The Permittee must manage all hazardous wastes in containers authorized by this Permit in accordance with 6 NYCRR 373.29(g) and Schedule 1 of Module I of this Permit with respect to process vents and equipment leaks."
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Response: No change has been made since the condition already states “as applicable.”

<p>MODULE III - USE AND MANAGEMENT OF CONTAINERS: J. AIR EMISSION STANDARDS [6 NYCRR 373-2.9(j)].1.</p>	<p>III-4</p>	<p>Operational Requirement</p>	<p>Suggested revision: strike K.1 and replace with "1. Independent Secondary Containment Assessment of Container Storage Areas: For container storage areas that require secondary containment pursuant to this Permit, the Permittee must conduct an annual assessment of each <b>secondary containment area, unless otherwise specified</b> in Schedule 1 of Module 1. The assessment must identify any deficiencies in each containment area including, but not limited to, cracks, gaps, sealant/coating defects or other defects that would inhibit the ability of the containment system to contain leaks or spills of containerized liquids, in accordance with the requirements of 6 NYCRR 373 2.9 (f)(1). The assessment must be performed by a qualified professional. All surfaces of the containment system must be completely exposed for inspection, unless otherwise specified in Schedule 1 of Module Any defects identified must be documented. Once any defects have been repaired, the secondary containment area(s) must be re-inspected by the inspector to evaluate the adequacy of the repairs and to confirm the secondary containment area(s) meets the requirements of 6 NYCRR 373 2.9(f)(1)(i) and Condition F of this Module. The results of such re-inspections must be documented in accordance with 6 NYCRR 3731.6(a)(10) and must be available for review upon Department request."</p>
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Response: DEC does not agree with the comment, the language is similar to other recently issued DEC RCRA permits with outdoor container storage areas and has not been changed.

<p>MODULE III – USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS. 1.</p>	<p>III-4,5</p>	<p>Regulatory Concern</p>	<p>There is no regulatory requirement for a PE to conduct Independent assessments requiring the use of a PE to perform inspections already completed by a NACE certified operator seems burdensome and unwarranted.</p>
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Response: DEC does not agree with the comment, language is similar to other recently issued DEC RCRA permits with outdoor container storage areas and has not been changed.

<p>MODULE III – USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS. 3.</p>	<p>III-5</p>	<p>Clarification</p>	<p>Suggested revision: the Permittee must remove precipitation from hazardous waste secondary containment structures within 24 hours in accordance with the Permittee's Integrated Contingency Plan.</p>
<p>MODULE III - USE AND MANAGEMENT OF CONTAINERS: K. OTHER REQUIREMENTS</p>	<p>III-5</p>	<p>Operational Requirement</p>	<p>The ICP has provisions for removing precipitation and managing snow in containment areas. The following suggested revision adds the ICP provision "3. The Permittee must remove precipitation from hazardous waste secondary containment structures within 24 hours in accordance with the Permittee's Integrated Contingency Plan."</p>

Response: The provisions of the ICP appear to meet the requirements of this condition, so no change is necessary.

<p>MODULE IV-TANK SYSTEMS: B. DESIGN AND INSTALLATION OF NEW TANK SYSTEMS OR COMPONENTS [6 NYCRR373-2.10(c)], 1.</p>	<p>IV-1</p>	<p>Clarification</p>	<p>As written, the text deviates from the regulatory requirement. The suggested revision to resolve inconsistency with regulatory requirements: strike the paragraph and replace with "1. For a new hazardous waste tank system or component, the Permittee must obtain a permit modification. The permit modification will be based upon a written assessment, reviewed and certified by an independent, qualified, professional engineer registered in New York attesting that the tank system has sufficient structural integrity and is acceptable for storing and treating of hazardous waste. The certification must be consistent with the applicable provisions of subparagraph 373-1.4(a)(5)(iv). The Assessment must report the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility for the wastes to be stored or treated, and that the tank system has adequate corrosion protection to ensure that it will not collapse, rupture or fail. This assessment, which will be used by the commissioner to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the information required in 6 NYCRR 373-2.10 (c)."</p>
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Response: The specific regulatory citation has already been incorporated into this condition. No changes have been made.

<p>MODULE IV - TANK SYSTEMS: B. DESIGN AND INSTALLATION OF NEW TANK SYSTEMS OR COMPONENTS [6 NYCRR 373-2.10(c)], 2</p>	<p>IV-1</p>	<p>Regulatory Concern</p>	<p>Suggested revision to resolve inconsistency with regulatory requirements and for operational flexibility: strike 'modified tank systems' because this reference could include changing a gauge or performing maintenance activities on an existing permitted tank.</p>
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Response: DEC agrees that changing out a gauge (replacement in kind) or maintenance is not modifying a tank system. No changes have been made.

<p>MODULE IV-TANK SYSTEMS: B. DESIGN AND INSTALLATION OF NEW TANK SYSTEMS OR COMPONENTS [6 NYCRR 373-2.10(c)], 4.b.</p>	<p>IV-2</p>	<p>Regulatory Concern</p>	<p>There is no regulatory requirement for the Department to inspect a hazardous waste tank as part of its installation. Suggested revision to resolve inconsistency with regulatory requirements (6NYCRR373-2.10C.) and to improve operational flexibility: strike existing language and replace with "b. The Permittee of a new hazardous waste tank system must ensure that proper handling procedures are followed to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, the tank system must be inspected by an independent, qualified, installation inspector or an independent, qualified, professional engineer registered in New York, either of whom is trained and experienced in the proper installation of tank systems or components."</p>
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Response: DEC is expressly incorporating an inspection condition into this permit. No change has been made.

MODULE IV-TANK SYSTEMS: B. DESIGN AND INSTALLATION OF NEW TANK SYSTEMS OR COMPONENTS [6 NYCRR 373-2.10(c)], 4.c.	IV-2	Regulatory Concern	Pursuant to NYCRR373-2.10C., there is no regulatory requirement necessitating a Department inspection. Suggested revision to resolve inconsistency with regulatory requirements: strike paragraph B.4.c.
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Response: DEC is expressly incorporating an inspection condition into this permit. No change has been made.

MODULE IV- TANK SYSTEMS: E. INSPECTIONS AND REPAIR/REMEDIAL ACTION, No. 8	IV-3	Regulatory Concern	Consider qualifying this condition such that it does not apply to minor maintenance (e.g., replacing a rusty bolt).
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Response: DEC agrees that this condition does not apply to replacement of a rusty bolt unless the situation creates the potential for release from the unit's primary containment. No change has been made.

MODULE IV - TANK SYSTEMS: E. INSPECTIONS AND REPAIR/REMEDIAL ACTION, Nos. 8.a and 8.c	IV-3, IV-4	Regulatory Concern	There is no repair schedule requirements identified in the regulations. Suggest revising to strike E.8.a and E.8.c
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Response: This would be considered standard practice to ensure timely completion of repairs. No change has been made.

MODULE IV - TANK SYSTEMS: G. CLOSURE AND POST-CLOSURE CARE (6 NYCRR 373-2.10(h)], 1.	IV-4	Regulatory Concern	6 NYCRR 373-2.14(g) does not apply to tank systems. Suggested revision to resolve inconsistency with regulatory requirements: strike reference to "6NYCRR 373-2.14."
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Response: The requested change has been made.

MODULE IV - TANK SYSTEMS: J. AIR EMISSION STANDARDS (6 NYCRR 373- 2.10(k)], 1.	IV-4	Clarification	6 NYCRR 373-2.27 does not apply to the facility. Suggested revision: delete reference to 373-2.27 from this paragraph.
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Response: No change, the current text states "as applicable."

MODULE IV - TANK SYSTEMS: K. OTHER REQUIREMENTS: 1.	IV-5	Regulatory Concern	Including P&IDs as part of the Permit poses a significant administrative burden on the Permittee. P&IDs are constantly modified to address safety issues, improved practices, process changes, and regulatory requirements. P&IDs are regulated by OSHA. Suggested revision to resolve inconsistency with regulatory requirements and to provide operational flexibility: Replace with K.1 "Tank System Modifications: The Permittee may replace tank system ancillary equipment (e.g., pipes, pumps, valves, etc.) without modification of this Permit provided that the materials/components used are functionally equivalent or an improvement to the materials/components being replaced. If the Permittee wishes to replace tank system ancillary equipment with materials/components that are not functionally equivalent or not an improvement of the materials/components, the Permittee must submit a permit modification request with appropriate back up materials and obtain Department approval of the revisions prior to implementing the replacement. Permit modifications will be accomplished by following the procedures described in the General Conditions of this permit. At its discretion, the Department may review a permit modification and grant verbal approval for proposed replacements, which will be followed by a written approval."
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Response: DEC disagrees and has made no changes. Requiring tank system process and instrumentation diagrams is standard for review and approval of applications for a RCRA permit for facilities with tank systems.

MODULE IV - TANK SYSTEMS: K. OTHER REQUIREMENTS: 3.	IV-5	Regulatory Concern	No regulatory basis for PE to conduct tank inspections.
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Response: DEC does not agree with the comment, language is similar to other recently issued DEC RCRA permits with tanks issued since September 2010 and has not been changed.

MODULE IV - TANK SYSTEMS: K. OTHER REQUIREMENTS: 3.d.	IV-6, IV-7	Administrative Flexibility	Independent assessment of tank systems by a PE is a burden. We currently have trained professionals who are certified to perform these inspections.
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Response: DEC does not agree with the comment, language is similar to other recently issued DEC RCRA permits with tanks issued since September 2010 and has not been changed.

MODULE IV - TANK SYSTEMS: K. OTHER REQUIREMENTS: 3.d.	IV-6, IV-7	Regulatory Concern	This condition extends beyond the requirements of 6 NYCRR 373-2.10 (f). The reference to ultrasonic thickness measurements limits the technology which may be used to assess the tank's shell thickness. The inspector's report may be limited to identifying an issue and may not define how the repair will be made. The repair recommendation may come from a different source. Additionally, sending reports to the Department that are part of the operating record presents an administrative burden to the Permittee. These reports in the Operating Record are available to the Department upon request. Suggested revision to resolve consistency with regulatory requirements and to improve operational flexibility: strike paragraph K.3.d and use "The results of the inspection and subsequent repair work must be recorded in accordance with 6 NYCRR 373-2.10 (f)(4)."
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Response: DEC has revised the condition to allow ultrasonic thickness measurements or alternative measurements approved by the DEC.

MODULE IV- TANK SYSTEMS: K. OTHER REQUIREMENTS: 3.d.	IV-6	Operational Requirement	Suggested revision: strike paragraph K.3.d. and use "The results of the inspection and subsequent repair must be recorded in accordance with 6 NYCRR 373-2.10(f)(4).
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Response: DEC disagrees and has made no change.

MODULE IV-TANK SYSTEMS: K. OTHER REQUIREMENTS: 4.a.	IV-7	Administrative Flexibility	Reports generated by GE Inspection Services are available upon request.
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Response: Comment noted.

MODULE IV- TANK SYSTEMS: K. OTHER REQUIREMENTS: 4.a.	IV-7	Regulatory Concern	There is no regulatory basis for PE to conduct tank secondary containment assessments.
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Response: DEC does not agree with the comment, language is similar to other recently issued DEC RCRA permits with tanks issued since September 2010 and has not been changed.

MODULE VII - INCINERATORS: E. HAZARDOUS WASTE PERMITS [6 NYCRR 373-2.15(e) and 374-1.8(c)(4)]	VII-2, VII-3	Clarification	This paragraph indicates only the wastes specified in Tables D-1 and E-1 of Exhibit E may be burned in the incinerator. This should be revised to indicate that the facility may burn hazardous wastes specified in these tables, non-hazardous waste, and process vents. Suggest revision to paragraph to indicate that this applies only to hazardous waste. Remove 'and 374-1.8(c)(4)' from the heading of section E since it does not apply to the facility and is not referenced in paragraph E.1.
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<p>MODULE VII - INCINERATORS: F. OPERATING REQUIREMENTS [6 NYCRR 373-2.15(f) and 374-1.8(c)(5)], 2.</p>	<p>VII-3</p>	<p>Clarification</p>	<p>We are concerned about this language and its inconsistency with the design principles of a rotary kiln based incinerator. By design, the kiln has gaps between the rotating barrel and the fixed breechings. The ambiguity of this requirement could result in interpretation that these gaps, which are inherent to the design and are properly maintained, are by design in violation of this permit requirement. Control of fugitive emissions from these devices is achieved by maintenance of a negative pressure in the combustion chamber and is consistent with the provisions allowed by 373-2.15(1)(4), which provides for three methods by which an incinerator may demonstrate compliance with controlling fugitive emissions: "Fugitive emissions from the combustion zone must be controlled by: (i) keeping the combustion zone totally sealed against fugitive emissions or (ii) maintaining the combustion zone pressure lower than atmospheric pressure, or (iii) an alternate means of control demonstrated (with Part 373 permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure." The requirement specified in this Permit for maintaining the system without "holes" can be interpreted as requiring a sealed combustion system, which is not required by regulation, and is contrary to the design of the incinerators because the incinerators were not designed to be sealed combustion systems. We recommend removal of this requirement in its entirety or modification of it to simply state that the "Permittee shall control fugitive emissions from the combustion chambers in accordance with 373-2.15(1)(4)."</p> <p>Furthermore, any such defect revealed as part of a unit inspection, would be subject to the general facility standards pertaining to repair of defects specified in 373-2.2(g)(3). This provision requires that any deterioration or malfunction of equipment or structures which the inspection reveals must be repaired on a schedule which ensures that the problem does not lead to an environmental or human health hazard and in instances when a hazard is imminent or has already occurred, remedial action must be taken immediately.</p>
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Response: The DEC will regulate hazardous waste combustor(s) in accordance with the Hazardous Waste Combustors Maximum Achievable Control Technology (HWC-MACT) found at 40 CFR Part 63 Subpart EEE and incorporated by reference into the state regulations in accordance with 6 NYCRR Part 200.10. Accordingly, DEC has removed Exhibit E of Schedule 1 from the draft permit and revised Module VII of the permit to include the applicable RCRA closure requirements.

<p>MODULE X – HAZARDOUS WASTE MISCELLANEOUS UNITS: C. MONITORING, ANALYSIS, INSPECTION, RESPONSE, REPORTING AND CORRECTIVE ACTION</p>	<p>X-1</p>	<p>Regulatory Concern</p>	<p>6 NYCRR 373-2.3(d) is a requirement for the ICP and is not appropriate for the Miscellaneous Units module as it is covered elsewhere in Permit conditions. Duplicative requirements have the potential to cause confusion. Suggested revision to resolve consistency with other program requirements: strike regulatory references "373 2.3 (d)... (g)"</p>
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Response: 373-2.3(d) is related to the testing and maintenance of equipment and it relevant to this condition. No change was made.

MODULE X – HAZARDOUS WASTE MISCELLANEOUS UNITS: C. MONITORING, ANALYSIS, INSPECTION, RESPONSE, REPORTING AND CORRECTIVE ACTION. 6.	X-2	Clarification	Please revise to clarify requirement.
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Response: No clarification is needed, this condition specifies actions needed for leaks or defects which create the potential for leaks within the hazardous waste miscellaneous unit.

MODULE X - HAZARDOUS WASTE MISCELLANEOUS UNITS: C. MONITORING, ANALYSIS, INSPECTION, RESPONSE, REPORTING AND CORRECTIVE ACTION. 9.	X-2	Clarification	Please revise to clarify requirement.
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Response: No clarification is needed. Permittee is required to schedule and complete needed repairs within 30 days, or if it is anticipated to take longer than 30 days submit a schedule and complete repairs within six months.

MODULE X – HAZARDOUS WASTE MISCELLANEOUS UNITS: C. MONITORING, ANALYSIS, INSPECTION, RESPONSE, REPORTING AND CORRECTIVE ACTION. 9. b.	X-2	Operational Requirement	Replace with "If repairs take longer than 30 days to complete, the Permittee will submit a proposed schedule for Department approval. The proposed schedule must include the date for completing the repairs which must be within six (6) months from the date when the defect was identified; or"
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Response: DEC prefers to know within 7 days if repairs are anticipated to take longer than 30 days and to get a proposed schedule within that timeframe. No change has been made.

<p>MODULE X - HAZARDOUS WASTE MISCELLANEOUS UNITS: E. OTHER REQUIREMENTS, 1.</p>	<p>X-3</p>	<p>Regulatory Concern</p>	<p>There is no regulatory driver for an independent, third-party inspection. Permittees may have employees and/or on-site contractors with the appropriate qualifications to complete this work; a PE is not necessary and presents an administrative burden to the Permittee. Further, providing reports presents a reporting burden to the NYSDEC. These are part of the site records and are available upon request as reflected by the requested revision. Suggested revision to resolve inconsistency with regulatory requirements: replace E.1 with "1. Assessment of Miscellaneous Units: For the hazardous waste miscellaneous unit(s) authorized by this Permit, annual assessments must be conducted at the frequency specified in Schedule 1 of Module I. The assessment must identify deficiencies in each unit including, but not limited to, cracks, gaps or defects in the impermeable surface coatings or other defects that would inhibit the ability of the unit to contain leaks or overflows. The assessment must be performed by a qualified inspector. All surfaces must be completely exposed for inspection. Any defects identified must be documented. Once any defects have been repaired, the unit must be re-inspected by the inspector to evaluate the adequacy of the repairs and to confirm that the unit meets the requirements of Condition B of this Module. The results of such re-inspections must be documented in accordance with 6 NYCRR 373 1.6(a)(10) and made available for review upon Department request."</p>
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Response: DEC does not agree with the comment, language is similar to other recently issued DEC RCRA permits and has not been changed.



Additional permit modifications made by the Department of Environmental Conservation based on either further negotiation with MPM staff, completion of items in the Compliance Schedule, or DEC staff recommendation;

1. The amount needed for financial assurance has been updated for inflation to \$26,476,000. This is a 1.5 percent increase from the number in the draft renewal permit and is based on the implicit price deflator.
2. The routine reporting and compliance activities table was updated to include a requirement to adjust the corrective action cost estimate for inflation.
3. Footnote 5 was added to the routine reporting and compliance activities table to specify a language change when certifying that financial assurance mechanisms have been maintained and have not lapsed. The language differs from the language specified in Part 373 to add “and/or corrective action”.
4. Language was changed for financial assurance instruments was changed from “Department-approved” to “Department-accepted”. The changed from “approved” to “accepted” was revised through the permit for these instruments.
5. The compliance schedule item for fire protection for Tanks 539A and B has been removed. MPM provided information from a NY P.E. certifying that insulation is not required for these Tanks to meet the Fire Code.
6. The compliance schedule item for Air Emissions Standards has been removed and conditions were put in the permit based on information provided by MPM. An additional Document Incorporated by Reference number 16 was added to the permit for Equipment Leaks. A requirement for submittal of semiannual reports was added to the routine reporting and compliance activities table. Table C-4 was adjusted to remove the containers complying with requirements under 40 CFR 60, 61 or 63.
7. The language for category B deliverables and the requirement have the data validated by a third party and have the third party prepare a Data Usability Summary Report DUSRs for lab samples was changed to only require these items at decision points. Category A deliverables is acceptable for routine samples.
8. Footnote 2 for the Deliverables was changed slightly to change the wording that specified incineration limits in the RCRA permit to other permits since these limits are currently now specified in Air Resources’ Title V permit.