

**RCRA PART 373 PERMIT
EXECUTIVE SUMMARY/FACILITY FACT SHEET**

**Nouryon Functional Chemicals LLC
EPA ID No. NYD043815158
DEC Permit No. 9-2928-00001/00003**

**Burt, New York
Niagara County**

1.0 FACILITY PERMIT AND GENERAL INFORMATION

Permittee Name:	Nouryon Functional Chemicals LLC
Facility Name:	Nouryon Functional Chemicals LLC
Facility Location:	2153 Lockport-Olcott Road, Burt, NY 14028
EPA ID No.:	NYD043815158
DEC Permit No.:	9-2928-00001/00003
DEC DER No.:	932030B
Facility Size:	350 acres (30 acres former production area)
Commercial/Non-Commercial TSDF:	Non-Commercial (Corrective Action Only)
Facility Contact:	William Myers william.myers@nouryon.com (716) 266-7403
DEC Contact:	Michael Keller michael.keller@dec.ny.gov (716) 851-7218
Initial/Renewal Permit:	Renewal
Permit Type (Yes/No): Operating Corrective Action Post-Closure Care	No Yes No
Permit Term (5 or 10 years):	10 Years
Estimated Costs: Closure Corrective Action	\$0.00 \$1,340,000
On-site Environmental Monitor(s):	Not Applicable

Facility Background

Nouryon Chemicals LLC Burt facility (Facility), formerly known as Akzo Nobel Polymer Chemicals LLC, was a chemical manufacturing plant procuring organic peroxides. Chemical production operations ceased in 2003, and the facility currently serves as a warehouse and distribution center for finished product. Operations take place in a 30-acre fenced area within the larger 350-acre area that comprises the facility property. The site is a conditionally exempt small quantity generator, with the only hazardous waste produced at the site being disposal of occasional damaged containers.

Corrective action at the Facility includes remedial activities necessary to address remaining contamination in groundwater and soil.

2.0 RCRA PERMITTED UNITS

There are no hazardous waste management units (HWMU) permitted to operate at the facility. All previously permitted HWMUs have been closed in accordance with state and federal regulations.

3.0 CORRECTIVE ACTION SUMMARY

Corrective action at the Facility is being implemented site-wide under the selected final remedy of Monitored Natural Attenuation and Institutional Controls as determined in the 2005 Statement of Basis.

4.0 SITE MANAGEMENT

4.1 Institutional Controls

The Facility is managed under this Permit as well as site restrictions outlined in the 2009 Declaration of Covenants and Restrictions.

4.2 Engineering Controls

The facility currently has a long-term Groundwater Monitoring Program designed to monitor concentrations, fate, and transport of contaminants in the groundwater.

5.0 ISSUES AND CONCERNS

The following sections describe any potential issues or concerns for the facility related to its hazardous waste permit. Additionally, it includes information on any major changes made between the last issued permit and this renewal permit.

5.1 Environmental Risk Assessment

The Facility was evaluated as part of the 1997 RCRA Facility Investigation and subsequent investigations. Based on these reviews, it was determined that contamination at the Facility did not pose imminent danger to human health or the environment, but that corrective action was required to control risks to health and environment.

Corrective action programs have been implemented to clean up, restrict migration of, and prevent exposure to contamination.

5.2 Climate Leadership and Community Protection Act (CLCPA)

Pursuant to the requirements of Sections 7(2) and 7(3) of the CLCPA, during its review of the permit renewal application the DEC has taken into consideration information regarding the facility's consistency with the CLCPA. Specifically, this activity involves corrective action (primarily groundwater monitoring) only. There is no activity included in this action that would be expected to generate significant levels of greenhouse gas emissions, nor any activity expected to create additional burden on the associated Disadvantaged Community.

5.3 Climate Risk and Resilience Act (CRRA)

The Facility has demonstrated to the DEC that future physical climate risk, not limited to sea-level rise, storm surge and flood, was considered during the permit renewal process. The DEC has made a tentative assessment that the Facility is not at risk of adverse climate change impacts due to extreme weather events, and no additional actions are necessary at this time to improve the resiliency at the facility.

5.4 Environmental Justice

The Facility is not located within or near a designated Potential Environmental Justice Area.

5.5 Unresolved Issues and Concerns

There are no unresolved issues or concerns with the Facility.

5.6 Compliance Schedule Items

The Permittee has not proposed to incorporate any items into the Permit renewal.

5.7 Public Participation

The draft RCRA Part 373 Renewal Permit will have a 45-day public notice comment period. Renewal Application documents and the draft RCRA Part 373 Renewal Permit as well as other pertinent documents are accessible at DEC Info Locator (<https://extapps.dec.ny.gov/data/DecDocs/932030B/>), or at the Newfane Public Library on 2761 Maple Avenue, Newfane, NY 14108. If no comments are received, the draft permit shall be issued

as final. If comments are received, they shall be address in either a Response to Comments document or a direct response letter to the commentor(s).

5.8 Significant Permit Modifications

There are no significant permit modifications with this renewal.

5.9 Upcoming Remedial Activities

No new remedial activities are planned beyond continuation of currently established remedial programs.

Figure 1 – Facility Location

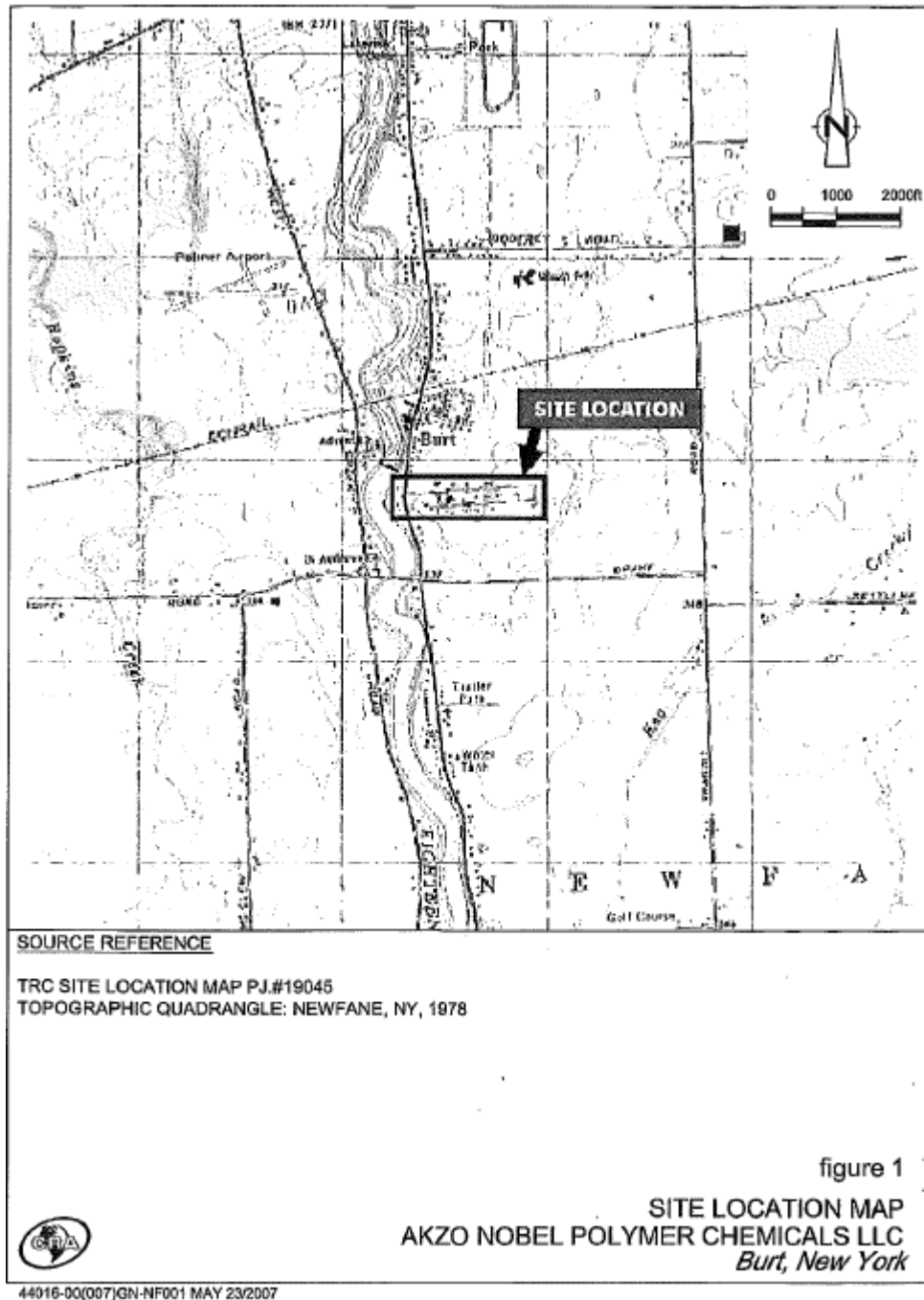
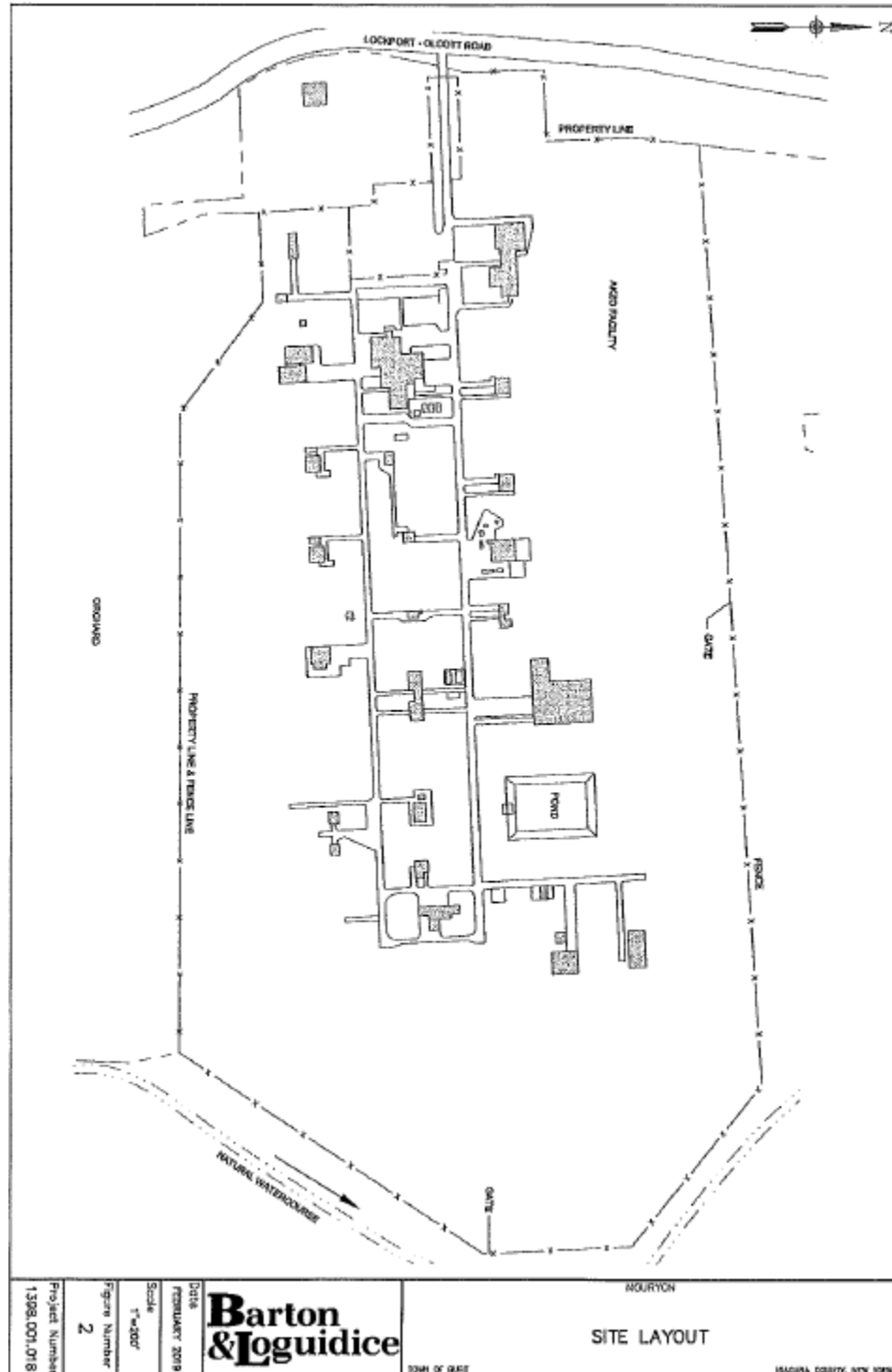


Figure 2 – Facility Layout



MODULE I GENERAL CONDITIONS

The Permittee shall operate, monitor, and maintain the facility described herein, in compliance with the provisions of the New York State Environmental Conservation Law (ECL) Article 27, Title 9, Section 27-0900 et seq., the Federal Resource Conservation and Recovery Act (RCRA), including the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the approved Permit application as further modified through Permit conditions set herein.

The Permittee is not authorized to operate any hazardous waste management units under this Permit. This Permit does not authorize the operation of any other units requiring a 6 NYCRR Part 373 permit. This Permit is for Corrective Action. The general conditions included herein related to Operating Permits are reserved in case facility hazardous waste operations change.

A. EFFECT OF PART 373 PERMIT

1. This Permit consists of the general and special conditions contained in this and the attached Modules, including the Attachments and documents incorporated by reference; and the applicable requirements of the New York State Environmental Conservation Law (ECL) Article 27, Title 9, Section 27-0900 et seq., and the following regulations:

- 6 NYCRR 370 - Hazardous Waste Management System-General;
- 6 NYCRR 371 - Identification and Listing of Hazardous Wastes;
- 6 NYCRR 372 - Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities;
- 6 NYCRR 373 - Hazardous Waste Management Facilities;
- 6 NYCRR 374 - Management of Specific Hazardous Waste;
- 6 NYCRR 376 - Land Disposal Restrictions;
- 6 NYCRR 621 - Uniform Procedures; and,
- 6 NYCRR 624 - Permit Hearing Procedures.

The applicable regulations or requirements would be those which are in effect prior to final issuance of this Permit.

2. **All documents and reports required by this Permit must be certified pursuant to conditions established in Subpart 373-1.4(a)(5)(iv) and Condition O.4 of this Module and submitted in accordance with requirements set forward in Conditions O and W of this Module. Additionally, unless specifically exempted in this Permit, all information (e.g., documents and reports) required to be submitted by the Permittee must be approved by DEC. DEC does not require certain plans, documents or reports to be certified. The Permittee should verify if certification is required prior to submittal to the DEC.**

3. The following Guidance and Policy Documents are potentially relevant to this Permit. The Permittee shall consider applicable DEC guidance when conducting activities required by this Permit.

DEP 23-1 Permitting and Disadvantaged Communities

DER-10 Technical Guidance for Site Investigation and Remediation

DER-23 Citizen Participation Handbook for Remedial Programs

DER-31 Green Remediation

DER-33 Institutional Controls: A Guide to Drafting and Recording
Institutional Controls

PFAS Guidance: Sampling, Analysis, and Assessment of PFAS (revised April 2023)

TOGS 1.1.1 Ambient Water Quality Standards And Guidance Values And
Groundwater Effluent Limitations

4. The following Commissioner Policies are potentially relevant to this Permit. The Permittee shall consider applicable DEC policies when conducting activities required by this Permit.

CP-29 Environmental Justice and Permitting

CP-39 Use of Enforcement Discretion for Discarded Mercury-containing
Equipment

CP-43 Groundwater Monitoring Well Decommissioning

CP-44 Natural Resource Damages

CP-45 Procedure to Demonstrate Compliance with Financial Test Requirements
(for financial assurance)

CP-51 Soil Cleanup Guidance

5. Compliance with this Permit during its term constitutes compliance, for purposes of enforcement, with 6 NYCRR Parts 370 through 374 and 376 except for the following requirements not included in the Permit:

- a. requirements which become effective by statute, including amendments thereto;
- b. requirements which are promulgated under 6 NYCRR 376 restricting the placement of hazardous wastes in or on the land;
- c. requirements which are promulgated under 6 NYCRR 373-2 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile,

and landfill units. The leak detections system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of 6 NYCRR 373-1.7 for major modifications; or

- d. requirements which are promulgated under 6 NYCRR 373-3.27, 373-3.28, and 373-3.29, limiting air emissions.
6. The Permittee is authorized manage hazardous waste in accordance with the conditions of this Permit. Any storage, treatment or disposal of hazardous waste not authorized by this Permit is prohibited unless exempt under 6 NYCRR Part 373-1.1(d). 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.
 7. The Permittee is authorized to manage only hazardous wastes which are generated at the Permittee's facility.
 8. The Permittee is required to conduct corrective action in accordance with the conditions of this Permit.
 9. 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 when written approval is issued by the DEC pursuant to 6 NYCRR 621.11, or 6 NYCRR 621.13. 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.
 10. The Permittee must submit plans, reports, specifications, implementation schedules and any subsequent amendments to those documents required by this Permit to the DEC for review and comment. Following its review of a document, if the document requires formal DEC approval (as determined by the DEC), the DEC may either approve the document as submitted or issue comments on the submittal. If the DEC issues comments on the document, subsequent activities for the document must proceed in accordance with the following schedule:
 - a. Meeting between the Permittee and the DEC to discuss the document comments, if requested by the Permittee or deemed necessary by the DEC; and,
 - b. Submission of a revised document to the DEC for approval within thirty (30) calendar days of the above-described meeting. (If the above referenced meeting is determined not to be necessary, the Permittee must submit a revised document for DEC approval, according to a schedule specified by the DEC, not to exceed forty-five (45) calendar days of the Permittee's receipt of comments from the DEC).
 - c. If the submission is not revised to the DEC's satisfaction, the DEC may revise the document and send the Permittee a notice of intent to modify the Permit to incorporate the revised document into the Permit, pursuant to 6 NYCRR 621.13.

11. Informal advice, guidance, suggestion, or comment by the DEC must not be construed as relieving the Permittee of the Permittee's obligation to obtain such formal approvals as may be required by this Permit. The Permittee consents to and agrees not to contest the authority and jurisdiction of the DEC to enter into or enforce this Permit.
12. The Permittee must also comply with the following:
 - 6 NYCRR 373-1.1(f) – Uniform Procedures
 - 6 NYCRR 373-1.1(g) – Enforcement
 - 6 NYCRR 373-1.1(h) – Severability
13. The Permittee must maintain a current and complete paper copy or electronic copy on electronic storage device (or equivalent device) of this Permit, including all Modules, Attachments and documents incorporated by reference, in at least one location at the Facility for review by the DEC upon request.
14. For any Environmental Monitor(s) assigned to the Facility, the Permittee must maintain a complete set of paper copies of all submittals required by this Permit in the office of the Environmental Monitor or as otherwise directed by the Environmental Monitor(s) as per **Condition T.2** of this Module.
15. In the event of a discrepancy between this Permit and any regulation, order on consent, other permit, or plans, reports, specifications, and schedules submitted pursuant to this Permit, the more stringent requirement applies, as determined by the DEC.

B. PERMIT DOCUMENTS

The Permittee's Hazardous Waste Part A Permit Application is attached to and incorporated by reference into this Permit. The Permit Application documents listed below are also incorporated by reference into this Permit. 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. The following documents are considered part of this Permit:

Modules

- | | |
|-----|--------------------------------|
| I | General Conditions |
| II | Corrective Action Requirements |
| III | RESERVED |
| IV | RESERVED |
| V | RESERVED |
| VI | RESERVED |
| VII | RESERVED |

- VIII RESERVED
- IX RESERVED
- X RESERVED
- XI Groundwater Monitoring
- XII RESERVED
- XIII Scheduled Dates

Attachments

- A. EPA Part A Application and Facility Description with overall Renewal Application Certification required per 6 NYCRR Part 373-1.4(a)(5)(iv)
- B. RESERVED
- C. RESERVED
- D. RESERVED
- E. RESERVED
- F. Security Plan
- G. RESERVED
- H. RESERVED
- I. RESERVED
- J. RESERVED
- K. On-going Corrective Action and Financial Assurance Documents
- L. RESERVED
- M. Permit Modification Log
- N. RESERVED

Footnotes:

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

Proposed modifications to this Permit, including modifications to the Permit Application documents incorporated into this Permit, shall be addressed according to 6 NYCRR 373-1.7. The Permittee shall place a revision date on all pages of the proposed Permit modification application.

The Permittee must provide and maintain a log of all modifications made to this Permit, including modifications made to the Permit Application documents that are made part of this Permit. The log shall contain at a minimum the following information regarding an

approved modification: (1) the name of the specific document being modified (e.g., contingency plan, security requirements, hazardous waste unit operations, etc.); (2) the effective date of the modification to the Permit; (3) the pertinent pages, sections, and/or attachments of the Permit and Permit Application documents subject to the modifications; (4) the revision date of the modifications; and (5) a brief statement regarding the nature of the modifications. The Permittee shall place the log at the beginning of this Permit along with a copy of the DEC's approval letters, when applicable. The Permittee must replace the pages, sections, and/or attachments in the Permit and Permit Application with the modified pages, sections, and/or attachments.

C. DEFINITIONS

1. For the purposes of this Permit, the terms used herein shall have the same meanings as those provided in 6 NYCRR 370 through 376, and the terms defined in this Permit, unless this Permit specifically states otherwise. Where the terms are not otherwise defined, the meanings associated with such terms shall be as defined by a standard dictionary reference or the generally accepted scientific or industry meaning of the term.
2. The following additional terms used in this Permit are defined as such:
 - a. Action Levels. For the 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 exceedance 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. The action levels for groundwater are the more stringent of the following for each compound or constituent: 6 NYCRR 703.5, New York State Department of Health's Drinking Water Standards and the United States Environmental Protection Agency's Maximum Contaminant Levels (MCLs).
 - b. Areas of Concern (AOC). Pursuant to the authority granted by 6 NYCRR 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.
 - c. Contamination. The presence of any hazardous constituent in a concentration

which exceeds the naturally occurring concentration of that constituent in areas which should not be affected by the operations of the facility.

- d. Corrective Action. For the purposes of this Permit, “corrective action” is a process that includes all activities related to the investigation, characterization and cleanup of a release of hazardous wastes or hazardous constituents from a solid waste management unit (SWMU) at a permitted or interim status treatment, storage and disposal facility (TSDF) to any environmental medium. The “corrective action” process includes all activities necessary to protect human health and the environment for all releases of hazardous waste or hazardous constituents at the facility, regardless of the time at which waste was placed in the unit. Corrective action may address releases to air, soil, surface water sediment, groundwater, or subsurface gas. See Module II of this Permit for a more detailed discussion of the corrective action process.
- e. DEC. New York State Department of Environmental Conservation
- f. DER. Division of Environmental Remediation.
- g. Environment or environmental media. Pursuant to ECL Article 27, Title 9, Section 27-0901, “environment” means any water; water vapor; land, including land surface or subsurface; air; and, fish, wildlife, biota and all other natural resources.
- h. Extent of Contamination. The horizontal and vertical area in which the concentrations of hazardous constituents in the environmental media being investigated are above the naturally occurring concentration of that constituent in areas which should not be affected by the operations of the facility.
- i. Hazardous Constituents. For the purposes of this Permit, “hazardous constituents” are those constituents listed in Appendix 23 of 6 NYCRR 371 or any constituent listed in Appendix 33 of 6 NYCRR 3732.
- j. Permittee. For the purposes of this Permit, “Permittee” herein refers to the party(ies) subject to this Permit. In addition, refer to Conditions R.2 and R.3 of this Module.
- k. Priority Pollutant. Pursuant to 6 NYCRR 750 1.2(a)(67), “priority pollutant” means those pollutants listed in 40 CFR 122, Appendix D (see 6 NYCRR 750 1.24) as Organic Toxic Pollutants (volatiles, acid compounds, base/neutral compounds and pesticides), Metals, Cyanide and Total Phenols.
- l. Qualified Professional Engineer. A person who by reason of his/her professional education and practical experience is granted a license by the New York State Education Department's Office of the Professions to practice professional engineering.
- m. 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).

- n. Solid Waste Management Unit (SWMU). For purposes of this Permit, a “solid waste management unit” 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. These units include certain areas associated with production processes that have become contaminated as a result of routine and systematic releases.
- o. Unit. Includes, but is not limited to, any landfill, surface impoundment, waste pile, land treatment unit, incinerator, injection well, tank, container storage area, wastewater treatment unit, elementary neutralization unit, or recycling unit.

D. GENERAL PERMIT CONDITIONS [6 NYCRR 373-1.6]

- 1. 6 NYCRR 373-1.6 provide conditions applicable to all Part 373 Permits which are therefore incorporated into this Permit. The provisions are incorporated into and made enforceable under this Permit.
- 2. Oral Reports: The Permittee must orally report any noncompliance that may endanger health or the environment within 24 hours from the time the Permittee becomes aware of the circumstances. This noncompliance includes, but is not limited to:
 - a. Information concerning release of any hazardous waste(s), hazardous constituents(s) or emerging contaminant(s) that may cause an endangerment to public drinking water supplies; and
 - b. Any information of a release or discharge of hazardous waste(s), hazardous constituents(s) or emerging contaminant(s) or of a fire or explosion from the hazardous waste management (HWM) facility, which could threaten the environment or human health outside the facility.

The oral reports must be made to the DEC 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 must also provide such oral reports to DEC staff that are on-site at the time of, or subsequent to, a reportable incident. The information reported must include that listed at 6 NYCRR 373-1.6(a)(12)(vi)(‘b’) and 6 NYCRR 373-2.4(g)(4)(ii).

For a fire, explosion or release to the environment, the Permittee must also comply with the reporting requirements in **Condition L.3** of this Module.

3. Entry Upon Facility:

- a. The Permittee must allow, pursuant to 6 NYCRR 373-1.6(a)(9), entry upon the Facility (or areas in the vicinity of the Facility which may be under the control of the Permittee) at reasonable times by any duly designated officer or employee of the United States Environmental Protection Agency (USEPA), the DEC or any State agency having jurisdiction with respect to matters addressed pursuant to this Permit, and by any agent, consultant, contractor or other person so authorized by the DEC, upon presenting identification, for inspecting, sampling, copying records that must be maintained by this Permit, testing, and any other activities necessary to evaluate the Permittee's compliance with this Permit.
- b. Upon request, the Permittee must: (i) provide the DEC with suitable workspace at the Facility, including access to a telephone, to the extent available; and, (ii) allow the DEC full access to all records relating to matters addressed by this Permit. Raw data must be provided to the DEC upon request.
- c. In the event the Permittee is not the owner of the Facility property and is unable to obtain any authorization from third-party property owners necessary to provide access, the Permittee must immediately notify the DEC and provide any requested assistance in obtaining such authorizations.
- d. The DEC shall have the right to take its own photographs, samples and scientific measurements and to obtain split samples, duplicate samples or both, as necessary to evaluate the Permittee's compliance with this Permit. The DEC shall make the results available to the Permittee in accordance with DEC policy.

4. Reservation of Rights

- a. Nothing contained in this Permit shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the DEC's rights or authorities, including, but not limited to, the right to require performance of further investigations and/or response action(s), the right to, at any time, issue a notice of intent to modify, suspend or revoke this Permit in accordance with 6 NYCRR 621.13 and/or to exercise any summary abatement powers with respect to any person, including the Permittee.
- b. Except as otherwise provided in this Permit, the Permittee specifically reserves all rights and defenses under applicable law, and further reserves all rights respecting the enforcement of this Permit, including the rights to notice, to be heard, to appeal, and to any other due process. The existence of this Permit or the Permittee's compliance with it shall not be construed as an admission of liability, fault, wrongdoing, or breach of standard of care by the Permittee, and shall not give rise

to any presumption of law or finding of fact, or create any rights, or grant any cause of action, which shall inure to the benefit of any third party.

E. PERMIT MODIFICATION AND PERMIT TRANSFER [6 NYCRR 373-1.7 and 621]

1. Proposed modifications to this Permit, including modifications to the Attachments and documents incorporated by reference into this Permit, must be addressed in accordance with 6 NYCRR 373-1.7 and 621.
2. The Permittee must contact the DEC (or its representative) with respect to any and all proposed permit modifications requested by the Permittee. The DEC shall make the determination as to whether a proposed permit modification is a minor or major modification in accordance with 6 NYCRR 373-1.7. For the purposes of this Permit, as described in **Condition E.2.a** of this Module, the DEC will entertain proposed administrative modifications to this Permit that would not otherwise be required to follow the requirements of **Conditions E.2.b and/or E.2.c** of this Module. Administrative changes generally include in-kind replacements or minor updates to plans attached to this Permit or incorporated by reference. **However, the DEC must determine whether any and all changes are administrative modifications to this Permit.**
 - a. For modifications determined by the DEC to be administrative, the Permittee shall make the change in the Permittee's copy of all affected Attachment(s) and/or document(s) incorporated by reference. Submittal to the DEC of a change that the DEC has determined is administrative in nature is not necessary. However, at the time of Permit renewal, the Permittee must incorporate all administrative changes into this Permit. The Permittee must record all administrative changes in the Permit Modification Log provided as **Attachment M** of this Permit in accordance with **Condition E.3** of this Module. **Note:** The DEC reserves the right to have its project manager, environmental monitor and/or permit writer request proposed administrative changes in writing by the Permittee's submission of a cover letter, written description of the proposed administrative modification and a clean copy of the modified affected pages for the DEC's review and approval.
 - b. For modifications determined by the DEC to be minor pursuant to 6 NYCRR 373-1.7(c) and 40 CFR 270.42(a), the Permittee must receive written approval from the DEC before implementing the modification into this Permit, and subsequently follow the requirements of 6 NYCRR 373-1.7, 6 NYCRR Part 621 and DEC guidance for minor modifications.
 - c. For modifications determined by the DEC to be major, the Permittee must treat the modification as a new application in accordance with 6 NYCRR 621.11 and follow the applicable requirements of 6 NYCRR 621.
3. The Permittee must maintain a log of all modifications requested and made to this Permit, including modifications made to the Attachments and documents incorporated by reference into this Permit. The log must conform to the DEC-approved format presented in **Attachment M** of this Permit and must be submitted with each modification request. The log must be filled out in its entirety, except for the issuance

date. Upon issuance of each Permit modification, the Permittee must place the updated log in **Attachment M** of this Permit along with a copy of the DEC's approval letters, when applicable, and replace all affected pages in the Modules, Attachments and/or documents incorporated by reference with the modified pages.

4. The DEC may at any time, at its discretion, modify this Permit under the terms of 6 NYCRR 621.13 in accordance with the requirements contained therein.
5. **Permit Transfer:** 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), including the timeframes specified therein. Prior to undertaking a change in Facility ownership and/or operational control, the Permittee must provide written notification to the DEC and receive written approval from the DEC to allow transfer of this Permit. The Permittee must demonstrate to the DEC's satisfaction that the prospective transferee will be able to comply with all applicable laws and regulations, Permit conditions, financial assurance and other requirements to which the Permittee is subject. The written notification must include the identity of the transferee and of the nature and proposed date of the conveyance, and must notify the transferee in writing, with a copy to the DEC, of the applicability of this Permit including the corrective action program, as appropriate. The DEC will determine whether transfer of this Permit is acceptable and will require either a minor or major modification.

F. **EXPIRATION AND CONTINUATION OF PERMITS [6 NYCRR 373-1.8]**

1. Requests for continuation of this Permit must be submitted in accordance with 6 NYCRR 373-1.8 and 621.11.
2. No sooner than one (1) year and no later than 180 calendar days before the expiration of this Permit, the Permittee must provide the DEC with a report regarding the matters identified in ECL 27-0913(3) occurring within two years of the date of the report. The report must include any such matters involving the permitted Facility, all other facilities owned or operated by the Permittee and any duly incorporated parent or subsidiary managing hazardous wastes within the United States. The Permittee must supply such documents and pertinent details regarding the matters in the report as may be requested by the DEC.
3. The Permittee must schedule a "Pre-Application" meeting with the DEC at least 270 calendar days prior to the expiration date of this Permit. Renewal applications with a significant change (as defined at 6 NYCRR 373-1.10(a)(1)) are subject to the requirements of 6 NYCRR 373-1.10.
4. Complete applications for permit renewal must be submitted at least 180 calendar days before the expiration date of this Permit pursuant to 6 NYCRR 373-1.8(b).
5. At any time during the review of the renewal application, the DEC may request that the Permittee submit any additional information in writing 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 Section 401(2) of the State Administrative Procedures Act.

G. TERMINATION OF PERMIT ACTIVITIES

1. Should the Permittee cease the hazardous waste management activities allowed by this Permit prior to the expiration of this Permit, then, pursuant to 6 NYCRR 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.
2. If the Permittee certifies closure of all hazardous waste management units at the Facility, and the DEC accepts these closure certifications during the term of this Permit, and post-closure care or corrective action is determined to be necessary by the DEC, the Permittee may request to enter into another enforceable commitment document which is appropriate, pursuant to Environmental Conservation Law (ECL) Section 71-2727(3) in lieu of this permit. The Permittee must enter into the appropriate enforceable commitment prior to the expiration of this Permit, or submit a renewal application as required by **Condition F.4** of this Module.

H. FACILITY OPERATION

1. In accordance with 6 NYCRR 373-2.3(b), the facility must be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste(s) or hazardous waste constituents to air, soil, surface water or groundwater that could threaten human health or the environment.
2. The Permittee must at all times construct, operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee as designed in accordance with this Permit.
3. The Permittee must inspect the Facility to prevent malfunctions and deterioration, operator errors, and discharges that may cause or lead to the release of hazardous waste(s) or hazardous waste constituents to the environment, or a threat to human health pursuant to 6 NYCRR 373-2.2(g).

I. COMPLIANCE SCHEDULE

1. The Permittee must complete any activities referenced in **Condition A of Module XIII** this Permit within the timeframes set forth therein and in accordance with 6 NYCRR 373-1.6(d).
2. The Permittee must submit reports in a DEC-approved format no later than 14 days following each interim and the final compliance date that summarize the status of each of the activities listed in this Permit. These reports must be signed and certified pursuant to 373-1.6(a)(11) and 373-1.4(a)(5).

J. WASTE ANALYSIS [6 NYCRR 373-2.2(e)]

1. The Permittee must perform general waste analysis in accordance with the requirements of 6 NYCRR 373-2.2(e) and this Permit.
2. All laboratories utilized for the analysis of any closure, post-closure and/or corrective action samples must be certified under the New York State Department of Health's Environmental Laboratory Approval Program (ELAP). Any laboratory tests or sample analyses for which the commissioner of the New York State Department of Health (NYSDOH) issues certificates of approval must be performed by a laboratory certified to perform such tests or analyses pursuant to the NYSDOH Environmental Laboratory Approval Program.

K. PERSONNEL TRAINING PROGRAM [6 NYCRR 373-2.2(h)]

1. The Permittee must conduct personnel training in accordance with 6 NYCRR 373-2.2(h)(1), (2) and (3), and this Permit.
2. The Permittee must maintain training documents in accordance with 6 NYCRR 373-2.2(h)(4) and (5), and this Permit.

L. PREPAREDNESS AND PREVENTION, CONTINGENCY PLAN AND EMERGENCY PROCEDURES [6 NYCRR 373-2.3 and 2.4]

1. The Permittee must comply with the preparedness and prevention requirements in accordance with 6 NYCRR 373-2.3 and this Permit.
2. The Permittee must comply with contingency plan and emergency procedure requirements in accordance with 6 NYCRR 373-2.4 and this Permit.
3. Reporting of Fires, Explosions or Releases to the Environment
 - a. Oral Reports: For fires, explosions or releases which could threaten human health or the environment outside of the facility, the Facility's Emergency Coordinator must immediately notify the DEC (using the New York State 24-hour oil and hazardous material spill notification number (518) 457-7362) and the local governmental official designated as the on-scene coordinator for that governmental area. This notification must be made in accordance with, and include the information required by 6 NYCRR 373-2.4(g)(4)(ii).
 - b. Written Report: For any fire, explosion or release to the environment, except if the release is less than or equal to one (1) pound and immediately cleaned up, the Permittee must, within fifteen (15) calendar days of the incident, submit a written report to the DEC in accordance with, and include the information required by 6 NYCRR 373-2.4(g)(10).

M. WASTE REDUCTION REQUIREMENTS

1. The Permittee must comply with the requirements of Article 27, Title 9, Section 27-0908 of the ECL and 6 NYCRR 373-2.5(c)(2)(ix) relative to waste reduction requirements.

N. REQUIREMENTS FOR RECORDING AND REPORTING OF MONITORING RESULTS [6 NYCRR 373-1.6(b)]

1. The Permittee must comply with the recording, reporting and monitoring requirements listed in this Permit.
2. The Permittee must install, use and maintain monitoring equipment, utilize the approved methods, and report monitoring results as specified in this Permit, and 6 NYCRR 373-2.

O. DATA AND DOCUMENT STANDARDS

1. All analytical data required by this Permit, as well as all analytical data requested by the DEC, must be submitted to the DEC in the standardized format in accordance with the DEC's Electronic Data Deliverable guidance (i.e., NYSDEC EQuIST™ database) within 30 days of receipt from the laboratory (see <http://www.dec.ny.gov/chemical/62440.html>). The Permittee may obtain Category A deliverables for routine sampling activities. At decision points where determinations of final actions are taken, the Permittee must obtain Category B deliverables and have all closure, post-closure and corrective action data validated by a third party prior to submission to the DEC. The individual performing the third-party validation must prepare a Data Usability Summary Report (DUSR) consistent with the guidelines of the DEC's DER-10. The DUSR must be submitted with the report containing the data in accordance with **Condition O.2** of this Module. The data deliverable submitted to the DEC must include the results of the data validation.
2. The Permittee must deliver to the DEC preliminary or final reports, specifications or drawings prepared pursuant to this Permit in an electronic format that complies with the DEC's Electronic Document Standards (EDS) or as otherwise directed by the DEC. All final documents are to be submitted in an electronic format that complies with the most recent DER EDS. Until such time as the DEC establishes an EDS, final documents are to be submitted as a PDF document (see [Requirements For Submittal Of Electronic Documents - NYSDEC](#)). Also, the Permittee must, at the request of the DEC, provide electronic versions of technical documents in MS Word and/or MS Excel, and plan drawings and/or other site drawings in AutoCAD, or other format suitable to the DEC.
3. In addition to electronic copies, the Permittee must provide paper copies of any document (e.g., reports, plans, data, specifications, drawings, etc.) requested by the DEC in paper format or as may be specified in paper format in **Condition W.1** of this Module.

4. All Permit Applications and Reports required by this permit and other information requested by the DEC must be signed in accordance with the provisions of 6 NYCRR Part 373-1.4(a)(5), and include the following statement required by 373-1.4(a)(5)(iv): "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

P. FINANCIAL ASSURANCE

1. The Permittee must comply with all of the applicable requirements of 6 NYCRR 373-2.8 and this Permit. The definitions contained in 6 NYCRR 373-2.8(b) are applicable to the financial requirements within this Permit.
2. The Permittee must comply with this Permit and 6 NYCRR 373-2.6(l) for meeting the financial assurance requirements for corrective action for releases from any solid waste management unit located at the Facility, regardless of the time the waste was placed in the unit.
3. The Permittee must adjust for inflation all cost estimates required by 6 NYCRR 373-2.6(l), 373-2.8 and this Permit annually, and provide additional financial assurance for this adjustment in accordance with 6 NYCRR 373-2.8 and **Condition P.6**. These adjustments must be independent of any requests to decrease cost estimates, unless the DEC has previously approved such a decrease (i.e., the inflationary adjustment must be made separately from any unapproved request for a decrease in the cost estimate). In addition, the total amount of any post-closure cost estimate must be established and maintained throughout the life of this Permit in at least the amount derived by multiplying the annual post-closure cost estimate by a minimum of 30 years unless the DEC has approved a decrease in the post-closure care period for a unit or the Facility in accordance with 6 NYCRR 373-2.7(g)(1)(ii).
4. The DEC-approved closure, post-closure and corrective action cost estimates are in **Attachment K** of this Permit. These cost estimates must be adjusted annually for inflation in accordance with **Conditions P.3** and **P.6** of this Module.
5. The Permittee must obtain approval in writing from the DEC prior to any reduction in the approved cost estimates and for any changes to the instrument(s) and/or mechanism(s) (e.g., type of instrument(s) and/or mechanism(s), the issuing company(ies)/institution(s) and/or a reduction in the dollar amount(s)).
6. **Corrective Action Cost Estimates**: For any and all corrective actions required under the authority of this Permit for any Solid Waste Management Units, both final and interim, the Permittee must submit for the DEC's approval, written estimates, in current dollars, which reflect all costs involved in implementing corrective action through DEC-approved completion. Such estimates must reflect the cost of hiring a third party

to perform the corrective action in accordance with 6 NYCRR 373-2.8(e)(1)(i). For the final corrective measure(s), the Permittee must provide such estimates with the submission of the Corrective Measures Implementation (CMI) work plan. For Interim Corrective Measures (ICM) requiring work plans, the Permittee must provide such estimates with the submission of each ICM work plan required by this Permit.

7. Short-Term Corrective Measures: For financial assurance of final or interim corrective measures for any Solid Waste Management Units required by DEC-approved work plans where the implementation schedule in the approved work plan(s) indicates anticipated completion of said action(s) within one (1) year, the Permittee must provide the DEC with a letter certifying that the Permittee has sufficient liquid financial resources to perform and complete the approved corrective measure(s) based on the DEC-approved cost estimate(s) required by **Condition P.6** of this Module. This letter must include a certification in accordance with 6 NYCRR 373-1.4(a)(5) and must be provided for the DEC's acceptance with the Permittee's submission of a final or interim corrective measures work plan(s). If the DEC notifies the Permittee that the certification is not acceptable, the Permittee must establish financial assurance for corrective measures in accordance with the requirements of financial assurance for Long-Term Corrective Measures as specified in **Condition P.8** of this Module within sixty (60) days of said notification. If the corrective action(s) are not completed within one year of the initial certification, the Permittee may request and the DEC, at its discretion, may approve up to a one (1) year extension of the certification. If the corrective action(s) has not been completed to the DEC's satisfaction at the end of the first year or a DEC-approved extension, the Permittee must, within sixty (60) days, provide financial assurance in accordance with the requirements of financial assurance for Long-Term Corrective Measures as specified in **Condition P.8** of this Module.
8. Long-Term Corrective Measures: For final or interim corrective measures required for any Solid Waste Management Units by a DEC-approved work plan(s) where the implementation schedule in the approved work plan(s) indicates that the anticipated completion of the final or interim corrective action(s) will take longer than one (1) year, the Permittee must establish and maintain a DEC-approved financial assurance instrument(s) in accordance with 6 NYCRR 373-2.8(f). This financial assurance must be equal to the current dollar amount of the most recent DEC-approved final or interim corrective measures cost estimate(s) required by **Condition P.6** of this Module. The DEC-approved financial assurance must be one, or an allowable combination, of the financial assurance instruments, specified in 6 NYCRR 373-2.8(f)(1) through (4) and these 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. If the Permittee chooses to use either 6 NYCRR 373-2.8(f)(2) or (3) (or a combination thereof), the Permittee must revise or establish a Standby Trust Fund in accordance with said regulations. The Permittee must submit the instrument(s), for the DEC's approval, no later than sixty (60) days after the DEC's approval of corrective measures work plan(s), or as required by the requirements of financial assurance for Short-Term Corrective Measures as specified in **Condition P.7** of this Module.
9. For any Permit modification request pertaining to the Closure Plan or Post-Closure Plan provided as Attachment I of this Permit involving an increase in cost, the Permittee must also submit a revised cost estimate, in current dollars, which includes

- the increase in these costs with appropriate third-party justification. For any new or modified corrective measure required by this Permit and submitted by the Permittee subsequent to the issuance of this Permit which involves an increase in the cost of corrective action, the Permittee must also submit for DEC approval, a revised cost estimate, in current dollars, which includes the cost increase associated with implementing the corrective measure with appropriate third-party justification.
10. Within sixty (60) calendar days of a modification of this Permit or DEC approval of a new or modified corrective measure involving an increase in a cost estimate, the Permittee must establish additional financial assurance to cover the amount of the increase in the cost estimate in accordance with the requirements of 6 NYCRR 373-2.8.
 11. The Permittee must maintain the DEC-approved financial assurance instruments for closure, post-closure, corrective action, and third-party liability coverage. Changes in existing financial assurance instruments or replacement of existing financial assurance instruments must be approved by the DEC. The Permittee must provide annual evidence to the DEC within thirty (30) calendar days prior to the anniversary on which the initial approved financial assurance instrument was established, that all required instruments have been maintained and not allowed to lapse.
 12. Within sixty (60) calendar days after any increase in the approved cost estimate, the Permittee must, in accordance with 6 NYCRR 373-2.8, either:
 - a. Revise one or more of the DEC approved financial assurance instrument(s) to increase the instrument(s) amount by at least the amount of the increase in the approved cost estimate and submit the revised instrument(s) for DEC approval; or
 - b. Submit an additional financial assurance instrument, or instruments from the allowable instrument types specified in 6 NYCRR 373-2.8 with an amount equal to at least the amount of the increase in the approved cost estimate and submit the additional instrument(s) for DEC approval.
 13. If the Permittee elects to replace any instrument with new financial assurance instrument(s) as specified by 6 NYCRR 373-2.8, 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. Also, if applicable, any replacement instruments pertaining to post-closure and corrective action must be worded in accordance with 6 NYCRR 373-2.8(j) except that the words “post-closure and corrective action” must be substituted for the words “post-closure” in any such replacement instrument.

Q. COMMUNICATIONS

1. The Permittee must transmit all communications pursuant to this Permit to the DEC via electronic delivery to the recipients specified in **Condition W.1** of this Module. All deliverables must be transmitted in a DEC-approved format as specified in **Condition O** of this Module.

2. If requested by the DEC in lieu of or in addition to an electronic deliverable, the Permittee must transmit the requested written communications pursuant to this Permit to the DEC by United States Postal Service, by private courier service or by hand delivery to the following address:

Supervisor, HW Corrective Action & Post Closure
Division of Materials Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7256

3. The Permittee must submit additional copies of the specific deliverables identified in **Condition W.1** of this Module to the addresses and agencies listed therein.

R. PENALTIES

1. Permittee's Obligations

- a. The Permittee's failure to comply with any term of this Permit constitutes a violation of this Permit and the ECL. Nothing herein abridges the Permittee's right to contest any allegation that it has failed to comply with this Permit.
- b. Payment of any penalties must not in any way alter the Permittee's obligations under this Permit.

S. MISCELLANEOUS

1. The paragraph headings set forth in this Permit are included for convenience of reference only and must be disregarded in the construction and interpretation of any provisions of this Permit.
2. If there are multiple parties subject to this Permit, except where stated otherwise, the term "Permittee" must be read in the plural, the obligations of each such party under this Permit are joint and several, and the insolvency of or failure by any Permittee to implement any obligations under this Permit must not affect the obligations of the remaining Permittee(s) under this Permit.
3. If the Permittee is a partnership, the obligations of all general partners (including limited partners who act as general partners) under this Permit are joint and several and the insolvency or failure of any general partner to implement any obligations under this Permit must not affect the obligations of the remaining partner(s) under this Permit.
4. In any administrative or judicial action to enforce a condition of this Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Permit.
5. Whenever materials or equipment are specified or described in this Permit using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, quality, performance and design criteria

required. In all cases, unless the name is followed by words indicating that “no ‘or equal’ or substitution is allowed” or similar language, materials or equipment of other suppliers may be accepted by the DEC if sufficient information is submitted by the Permittee to allow the DEC to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of “or equal” or substitute items of material and equipment will not be accepted by the DEC from anyone other than the Permittee. If the Permittee wishes to furnish or use an “or equal” or substitute item of material or equipment, the Permittee must make written application to the DEC for acceptance thereof, certifying that the proposed “or equal” or substitute will perform the same functions and achieve the same results called for by the general design, be similar and of equal substance and quality to that specified, and be suited to the same use as that specified.

6. The Permittee may submit a written request to the DEC for a clarification on compliance with any condition in this Permit. Any such request must be submitted at least 30 calendar days prior to the date on which the Permittee must comply with the condition identified in the clarification request. In response, the DEC 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.
7. All data, information, and records concerning, created for or maintained by the Permittee for the operation, investigation or remediation of the facility and any contamination that has emanated from the facility, shall be preserved and made available to the DEC upon request, except for attorney-client privilege or work product protection doctrine material(s). The Permittee shall use its best efforts to ensure that all employees of the Permittee and all persons, including contractors and subcontractors who engage in activities under this Permit, are made reasonably available to, and cooperate with the DEC if information, whether written or oral, is sought.

T. REQUIREMENTS FOR AN ON-SITE DEC ENVIRONMENTAL MONITOR

1. Number of DEC Environmental Monitors assigned to Facility: Zero (0)
2. The Permittee shall fund environmental monitoring services to be performed by or on behalf of the DEC. These monitoring services will include, but not be limited to, the scope of work in an annual environmental monitoring work plan which is incorporated by reference and enforceable under this permit.
3. The Permittee shall provide to the DEC on an annual basis the funds necessary to support the activities set forth in the annual environmental monitoring work plan. The sum to be provided will be based on the annual budgeted amount and is subject to annual revision. Subsequent annual payments shall be made for the duration of this Permit or until the environmental monitoring services are no longer necessary, whichever comes first. The Permittee shall be billed annually, prior to the start of each State Fiscal Year (SFY) (April 1). If this Permit is to first become effective subsequent to April 1, the initial bill will be for an amount sufficient to meet the anticipated cost of the environmental monitoring services through the end of the current SFY.

4. The DEC may revise the required payment on an annual basis to include all costs of environmental monitoring services to the DEC. The annual revision may take into account factors such as inflation, salary increases, changes in the fringe benefits rate, changes in operating hours and procedures, changes in non-personal service costs (including travel, training, sampling and analytical, and equipment costs, etc.), and changes in the need for and level of Environmental Monitors services and supervision of such Environmental Monitor(s). Upon written request by the Permittee, the DEC shall provide that entity with a written explanation of the basis for any modification. If such a revision is required, the DEC will notify the Permittee of such a revision no later than 60 calendar days in advance of any such revision.
5. Prior to making its annual payment, the Permittee will receive and have an opportunity to review an annual work plan that the DEC will undertake during the year.
6. Payments are to be in advance of the period in which they will be expended. Payments shall be made in full within 30 calendar days of written notice by the DEC that a payment is due. The notice from the DEC to the Permittee will provide information regarding to whom payments should be made payable and the address to which payments should be sent.
7. Failure to make the required payments is a violation of this Permit. The DEC reserves all rights to take appropriate action to enforce the above payment provisions.
8. The environmental monitor shall, when present at any of the Permittee facilities, abide by all of the Permittee health and safety and operational requirements and policies, if such requirements and policies exist and provided they are not inconsistent with DEC policies and labor management contracts, and further provided, however, that this shall not be construed as limiting the environmental monitor's powers as otherwise provided for by law and shall not result in the environmental monitor being afforded less protection than otherwise provided to the environmental monitor by State and Federal health and safety requirements..
9. The environmental monitor shall receive from the Permittee all general and site-specific safety training which is normally given to new facility/site employees for all areas of the facility or site. Upon selection of the environmental monitor, the Permittee shall immediately furnish to the environmental monitor any facility/site health and safety and operational requirements and policies. Within five (5) days of any revision to the facility/site health and safety and operational requirements and policies, the Permittee shall furnish to the environmental monitor the health and safety and operational requirements and policies.
10. The environmental monitor shall be permitted to use environmental monitoring and data collection devices (e.g., photo ionization detectors, cameras, video recording devices, computers, cell phones, etc.) deemed necessary by the DEC to evaluate and document observed conditions. Copies of the data or images collected from areas where confidentiality is a concern shall be provided to the Permittee upon their request. The Permittee may request the data and images be considered confidential information if appropriate.

11. It will remain the responsibility of the Permittee to contact the Spill Hotline or any Division within the DEC regarding any required notification of any spill, release, exceedances etc. Notification to the environmental monitor will not be considered sufficient to replace any required notifications.
12. The environmental monitor's office space in a building is to be kept in good operating condition, including water-tightness, lighting, appropriate heating and cooling, electrical power, telephone service and prompt snow removal. Adequate parking shall be provided for the monitor.

U. Specific Conditions

1. The Permittee must make reasonable attempts to organize training events for local fire companies or departments, and to also arrange inspections of the Facility by these entities. 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, must be submitted to the DEC by the Permittee within seven (7) calendar days of each inspection.
2. Upon notification by the Permittee of any partial closure of a unit or portion thereof, or of final closure of the Facility, the DEC 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 DEC 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 DEC's regulatory cleanup standards in effect at the time of said closures.
3. If the DEC determines that additional sampling and analysis or more restrictive and/or additional criteria are necessary at the time of unit/Facility closure, the DEC shall send the Permittee a notice of intent to modify this Permit in accordance with 6 NYCRR 621 to incorporate these requirements into the Permit. In the event the DEC issues such a notice of intent, the Permittee will be restricted from issuing a certification of closure for the unit/facility in accordance with 6 NYCRR 373-2.7(f), until the associated 6 NYCRR 621 Permit modification process is completed and any associated closure requirement(s) that might result from this modification process are satisfied.

V. PUBLIC PARTICIPATION (INCLUDING 6 NYCRR 373-1.10)

1. Information Repository (6 NYCRR 373-1.10(c))

The Permittee shall establish and maintain an Information Repository at the Newfane Public Library, 2761 Maple Ave, Newfane, NY 14108. The Permittee shall provide the DEC with thirty (30) calendar days' notice of any change to the location of the repository. The Permittee will continue to maintain the information repository for the life of the Permit or until otherwise notified by the DEC.

The repository shall contain a copy of the final approved Part 373 Permit application, approved documents such as plans, reports, other relevant documents, the Part 373 Permit Executive Summary/Fact Sheet, public notices pertaining to the Part 373 Permit, copies of correspondence including enclosures and attachments from the effective date of the Permit between the DEC and the Permittee pertaining to the Permit or to compliance. Certain portions of the permit, and other information within the repository, may be redacted as necessary to protect national security or due to public sensitivity.

The Permittee shall provide a written notice of the availability of the information repository to all individuals on the facility mailing list within one month from the effective date of this Permit (except to those previously notified within 1 year prior to the effective date of the Permit) and to all individuals on the facility mailing list one year before the expiration date of this Permit.

- ### 2. Other public participation activities to consider maintaining good community relations:
- a. Public Meetings
 - b. Citizens Advisory Group Meeting

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

- ### 1. Submittals required by the Permit must be provided to the DEC and other identified Agencies as listed below. The list below identifies the DEC/Agencies staff by title that must receive submissions and indicates the types of submissions each must receive. At any time during the life of this Permit, the DEC may designate alternate titles or addresses to receive submissions (different than those indicated below) and direct the Permittee to make submissions to the alternate title or address. The list below also indicates whether the submission must be a paper or electronic copy. Where electronic copies are indicated, the submission must be in a form as required by **Condition O** of this Module. Submissions of electronic copies may be made by e-mail or other methods acceptable to the DEC.
- a. One (1) electronic copy of all submittals to:

RCRA Project Manager
New York State Department of Environmental Conservation

c/o michael.keller@dec.ny.gov

Regional Remediation Engineer
New York State Department of Environmental Conservation
Region 9 Office
700 Delaware Avenue
Buffalo, NY 14209
c/o andrea.caprio@dec.ny.gov

Supervisor, HW Corrective Action & Post Closure
Bureau of Hazardous and Waste and Radiation Management
New York State Department of Environmental Conservation
625 Broadway, 9th
Albany, NY 12233-7256
c/o lynn.winterberger@dec.ny.gov

and

Manager, Land and Redevelopment Programs Branch
Land, Chemicals & Redevelopment Division
U.S. Environmental Protection Agency, Region II
290 Broadway [25th floor]
New York, NY 10007-1866
c/o everett.adolph@epa.gov

- b. One (1) paper copy and one (1) electronic copy of all financial assurance documents to:

Hazardous Waste Financial Assurance Coordinator
Division of Environmental Remediation
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7256

- c. One (1) electronic copy of all waste reduction documents to:

Pollution Prevention Unit
Division of Materials Management
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7253
pollutionprevention@dec.ny.gov

- d. One (1) paper 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

700 Delaware Avenue
Buffalo, NY 14209

- e. Where additional DEC staff are copied on the above submittals, the Permittee shall submit these copies electronically. In addition, the Permittee shall provide hard copies of any of the above submittal(s) when specifically requested by the DEC.

MODULE II CORRECTIVE ACTION REQUIREMENTS

A. APPLICABILITY

1. Statute and Regulations: Article 27, Title 9, Section 27-0913, and 6 NYCRR 373-2.6(l) requires corrective action, including corrective action beyond the Facility boundary where necessary to protect human health and the environment, for all releases of hazardous wastes, including hazardous constituents listed in Appendix 23 of 6 NYCRR 371 or Appendix 33 of 6 NYCRR 373-2 as well as any hazardous substances in 6 NYCRR Part 597 (defined together as constituents), from any solid waste management unit (SWMU) at a storage, treatment or disposal facility that has ever sought a 6 NYCRR Part 373 or a federal RCRA permit, regardless of the time at which waste was placed in such unit. Pursuant to 6 NYCRR 373-1.6(c)(2), the DEC may impose Permit Conditions as the DEC determines necessary to protect human health and the environment (e.g., areas of concern (AOCs) as defined in **Module I** of this Permit).
2. **All documents and reports required by this Permit must be certified pursuant to conditions established in Subpart 373-1.4(a)(5)(iv) and Condition O.4 of Module I. Additionally, unless specifically exempted in this Permit, all information (e.g., documents and reports) required to be submitted by the Permittee must be approved by DEC.**
3. Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs): The Permittee must initiate and complete the corrective action process for all SWMUs and AOCs at the Facility. The conditions of this Module apply to:
 - a. All the SWMUs and AOCs as listed in **Table II-1** of this Module individually or in combinations.
 - b. Any additional SWMU(s) and AOC(s) identified during the course of groundwater monitoring, field investigations, environmental audits or other means as described in **Condition C** below.
 - c. All SWMUs and AOCs located on-site and/or off-site are identified in **Tables II-1, II-2** (SWMUs/AOCs requiring No Further Action) and **II-3** (SWMUs/AOCs Requiring Additional Corrective Action).

Table II-1 - SWMUs/AOCs

I. Solid Waste Management Units (SWMUs)

1. Hazardous Waste Storage Pad – Area 1 (SWMU-1)
2. Hazardous Waste Storage Pad – Area 2 (SWMU-2)
3. Process Sewer (SWMU-3)
4. Destruction Tank (SWMU-4)
5. East Influent Well (SWMU-5)
6. West Influent Well (SWMU-6)
7. Holding Tank (SWMU-7)

8. Equalization Basin (SWMU-8)
9. Settling Channel (SWMU-9)
10. Filter Carts (SWMU-10)
11. Primary Clarifier (SWMU-11)
12. East Sludge Tank (SWMU-12)
13. West Sludge Tank (SWMU-13)
14. Process Reactor (SWMU-14)
15. Building 2 Sump (SWMU-15)
16. Building 2B Separator (SWMU-16)
17. Former Underground Storage Tank No. 2 Area (SWMU-17)
18. Former Underground Storage Tank No. 9 Area (SWMU-18)
19. Sewer Pre-Treatment Pit (SWMU-19)
20. Inside Building 2B Accumulation Area (SWMU-20)
21. Outside Building 2B Accumulation Area (SWMU-21)
22. QC Laboratory Accumulation Area (SWMU-22)
23. Burning Cage (SWMU-23)
24. Landfill Site No. 1 (SWMU-24)
25. Landfill Site No. 2 (SWMU-25)
26. Landfill Site No. 3 (SWMU-26)
27. Former Clay Pad Storage Area (SWMU-27)
28. Dimethyl Phthalate Meter Leak (SWMU-28)
29. Venturi Scrubber (SWMU-29)
30. Fume Scrubber (SWMU-30)
31. Building 16 Drum Storage Area (SWMU-31)
32. Debris Pile (SWMU-32)
33. Former Waste Sulfuric Acid Tank Area (SWMU-33)
34. Empty Drum Storage Area No. 1 (SWMU-34)
35. Empty Drum Storage Area No. 2 (SWMU-35)
36. Empty Drum Storage Area No. 3 (SWMU-36)
37. Truck Trailer Storage Area (SWMU-37)

II. Areas of Concern (AOCs)

1. Dimethyl Phthalate Spill Area (AOC-A)
 2. Building 32 Fuel Line Leak (AOC-B)
 3. Former Underground Storage Tank Area No. 11 Area (AOC-C)
 4. Former Underground Storage Tank Area No. 12 Area (AOC-D)
 5. Former Underground Storage Tank Area No. 20 Area (AOC-E)
- d. The Permittee need not undertake corrective action at any aforementioned SWMU(s) and/or AOC(s) identified as No Further Action in **Table II-2** provided there is no evidence of the release(s) of hazardous waste(s), constituent(s) from the SWMU(s) and/or AOC(s) threatening human health or the environment.
- e. A determination of No Further Action shall not preclude the DECDEC from modifying this Permit in accordance with 6 NYCRR 621.13 in order to require further investigations, studies, monitoring, or corrective measures, if new information, subsequent analysis or new contamination indicates the release(s) or likelihood of release(s) that could pose a threat to human health or the environment.

Table II-2 – SWMUs/AOCs requiring No Further Action

I. Solid Waste Management Units (SWMUs)

1. Hazardous Waste Storage Pad – Area 1 (SWMU-1)
2. Hazardous Waste Storage Pad – Area 2 (SWMU-2)
3. Destruction Tank (SWMU-4)
4. Holding Tank (SWMU-7)
5. Equalization Basin (SWMU-8)
6. Settling Channel (SWMU-9)
7. Filter Carts (SWMU-10)
8. Primary Clarifier (SWMU-11)
9. East Sludge Tank (SWMU-12)
10. West Sludge Tank (SWMU-13)
11. Process Reactor (SWMU-14)
12. Building 2 Sump (SWMU-15)
13. Former Underground Storage Tank No. 9 Area (SWMU-18)
14. Inside Building 2B Accumulation Area (SWMU-20)
15. Outside Building 2B Accumulation Area (SWMU-21)
16. QC Laboratory Accumulation Area (SWMU-22)
17. Landfill Site No. 2 (SWMU-25)
18. Landfill Site No. 3 (SWMU-26)
19. Former Clay Pad Storage Area (SWMU-27)
20. Dimethyl Phthalate Meter Leak (SWMU-28)
21. Venturi Scrubber (SWMU-29)
22. Fume Scrubber (SWMU-30)
23. Debris Pile (SWMU-32)
24. Former Waste Sulfuric Acid Tank Area (SWMU-33)
25. Empty Drum Storage Area No. 1 (SWMU-34)
26. Empty Drum Storage Area No. 2 (SWMU-35)
27. Empty Drum Storage Area No. 3 (SWMU-36)
28. Truck Trailer Storage Area (SWMU-37)

II. Areas of Concern (AOCs)

1. Dimethyl Phthalate Spill Area (AOC-A)
2. Building 32 Fuel Line Leak (AOC-B)
3. Former Underground Storage Tank Area No. 11 Area (AOC-C)
4. Former Underground Storage Tank Area No. 12 Area (AOC-D)

B. STANDARD CONDITIONS FOR CORRECTIVE ACTION

1. The Permittee must perform any and all corrective action specified by **Condition A.3** of this Module and all conditions in this Permit.

2. The Permittee must follow the requirements for groundwater protection as specified in **Module XI** of this Permit, including any groundwater sampling and analysis plan which may be required therein.
3. The Permittee and its consultants/contractors performing corrective action activities must demonstrate completion of appropriate training in accordance with the DEC-approved personnel training plan in this Permit and follow all applicable health and safety plans.
4. Work Plans. All work plans submitted pursuant to this Module shall include:
 - a. Quality Assurance/Quality Control protocols to ensure that data generated is valid and supported by documented procedures;
 - b. Other plans (e.g., Quality Assurance Project Plan (QAPP)), specifications and protocols, as applicable;
 - c. A schedule for starting specific tasks, completing the work and submitting progress and final reports; and
 - d. Plans for the treatment, storage, discharge or disposal of wastes to be generated by activities described therein.
5. Quality Assurance/Quality Control. Any laboratory to be used pursuant to sampling required by this Module must be approved by the DEC prior to implementation. Certification by the New York State Department of Health (DOH) Environmental Laboratory Approval Program (ELAP) in the relevant analytical services is required. All laboratory deliverables must be submitted in accordance with **Condition O.1 of Module I**.
6. Health/Safety Plans. The Permittee shall develop, according to applicable Federal, State and local requirements, and submit to the DEC, health and safety plans that will be implemented to ensure that the health and safety of project personnel, plant personnel and the general public are protected. These plans are not subject to approval by the DEC.
7. Guidance Documents. When preparing the submissions described in this Permit Module, the Permittee shall take account of applicable guidance documents issued by the DEC and U.S. Environmental Protection Agency in a manner reflecting reasonable technical considerations.
8. Prior Submissions. The Permittee may have already submitted portions of information, plans, or reports required by this Permit Module and its Appendices to the DEC pursuant to the terms of previous applications, consent orders, or plans. For those items the Permittee contends were submitted to the DEC, the Permittee may cite the specific document(s) it believes adequately addresses each of the individual items requested by this Permit Module and its Appendices. The references, by document(s) shall be placed in the appropriate sections of the submissions that require the referenced information and data. If the DEC determines that it does not possess any of the referenced

information, plans, or reports that the Permittee claims were previously submitted, the DEC will notify the Permittee and the Permittee shall submit the referenced documents within the time frame specified within the notification.

9. Compliance Schedule For Reporting And Submissions.

- a. The Permittee shall submit, to the DEC, signed progress reports, as specified in approved work plans pursuant to this Permit, of all activities (i.e., SWMU Assessment, Interim Measures, RCRA Facility Investigation, Corrective Measures Study) conducted pursuant to the provisions of the Corrective Action Compliance Schedules of this Permit Module, beginning no later than thirty (30) calendar days after the Permittee is first required to begin implementation of any requirement herein. These reports shall contain:
 - i. A description of the work completed during the reporting periods;
 - ii. Summaries of all findings made during the reporting period;
 - iii. Summaries of all changes made during the reporting period;
 - iv. Summaries of all contacts made with representatives of the local community and public interest groups during the reporting period;
 - v. Summaries of all problems or potential problems encountered during the reporting period and actions taken to rectify problems;
 - vi. Changes in personnel conducting or managing the corrective action activities during the reporting period;
 - vii. Projected work for the next reporting period; and
 - viii. Copies of daily reports, inspection reports, laboratory/monitoring data, etc., generated during the reporting period.
- b. Upon request, copies of other relevant reports and data not identified in **Condition B.9.(a)** of this Module shall be made available to the DEC.
- c. The DEC may require the Permittee to conduct new or more extensive assessments, investigations, or studies, based upon information provided in the progress reports referred to in **Condition B.9.(a)** above, or upon other supporting information.
- d. All work plans, reports, studies, designs and schedules required by the conditions of this Permit Module and its appendices are upon approval of the DEC, incorporated into this Permit by reference and become an enforceable part of this Permit. Any noncompliance with such approved work plans, reports, studies, designs and schedules shall constitute noncompliance with this Permit. Extensions of the specified final compliance dates for submissions may be

granted by the DEC in accordance with the major permit modification procedures stipulated in **Module I** of this Permit.

10. Compliance with Governmental Requirements: During investigative activities, interim corrective measures and final corrective measures (including, but not limited to, equipment decommissioning, excavation and unit demolition) required by this Module, the Permittee must ensure that the transportation, treatment, storage, discharge, and disposal of all contaminated materials generated as a result of such activities (including, but not limited to, soil, sediments, liquids, tanks, pipes, pumps, rubble, debris and structural materials) are performed in an environmentally sound manner pursuant to all applicable federal, State and local requirements, and in a way that is protective of human health and the environment. Nothing in this Module shall be construed to require the Permittee to proceed in a manner which is in violation of any such requirements.

11. Notifications:

- a. Groundwater Contamination: If at any time the Permittee discovers that hazardous constituents in groundwater released from the Facility have migrated beyond the Facility boundary in concentrations that exceed action levels in the DEC's TOGS 1.1.1 (ambient values), the Permittee must, within fifteen (15) calendar days of discovery, provide written notice to the DEC.
- b. Air Contamination: If at any time the Permittee discovers that hazardous constituents in air have been released from a SWMU or AOC at the Facility, and have or are migrating to areas beyond the Facility boundary in concentrations that exceed action levels in the DEC's DAR-1 ("Guidelines for the Control of Toxic Ambient Air Contaminants"), and that residences or other places at which continuous, long-term human exposure to such constituents might occur are located within such areas, the Permittee must immediately initiate all appropriate actions necessary to mitigate the release to concentrations below the action levels or cease operation immediately. In addition, the Permittee must:
 - i. Immediately initiate any actions that might be necessary to provide notice to all individuals who have been, may have been or may become exposed to the released constituents; and
 - ii. Provide written notification to the DEC within fifteen (15) calendar days of such discovery.
- c. Residual Contamination: If hazardous wastes or hazardous constituents are located within or have been released from SWMUs or AOCs and will remain in or on the land, including groundwater, after the term of this Permit has expired, the Permittee must record, an environmental easement and/or restrictive covenant to run with the land in favor of the State in accordance with **Condition F.3** of this Module or in some other instrument acceptable to the DEC which is normally examined during title search that will, in perpetuity, notify any potential purchaser of the property, of the types, concentrations and locations of such hazardous wastes or hazardous constituents.

- d. Newly Discovered SWMUs and AOCs: The Permittee must notify the DEC, in writing, of any additional SWMUs and AOCs discovered during the course of groundwater monitoring, field investigations, environmental audits or other means within fifteen (15) calendar days of discovery. Thereafter, the Permittee must proceed with the assessment, investigation, evaluation and remediation of the SWMU and/or AOC as set forth in **Condition C** of this Module.
- e. Newly Discovered Releases: The Permittee must notify the DEC, in writing, of any release(s) of hazardous wastes, including hazardous constituents, discovered during the course of groundwater monitoring, field investigations, environmental audits, or other activities no later than fifteen (15) calendar days of discovery. Such newly discovered release(s) may be from newly identified unit(s)/area(s), from unit(s)/area(s) for which, based on the findings of the RCRA Facility Assessment (RFA), the DEC had previously determined that no further investigation was necessary, or from unit(s)/area(s) investigated as part of a RCRA Facility Investigation (RFI). Based on the information provided in the notification, the DEC shall determine the need for further investigation of the release(s). If the DEC determines that such investigations are needed, the DEC shall, by written notification, require the Permittee to prepare an RFI Work Plan in accordance with **Condition D** of this Module. The DEC may, at its discretion, also require the Permittee to prepare an Interim Corrective Measures (ICM) Work Plan.

12. Determination of No Further Action

- a. Based on the results of a RFA or a RFI for a particular SWMU or AOC, or combination of SWMUs and/or AOCs, and any other relevant information, the Permittee may submit an application to the DEC for a permit modification in accordance with **Section E of Module I**, 6 NYCRR 373-1.7(b) and 621 to terminate the subsequent corrective action requirements of this Module for the subject SWMU(s) or AOC(s). The permit modification application must contain information demonstrating:
 - i. Hazardous waste or hazardous constituents are not detected in any applicable environmental media; or
 - ii. Hazardous waste or hazardous constituents which have been detected are below background concentrations (pre-released conditions); or
 - iii. Hazardous waste or hazardous constituents which have been detected do not pose a threat to human health or the environment.
 - iv. The permit modification application must also include the information required in 6 NYCRR 373-1, 373-2 and 621.4(n).
- b. If, based upon review of the Permittee's request for a permit modification, the results of the RFI, and other information, including comments received during the forty-five (45) calendar day public comment period required for major permit modifications, the DEC determines that the release(s) or the suspected release(s)

investigated are either non-existent or do not pose a threat to human health or the environment, the DEC may grant the requested modification.

- c. A determination of no further action shall not preclude the DEC from modifying this Permit in accordance with 6 NYCRR 621.13 in order to implement the following actions:
 - i. Require the Permittee to perform such investigations as necessary to comply with the requirements of this Module if new information or subsequent analysis indicates that there are, or are likely to be, releases from SWMUs/AOCs/operable units that may pose a threat to human health or the environment; and/or,
 - ii. Require continual or periodic monitoring of environmental media, if necessary, to protect human health and the environment, when site-specific circumstances indicate the release(s) of hazardous waste(s), including hazardous constituents, are likely to occur from any SWMU(s) and/or AOC(s) and/or operable units.

13. SWMU/AOC Current Conditions Report. Every 5 years or when requested by the DEC, the Permittee shall submit to the DEC a SWMU/AOC Current Conditions Report providing current information regarding the status of investigations or remedial work for all SWMUs and AOCs. The report must include, at a minimum, information regarding physical and operational description, waste types/characteristics, any known or suspected releases, and current status of corrective action, including beginning and completion dates of each applicable phase.

C. SCHEDULE FOR ASSESSMENT OF NEWLY IDENTIFIED OR DISCOVERED SWMUs AND AOCs

The information required herein must be submitted in accordance with the Newly Discovered SWMUs and AOCs Assessment Schedule as outlined in **Table II-4** of this Module.

1. Notification of Assessment: The Permittee must notify the DEC, in writing, of any additional SWMU(s) and/or AOC(s) not listed in **Tables II-1** or **Attachment K SWMU/AOC Current Conditions Report**, which are identified during the course of groundwater monitoring, field investigations, environmental audits, or other means. For new units managing solid waste only, or for other new unit(s), the Permittee may seek clarification from the DEC as to whether the unit constitutes a SWMU requiring notification under this permit condition. Once such notification has been made, a newly installed SWMU (i.e., new use with no history of release) will receive a determination of no further action and will be processed by the DEC as a notification. Should a subsequent release occur at such a unit, then the full notification, assessment and reporting procedures of this Module will apply.
2. SWMU/AOC Assessment Report: The Permittee must submit a SWMU/AOC Assessment Report. This report must provide, at a minimum, the following information for each newly identified SWMU/AOC:

- a. Type of unit/area;
 - b. Location of each unit/area on a topographic map of appropriate scale;
 - c. Dimensions, capacities, and structural descriptions of the unit/area (supply available engineering drawings);
 - d. Function of unit/area;
 - e. Dates that the unit/area was operated;
 - f. Description of the wastes that were placed or spilled at the unit/area;
 - g. Description of any known releases from the unit/area (to include groundwater data, soil analyses, air monitoring data, and/or surface water/sediment data);
 - h. The results of any sampling and analysis required for the purpose of determining whether releases of hazardous wastes, including hazardous constituents, have occurred, are occurring, or are likely to occur from the unit/area;
 - i. Whether this unit/area, individually or in combination with other units/areas listed in **Table II-1** of this Module, is a significant source of contaminant release; and
 - j. Proposed status (i.e., No Further Action/Supplemental Investigation/ Further Action).
3. SWMU/AOC Sampling and Analysis Plan: If determined necessary, the Permittee must submit to the DEC for approval a plan for sampling and analysis of specific environmental media including, but not limited to, groundwater, land surface and subsurface strata, surface water/sediment or air, as necessary to determine whether a release of hazardous waste, including hazardous constituents, from such unit(s) and/or area(s) has occurred, is likely to have occurred, or is likely to occur. The SWMU/AOC Sampling and Analysis Plan must demonstrate that the sampling and analysis program, if applicable, is capable of yielding representative samples and must include parameters sufficient to identify migration of hazardous waste, including hazardous constituents, from the newly discovered SWMU(s) and/or AOC(s) to the environment.
 4. Subsequent Assessment Actions: Following submission of the SWMU/AOC Assessment Sampling and Analysis Plan set forth in **Condition C.3** of this Module, the DEC may either approve the Sampling and Analysis Plan as submitted or issue comments on the Plan. If approved, the Permittee must implement sampling in accordance with **Table II-4**. If comments are issued, then subsequent activities for the Sampling and Analysis Plan shall proceed in accordance with **Condition A.10 of Module I** of this Permit.
 5. SWMU/AOC Sampling and Analysis Report: The Permittee must follow the reporting requirements in the approved Plan and submit a SWMU/AOC Sampling and Analysis Report to the DEC. The Sampling and Analysis Report must describe all results obtained from the implementation of the approved Sampling and Analysis Plan.

6. Assessment Conclusions: Based on the results of the SWMU/AOC Sampling and Analysis Report, the DEC shall determine the need for further investigations at the specific unit(s) covered in the SWMU/AOC Assessment Report. If the DEC determines that such investigations are needed, the DEC shall, by written notification, require the Permittee to prepare and submit for approval a RFI Work Plan. In addition, the DEC may, at its discretion, require the Permittee to submit a Corrective Measures Study (CMS) or an Interim Corrective Measures (ICM) Work Plan if either is deemed necessary by the DEC to safeguard human health and the environment. Any additional activities required by the DEC must be undertaken in accordance with **Condition D** of this Module.

D. CORRECTIVE ACTION REQUIREMENTS

1. RCRA Facility Investigation: The Permittee must conduct, or have conducted, a RCRA Facility Investigation (RFI) to determine the nature and extent of known and suspected releases of hazardous constituents in groundwater and soil, originating from any location at the Facility, including a SWMU and/or AOC, as identified in **Table II-3** of this Module, and to gather data to support the Corrective Action Plan (CAP). The Permittee must conduct all items associated with the RFI in accordance with schedule specified in **Table II-5** (RCRA Facility Investigation Schedule) of this Module and must address both on-site and off-site contamination.
 - a. The Permittee must submit a RFI work plan to the DEC for the SWMU(s) and/or AOC(s) identified in **Table II-3** of this Module.
 - b. The RFI Work Plan shall include:
 - i. A Project Management Plan detailing a discussion of the technical approach to the investigation, schedules, and milestone reports;
 - ii. A Quality Assurance Project Plan to establish and document all sampling and monitoring procedures;
 - iii. A Data Management Plan to track investigation data and results; and
 - iv. A Health and Safety Plan for safe conduct of corrective action activities.
 - c. Along with RFI Work Plan, the Permittee shall include a section for a Description of Current Conditions. The section shall include, at a minimum:
 - i. Background information gathered during previous investigations or inspections and other relevant data;
 - ii. Nature, extent, and rate of migration of contamination, if known; and
 - iii. Past or current activities at the Facility.

- d. Any proposed RFI Work Plan must be submitted for the DEC's review and approval/acceptance, and must include, at a minimum, a chronological description of the anticipated activities, a schedule for performance of those activities, and sufficient detail to allow the DEC to evaluate that RFI Work Plan.
- e. All work plans prepared pursuant to this Module must be certified in accordance with 6 NYCRR 373-1.4(a)(5) and **Condition A.2** of this Module. Additionally, work plans must also be certified by an independent Professional Engineer registered in New York State.

2. RFI Implementation

- a. Upon approval of an RFI Work Plan by the DEC, the Permittee must implement such work plan in accordance with schedule specified in **Table II-5** of this Module. The Permittee shall present data of adequate technical quality to support the contention that no further action is required, or the development and evaluation of corrective measures alternatives presented in the CAP. RFI Implementation shall consist of:
 - i. Characterization of the environmental setting at the Facility, including the hydrogeology, soils, surface water, sediment, and air;
 - ii. Source characterization of all waste management areas at the Facility, including the nature of the unit and the type of waste place in the unit as described by chemical and physical characteristics;
 - iii. Contamination characterization, including analysis of hazardous waste or hazardous constituents from SWMUs and/or AOCs and the effects of such hazardous waste or hazardous constituents on environmental media; and
 - iv. Potential receptor identification describing the potential for human and environmental impact from contaminant exposure from the Facility.
- b. The DEC must be notified at least 7 days in advance of, and be allowed to attend, any field activities to be conducted under a DEC-approved work plan, as well as any pre-bid meetings, job progress meetings, substantial completion meeting and inspection, and final inspection and meeting.
- c. During all field activities conducted under a DEC-approved work plan, the Permittee must have, on-site, a representative who is qualified to supervise the activities undertaken. Such representative may be an employee, or a consultant retained to perform such supervision.
- d. The Permittee shall prepare an analysis and summary of the RFI(s) including results. This task, designated as Investigation Analysis, shall be included in the RFI Report. The objective of Investigation Analysis shall be to ensure that the investigation data are sufficient in quality and quantity to describe the nature and extent of contamination, potential threat to human health and the environment, and to produce the CAP. Investigation Analysis shall consist of:

- i. Data analysis of the type and extent of contamination at each SWMU and/or AOC including sources and migration pathways; and
 - ii. Protection standards for environmental media must be compared to pre-released conditions, or other relevant protection standard.
 - e. Any final RFI report or final engineering report that includes construction activities must include “as built” drawings showing any changes made to the remedial design or the IRM.
 - f. The Permittee shall submit a schedule of activities and reports, to the DEC as required by **Table II-5** of this Module.
 - g. All final reports and final engineering reports prepared pursuant to this Module must be certified in accordance with 6 NYCRR 373-1.4(a)(5) and **Condition A.2** of this Module by the Permittee and an independent Professional Engineer registered in New York State.
3. Compliance Schedule for Interim Corrective Measures (ICMs)
- a. If at any time it is determined by the DEC that a release or, based on site-specific circumstances, a threatened release of hazardous wastes, including hazardous constituents from a SWMU, an AOC or a combination of SWMUs and/or AOCs poses a significant and immediate threat to human health or the environment, or that such condition jeopardizes the Permittee’s ability to comply with any governmental permit, a focused interim corrective measures study shall be submitted to the DEC for approval within 30 calendar days of notice of such a determination. This study shall consider, among other relevant factors, the character, the extent, direction, the rate of release, the proximity to population, the exposure pathways, the effects of delayed action, and the evaluations of appropriate ICM(s) or the selection of a pragmatic and presumptive ICM. Upon approval of the study by the DEC, the Permittee shall implement the required ICM as specified by the DEC. Should a selected ICM involve an engineered action (e.g., pump and treat), then its design, implementation schedule and subsequent construction completion certification shall require approvals by the DEC. Nothing herein precludes the Permittee from taking immediate action to address the conditions described herein and promptly notifying the DEC.
 - b. In the event the Permittee discovers a release or based on site-specific circumstances, a threatened release of hazardous waste, including hazardous constituents, from a SWMU, an AOC, or a combination of SWMUs and/or AOCs, that poses a significant and immediate threat to human health or the environment, the Permittee shall identify interim corrective measures to mitigate this threat. The Permittee shall immediately summarize the nature and magnitude of the actual or potential threat and the nature of the ICM being considered and notify the DEC. Within 30 calendar days of notifying the DEC, the Permittee shall submit to the DEC, for approval, a focused CMS and follow the progression of events identified in **Conditions D.4, D.5 and D.6** below as well as **Table II-6** of this Module.

- c. The following factors may be considered by the DEC or Permittee in determining the need for interim corrective measures:
 - i. Time required to develop and implement a final corrective measure:
 - ii. Actual or potential exposure of human and environmental receptors:
 - iii. Actual and potential contamination of groundwater and sensitive ecosystems;
 - iv. Concentration of hazardous constituents in soils that have the potential to migrate to the air, groundwater or surface water; and
 - v. Other situations that may pose threats to human health and the environment.

4. Corrective Measures Study (CMS)

- a. Should a CMS be required, the DEC shall notify the Permittee in writing. This notice shall identify the hazardous constituent(s) which have exceeded the action level(s) as well as those which have been determined to threaten human health and the environment given site-specific exposure conditions or due to additive exposure risk. The notification shall specify target cleanup levels for hazardous constituents detected in each medium of concern and may also specify corrective measure alternatives to be evaluated by the Permittee during the CMS.
- b. The DEC may require a Corrective Measures Study under the following conditions:
 - i. If the concentrations of hazardous constituents in environmental media exceed their corresponding individual action levels; or
 - ii. If the concentrations of hazardous constituents in environmental media do not exceed their corresponding individual action levels, but additive exposure risk due to the presence of multiple constituents is not protective of human health; or
 - iii. If the concentrations of hazardous constituent in environmental media do not exceed corresponding individual action levels, but still pose a threat to human health or the environment, given site-specific exposure conditions.
- c. The Permittee shall submit to the DEC for review and approval a CMS for all SWMUs and/or AOCs that have been identified to have a release of hazardous waste or hazardous constituents, in accordance with the schedule specified in **Table II-6** (Corrective Measure Study Schedule) of this Module.
- d. The CMS shall include:
 - i. Identification and Development of the Corrective Measure Alternative or Alternatives:

- (1) Description of Current Situation
 - (2) Establishment of Corrective Action Objectives
 - (3) Screening of Corrective Measures Technologies
 - (4) Identification of the Corrective Measure Alternative or Alternatives
- ii. Evaluation of the Corrective Measure Alternative or Alternatives:
 - (1) Technical/Environmental/Human Health/Institutional
 - (2) Cost Estimate
 - iii. Justification and Recommendation of the Corrective Measure or Measures
 - (1) Technical
 - (2) Human Health
 - (3) Environmental
 - iv. Target cleanup levels;
 - v. Provide a detailed description of the corrective measures evaluated and include an evaluation of how each corrective measure alternative meets the standards;
 - vi. Schedule for implementation of the corrective action(s) according to the timeframe and schedule contained in **Module II** of this Permit;
 - vii. The Permittee in conjunction with the DEC shall establish site specific objectives for the corrective action. These objectives shall be based on public health and environmental criteria, information gathered during the RFI, EPA and New York State guidance, and the requirements of any applicable federal and state statutes. At a minimum, all corrective actions concerning groundwater releases from regulated units must be consistent with, and as stringent as, those required under 6 NYCRR 373-2.6; and
 - viii. Contain any additional information to support the DEC in the corrective measure selection decision-making process.
- e. Upon approval of the CMS, the Permittee shall implement the corrective action(s) according to the schedule as approved in the CMS. The approved schedule for the CMS shall be incorporated in **Table II-6** of this Module.
 - f. The Permittee shall furnish or retain all personnel, materials, and services necessary for the implementation of the CMS.

5. Corrective Measures Selection: The DEC shall review and respond in writing to each corrective action submittal (e.g., plans, studies, reports, schedules, written submittals, etc) that the Permittee makes pursuant to this Permit Module in accordance with **Condition A.9 of Module 1** of this Permit.
- a. Under **Condition D.4** of this Module and any further evaluations of additional corrective measures under this study, the DEC shall select the corrective measure(s) that at a minimum will meet the following standards:
 - i. Be protective of human health and the environment;
 - ii. Attain media target cleanup levels selected by the DEC during the corrective measures selection process;
 - iii. Control the source(s) of release(s) so as to reduce or eliminate, to the maximum extent practicable, further releases of hazardous waste, including hazardous constituents, that might pose a threat to human health and the environment; and
 - iv. Meet all applicable waste management requirements.
 - b. In selecting the corrective measure(s) which meets the standards for corrective measures established under **Condition E.5.a** of this Module, the DEC shall consider the following evaluation factors, as appropriate:
 - i. Long-term reliability and effectiveness. Any potential corrective measure(s) may be assessed for the long-term reliability and effectiveness it affords, along with the degree of certainty that the corrective measure(s) will prove successful. Factors that shall be considered in this evaluation include:
 - (1) Magnitude of residual risks in terms of amounts and concentrations of hazardous waste, including hazardous constituents, remaining following implementation of the corrective measure(s), considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous wastes, including hazardous constituents;
 - (2) The type and degree of long-term management required, including monitoring and operation and maintenance;
 - (3) Potential for exposure of humans and environmental receptors to remaining hazardous wastes, including hazardous constituents, considering the potential threat to human health and the environment associated with excavation, transportation, re-disposal or containment;
 - (4) Long-term reliability of the engineering and institutional controls, including uncertainties associated with land disposal of untreated

hazardous wastes, including hazardous constituents, and their residuals;
and

- (5) Potential need for replacement of the corrective measure(s).
- ii. Reduction of toxicity, mobility or volume. A potential corrective measure(s) may be assessed as to the degree to which it employs treatment that reduces toxicity, mobility or volume of hazardous and/or mixed wastes, including hazardous constituents. Factors that shall be considered in such assessments include:
- (1) The treatment processes the corrective measure(s) employs and materials it would treat;
 - (2) The amount of hazardous and/or mixed wastes, including hazardous constituents, that would be destroyed or treated;
 - (3) The degree to which the treatment is irreversible;
 - (4) The residuals that will remain following treatment, considering the persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous and/or mixed wastes, including hazardous constituents; and
 - (5) All concentration levels of hazardous and/or mixed waste, including hazardous constituents, in each medium that the corrective measure(s) must achieve to be protective of human health and the environment.
- iii. The short-term effectiveness of a potential corrective measure(s) may be assessed considering the following:
- (1) Magnitude of reduction of existing risks;
 - (2) Short-term risks that might be posed to the community, workers, or the environment during implementation of such a corrective measure(s), including potential threats to human health and the environment associated with excavation, transportation, and re-disposal or containment; and
 - (3) Time until full protection is achieved.
- iv. Implementability. The ease or difficulty of implementing a potential corrective measure(s) may be assessed by considering the following types of factors:
- (1) Degree of difficulty associated with constructing the technology;
 - (2) Expected operational reliability of the technologies;

- (3) Need to coordinate with and obtain necessary approvals and permits from other agencies;
 - (4) Availability of necessary equipment and specialists;
 - (5) Available capacity and location of needed treatment, storage and disposal services; and
 - (6) Requirements for removal, decontamination, closure, or post- closure of units, equipment, devices or structures that will be used to implement the corrective measure(s).
- v. Cost. The types of costs that may be assessed include the following:
- (1) Capital costs;
 - (2) Operation and maintenance costs;
 - (3) Net present value of capital and operation and maintenance costs; and
 - (4) Potential future corrective measure costs.
- c. The DEC shall select the final corrective measure(s) based on the information submitted by the Permittee in the RFI Report, the Corrective Measures Study (CMS), and/or other documents or reports. The proposed remedy shall be set forth in a draft Statement of Basis (SB) prepared by the DEC for the Facility.
- d. The selected remedy(ies) will be public noticed. The public will have the opportunity to review the reports and documents associated with the selected remedy(ies). Additionally, the public has the opportunity to comment on these and the proposed selected remedy(ies). The selected remedy(ies) could be modified based on comments received.
- e. Once the SB has been finalized and incorporated into this Permit pursuant to 6 NYCRR 621.13 and **Condition D.6** below, the Permittee must submit a Corrective Measures Implementation (CMI) Work Plan that provides for the development and implementation of final plans and specifications for implementing the remedial alternative set forth in this Permit (i.e., in the SB). This CMI Work Plan must, unless otherwise provided in writing by the DEC, be submitted in accordance with the schedule specified in **Table II-6** of this Module. The Permittee must commence implementation of the CMI Work Plan, in accordance with the schedule specified in **Table II-6** of this Module.
- f. Once the selected remedy(ies) has been implemented, the Permittee must oversee the remedy effectiveness and performance in accordance with the schedule specified in **Table II-6** of this Module.

6. Permit Modification for Corrective Measures:

- a. Based on the CMS, the DEC will select the corrective measure(s), prepare the draft SB, and initiate a permit modification to this Permit, pursuant to 6 NYCRR 373-1.7(b) and 6 NYCRR 621.14, which includes a forty-five (45) day public comment period for the SB and the permit modification. The permit modification will specify the selected corrective measure(s) and include, at a minimum the following:
 - i. Description of all technical features of the corrective measure(s) that are necessary for achieving the standards for corrective measures established under **Condition D.5.a** of this Module, including length of time or which compliance must be demonstrated at specified points of compliance.
 - ii. All media cleanup standards for hazardous constituents, selected by the DEC, that the corrective measure(s) must achieve to be protective of human health and the environment.
 - iii. All requirements for achieving compliance with these cleanup standards.
 - iv. All requirements for complying with the standards for management of wastes.
 - v. Requirements for removal, decontamination, closure or post-closure of units, equipment, devices or structures that will be used to implement the corrective measure(s).
 - vi. A schedule for initiating and completing all major technical features and milestones of the corrective measure(s); and
 - vii. Requirements for submission of reports and other information.
- b. Once the final Statement of Basis has been issued, it will be incorporated into this Permit, either in its entirety or by reference.
- c. By April 1 of each year after this Permit has been modified, the Permittee shall demonstrate, in writing to the DEC, financial assurance for completing the approved corrective measures.

7. Modification of Compliance Schedules

- a. If at any time the Permittee determines that modification of any Compliance Schedule of this Permit Module is necessary because such schedules cannot be met, the Permittee must:
 - i. Notify the DEC in writing within fifteen (15) calendar days of such determination;
 - ii. Provide an explanation why the current schedule cannot be met; and

- iii. Propose the date by which the Compliance Schedule can be met.
- b. The DEC shall notify the Permittee in writing of the final decision regarding the Permittee's proposed modification to the Compliance Schedule.
- c. Modification(s) to the Compliance Schedule pursuant to this procedure does not constitute a reissuance of this Permit.
- d. All other modifications to this Permit Module must be made in accordance with **Module I** of this Permit.

8. Reporting Requirements

- a. The Permittee shall submit to the DEC, when applicable, written progress reports of all activities conducted after the effective date of the approved CMS. The Permittee shall submit the first progress report in accordance with the schedule specified in **Table II-6** of this Module.
- b. The progress reports shall contain:
 - i. A description of the work completed;
 - ii. Summaries of all the finding and all raw data;
 - iii. Summaries of all problems encountered during the reporting period and actions taken or to be taken to rectify problems; and
 - iv. Projected work for the next period.
- c. The Permittee shall maintain copies of the reports, drilling logs and data at the facility during the effective period of this Permit.

E. INACCESSIBLE SWMUS

If, based on, the RCRA Facility Assessment/RCRA Facility Investigation and subsequent documentation, the DEC has determined that there is a potential for release of hazardous waste and/or constituents from any inaccessible SWMU(s)/AOC(s) at the Facility, they will be identified in **Table II-3** of this Module as requiring further action.

For the above area(s), the Permittee shall submit to the DEC for approval a schedule for the preparation of a RCRA Facility Investigation Work Plan, no later than one-hundred and eighty (180) calendar days prior to the date when the SWMU(s) is anticipated to become accessible for such an investigation. Accessibility to the SWMU(s) shall be considered achievable when the impediment (e.g., buildings, structures, utilities) is demolished, abandoned, or is altered in a manner that would allow access to the SWMU(s). All such work shall proceed in accordance with the approved schedule.

Following submission of the RFI Work Plan set forth in this condition, subsequent activities for the Plan shall proceed in accordance with schedule specified in **Table II-5** of this Module.

F. OTHER REQUIREMENTS

1. Groundwater Requirements. Any Groundwater Monitoring Program that is required as part of this permit, shall be submitted as part of the Groundwater Monitoring Requirement in accordance with **Condition C of Module XI** of this Permit.

2. Environmental Easement

a. If a Statement of Basis (SB), or other approved work plan, for the Facility relies upon one or more institutional and/or engineering controls, the Permittee (or the owner of the Facility) must submit to the DEC for approval an environmental easement and/or restrictive covenant to run with the land in favor of the State which must be:

i. created and recorded pursuant to ECL Article 71, Title 36;

ii. in a form and manner as prescribed by the DEC;

iii. in compliance with General Obligations Law (GOL) 5 703(1) and ECL 71 3605(2); and,

iv. recordable pursuant to Real Property Law (RPL) 291.

b. Upon acceptance of the environmental easement and/or restrictive covenant by the State, the Permittee must comply with the requirements of **Condition F.2** of this Module.

c. Agents, employees or other representatives of the State may enter and inspect the property burdened by an environmental easement with reasonable prior notice to the property owner, to assure compliance with the restrictions identified by the environmental easement.

d. If the SB provides for no action other than implementation of one or more institutional controls, the Permittee must cause an environmental easement to be recorded under the provisions of **Condition F.2.a** of this Module.

e. If the Permittee does not cause such environmental easement to be recorded in accordance with **Condition F.2.a** of this Module, the DEC may file an Environmental Notice on the Facility.

3. Dispute Resolution

a. The Permittee may submit a written Notice of Dispute to the DEC related to the DEC's action on any of the Permittee's corrective action submittals required by or related to this Permit Module. Any such notices must be made within the time

periods specified under **Condition A.7 of Module I** of this Permit and must be directed to the designated individual as defined in **Condition F.3.a.iii** below. Such a notice must contain specific information describing the Permittee's position and including any relevant supporting documentation. The designated individual shall render a written decision and furnish a copy thereof to the Permittee within (30) calendar days of DEC's receipt of such written notice, or as soon thereafter as possible. This written decision shall be the final DEC determination, unless the Permittee files a written appeal of that decision with the designated appeal individual within 20 days of receipt of that decision.

- i. Upon receipt of the written appeal pursuant to **Condition F.3.a** of this Module, the designated appeal individual will review the record and decision. The designated appeal individual will take one of the following actions, with written notice to the Permittee:
 - (1) remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review;
 - (2) determine that there is no need for further action, and that the determination of the designated individual is confirmed; or
 - (3) make a determination on the records as it exists.
- ii. The decision of the designated appeal individual shall be the final DEC decision and represent the DEC's determination to proceed in accordance with **Condition F.3.b** of this Module.
- iii. The designated individual to:
 - (1) hear disputes is a bureau director in the DEC's Division of Materials Management; and,
 - (2) to review dispute decisions is the assistant director of the DEC's Division of Materials Management.
- b. In the event that the DEC issues a final decision in accordance with **Condition F.3.a.ii** above, the DEC shall, pursuant to 6 NYCRR 621.13, send to the Permittee a notice of intent to modify this Permit with regard to the DEC's final decision in order to safeguard human health and the environment.
- c. Upon receipt of a notice of intent from the DEC, the Permittee must act in accordance with 6 NYCRR 621.13(d) or the DEC's action will become effective on the date specified in the notice of intent. In the event that the Permittee acts in accordance with 6 NYCRR 621.13(d) within the specified timeframe, the procedure for permit modification will continue in accordance with 6 NYCRR 621.13.

4. Required Authorizations

- a. The Permittee must use best efforts to obtain all Facility access, permits, easements, approvals, institutional controls, and/or authorizations necessary to perform the Permittee's obligations under this Permit, including all DEC-approved work plans and the schedules contained therein. If, despite the Permittee's best efforts, any access, permits, easements, approvals, institutional controls, or authorizations cannot be obtained, the Permittee must promptly notify the DEC and include a summary of the steps taken. The DEC may, as it deems appropriate and within its authority, assist the Permittee in obtaining same.
- b. If an interest in property is needed to implement an institutional control required by a work plan and such interest cannot be obtained, the DEC may require the Permittee to modify the work plan to reflect changes necessitated by the Permittee's inability to obtain such interest. Within 15 days of receipt of such notice, the Permittee must elect in writing to either: a) modify the work plan as requested by the DEC within 45 days, or b) invoke dispute resolution in accordance with **Condition F.3** of this Module.

5. Green Remediation

- a. As part of the DEC's initiative, the Permittee must make best efforts to implement green remediation practices in the performance of the requirements of the Work, including but not limited to performance of a RCRA Facility Investigation, Corrective Measures Study, Interim Corrective Measure, Corrective Measures Implementation and Post-Closure/Effectiveness Evaluations to maximize to the extent practicable, sustainability, reduce energy and water usage, promote carbon neutrality, promote materials reuse and recycling, and protect and preserve land resources.
- b. The Permittee must make best efforts to utilize concepts and techniques presented in the New York State Department of Environmental Conservation - DEC Program Policy DER-31/Green Remediation, most recent edition.

6. Institutional Measures

In order to minimize the impacts of the soil and groundwater contamination on the surrounding community the Permittee must:

- a. Restrict public access to the facility.
- b. Place a formal notification on approval of an environmental easement and/or restrictive covenant, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:
 - i. the land has been used to manage hazardous waste; and
 - ii. its use is restricted under 6 NYCRR Part 373-2.7, as if it were a "hazardous waste disposal facility."

7. System Down Time

The remedial system shall be operated on a continuous basis. If any part of the system is inoperable (down) for a period of more than 3 days consecutively or for 5 days in a rolling 30-day period, the Permittee shall notify the DEC. The notification shall include a plan for restoring system operation as soon as possible.

8. Modifications of Remedial Systems

If, after review of the performance monitoring data, the DEC determines that the design or operation of the Remedial System is not sufficient to achieve the remedial criteria, the DEC may require Permittee to modify the design or operation of the system so as to achieve the remedial criteria. Alternatively, the DEC may require, in accordance with **Condition D.5.f** of this Module, that the Permittee investigate and evaluate the use of a different corrective measure for remediation. If necessary, the DEC or the Permittee may seek modification of this Permit pursuant to 40 CFR 270.41 or 270.42 and 124.5 to implement modification to the existing Corrective Measure Remedy.

Table II-3 – SWMUs/AOCs Requiring Additional Corrective Action

SWMU Number	Name	Description	RCRA Implementation Status
SWMU-3	Process Sewer	Sewer used to transport liquid wastewater effluent from plant buildings to onsite wastewater treatment plant. 2-butanone in soil and acetone in groundwater detected above action levels.	Final SOB issued 08/26/2005 requiring Monitored Natural Attenuation and Institutional Controls.
SWMU-5	East Influent Wall	Walls used to collect effluent from process sewers. Acetone in soil and various VOCs in groundwater detected above action levels.	Final SOB issued 08/26/2005 requiring Monitored Natural Attenuation and Institutional Controls.
SWMU-6	West Influent Wall	Walls used to collect effluent from process sewers. Acetone in soil and various VOCs in groundwater detected above action levels.	Final SOB issued 08/26/2005 requiring Monitored Natural Attenuation and Institutional Controls.
SWMU-16	Building 2B Separator	Underground unit used to separate peroxide solids from Building 2 wastewater. Butyl benzyl phthalate and di-n-butyl phthalate in soil detected above action levels.	Final SOB issued 08/26/2005 requiring Institutional Controls.
SWMU-17	Former Underground Storage Tank No. 2 Area	8000 gallon UST used to store fuel oil closed in place in 1987. Various fuel oil compounds in groundwater detected above action levels.	Final SOB issued 08/26/2005 requiring Monitored Natural Attenuation.
SWMU-19	Sewer Pretreatment Pit	Pit receiving effluent between 1980 and 1986. Acetone and chloroform in soil detected above action levels.	Final SOB issued 08/26/2005 requiring Institutional Controls.
SWMU-23	Burning Cage	Used for burning miscellaneous trash and other combustible debris from 1955 to 1972. Dimethyl phthalate detected in soil above action levels.	Final SOB issued 08/26/2005 requiring Institutional Controls.

SWMU-24	Landfill Site No. 1	Landfill used for disposal of between 1955 and 1969. Various VOCs and phthalates in soil and acetone in groundwater detected above action levels.	Final SOB issued 08/26/2005 requiring Monitored Natural Attenuation and Institutional Controls.
SWMU-31	Building 16 Drum Storage Area	Building 16 burned down in 1987 and acetophenone (as decomposition byproduct of stored peroxides) in soil detected above action levels.	Final SOB issued 08/26/2005 requiring Institutional Controls.
AOC-E	Former UST No. 20 Area	10000 gallon UST used to store fuel oil closed in 1987. Benzo(a)pyrene in soil detected above action levels.	Final SOB issued 08/26/2005 requiring Institutional Controls.

Table II-4: Newly Discovered SWMUs and AOCs Assessment Schedule

Activity	Due Date¹
Notification of Assessment	Fifteen (15) calendar days of discovery
SWMU/AOC Assessment Report	Within thirty (30) days of notifying the DEC
SWMU/AOC Sampling and Analysis Plan Submittal	Within sixty (60) days from submission of SWMU/AOC Assessment Report
SWMU/AOC Sampling and Analysis Plan Subsequent Assessment Actions	<ul style="list-style-type: none">• Meeting with the DEC• Submission of a revised Plan within thirty (30) after the above-describing meeting• Begin implementation of the plan within fifteen (15) calendar days following written approval by the DEC
SWMU/AOC Sampling and Analysis Plan Implementation	Within thirty (30) days of SWMU/AOC Sampling and Analysis Plan approval
SWMU/AOC Sampling and Analysis Report	Within thirty (30) calendar days of receipt by the Permittee of validated analytical data
Assessment Conclusions	If DEC determines that such investigations are needed, DEC shall, by written notification, require the Permittee to prepare and submit for approval a RCRA Facility Investigation Work Plan.

Footnotes:

1. Due Date changes may be made with written approval from the DEC.

Table II-5: RCRA Facility Investigation Schedule

Activity	Due Date¹
Submit Draft RFI work plan and schedule	Within ninety (90) calendar days from submission of the <u>SWMU/AOC Sampling and Analysis Report</u>
Subsequent Assessment Actions	<ul style="list-style-type: none">• Meeting with the DEC• Submission of a revised Plan withing thirty (30) after the above-describing meeting• Begin implementation of the plan within fifteen (15) calendar days following written approval by the DEC
Begin RCRA Facility Investigation according to the approved RFI work plan and schedule	Within fifteen (15) days following written approval by the DEC
Submit RFI Report	Within thirty (30) calendar days of receipt by the Permittee of validated analytical data
Assessment Conclusions	If the DEC determines that remedies are needed, the DEC shall, by written notification, require the Permittee to prepare and submit for approval a Corrective Measure Study (CMS) Work Plan.

Footnotes:

1. Due Date changes may be made with written approval from the DEC.

Table II-6: RCRA Corrective Measure Study Schedule

Activity	Due Date¹
Submittal of CMS	Within one hundred and eighty (180) calendar days after receiving the written notification from DEC of the requirement for a CMS. Following completion of the CMS, the DEC will select the corrective measure(s) from the corrective measure alternatives evaluated in the CMS.
Subsequent Assessment Actions	<ul style="list-style-type: none">• Meeting with the DEC.• Submission of a revised CMS withing thirty (30) days after the above-described meeting.
Submit CMS Final Report	Within ninety (90) calendar days of the DEC's approval of any draft/revised draft CMS.
Statement of Basis and Permit Modification – Public Participation	Forty-five (45) calendar days for public notice. The public will have forty-five (45) calendar to review the selected remedy(ies) and submit comments
Responsiveness Summary	Within sixty (60) calendar days of the close of the public comment period, the DEC shall provide a response for all the public comments received on the selected remedy(ies).
Permit Modification Approval	The final SB and permit modification shall become effective thirty (30) days after service of notice of the approval, unless another date is specified.
Submittal of the Corrective Measures Implementation (CMI) Work Plan	Within one hundred twenty (120) days of the effective date of the Permit modification.
Implementation of CMI Work Plan	The Permittee must commence implementation of the CMI Work Plan within thirty (30) days of the DEC's approval of such work plan.
CMI Construction	As specified in approved CMI Work Plan
CMI Construction Report	Within ninety (90) calendar days following completion of construction
Progress Reports	As required, but the first shall be submitted within ninety (90) calendar days after the CMI Work Plan is approved
Corrective Measures (Progress) Effectiveness and Performance Reports	Triennially, after 3 calendar years of its construction.

Footnotes:

1. Due Date changes may be made with written approval from the DEC.

MODULE XI GROUNDWATER MONITORING

A. APPLICABILITY

1. Statute and Regulations: Article 27, Title 9, Section 27-0913, 6 NYCRR Sections 373-1.5(a), 373-2.6(a), 373-2.6(c), 373-2.6(h) and 373-3.6(b), as well as unit specific regulations requiring groundwater monitoring, including all measures beyond the Facility boundary where necessary to protect human health and the environment, for all releases of hazardous wastes, including hazardous constituents listed in Appendix 23 of 6 NYCRR Part 371 or Appendix 33 of 6 NYCRR 373-2 as well as any hazardous substances in 6 NYCRR Part 597 (defined together as constituents), from any land-based unit under post-closure care or any solid waste management unit (SWMU) regardless of the time at which waste was managed or placed in such unit. Pursuant to 6 NYCRR 373-1.6(c)(2) and **Condition F.1 of Module II**, the DEC may impose Permit conditions as the DEC determines necessary to protect human health and the environment (such as Areas of Concern (AOCs)). The conditions of this Module are applicable to all groundwater monitoring programs required pursuant to this Permit.
2. **All documents and reports required by this Permit must be certified pursuant to conditions established in Subpart 373-1.4(a)(5)(iv) and Condition O.4 of Module I and submitted in accordance with requirements set forward in Conditions O and W of Module I. Additionally, unless specifically exempted in this Permit, all information (e.g., documents and reports) required to be submitted by the Permittee must be approved by DEC. DEC does not require certain plans, documents or reports to be certified. The Permittee should verify if certification is required prior to submittal to the DEC.**

B. STANDARD CONDITIONS

1. Other regulatory programs: Sites and activities potentially impactful to the Facility's Groundwater Monitoring Program (GWMP) will be subject to this Module when the nature and extent of contamination and/or complexity of the issues warrant this determination.
2. Policies and Guidance Documents: The Permittee shall consider applicable Policies and Guidance Documents listed in **Conditions A.3 and A.4 of Module I** when conducting activities required by this Permit.
3. Groundwater Contamination: Groundwater notifications must be followed pursuant to **Condition B.11 of Module II**.
4. Groundwater Monitoring Period: When groundwater monitoring is required, the Permittee shall plan for a perpetual 30-year monitoring period for post closure or corrective action.
5. Groundwater Protection Standard: The Permittee must ensure that Groundwater Protection Standards are being met throughout the Site and, specifically, at any Point

of Compliance or that remedial actions are taken to reduce contaminant levels to meet standards. The Facility's full listing of Constituents of Concerns (COCs) and their corresponding concentration limits are listed in **Table XI-1**. The COCs for which the Facility is required to perform groundwater monitoring sampling as well as their frequency may be found in the Facility's Groundwater Monitoring Program (GWMP).

6. Point of Compliance: The Permittee must ensure any Point(s) of Compliance (POC) is described in the Corrective Measures Study (CMS) as well as clearly delineated and represented in a Facility GWMP well map. Additionally, POCs must be listed in the GWMP as well as shown in a figure attached thereto.
7. Nothing in this Module shall be construed to require the Permittee to proceed in a manner which is in violation of any Permit conditions. The Permittee shall comply with all applicable requirements of this Permit as well as **Conditions A.5, P.1, and R.1 of Module I and B.10 of Module II**.
8. The Permittee is responsible to comply with all federal, state and local regulations in reference to Primary, Principal and Sole-Source Aquifer designations.
9. The Permittee is required to maintain and/or submit records in accordance with 6 NYCRR 373-1.4 and as described in either **Condition N of Module I** or in this Module.
10. A permit modification(s) is required when specific changes to groundwater monitoring plans, programs and wells, as listed in 6 NYCRR 373-1.7, 40 CFR 270.42 or as determined by the DEC, are made. Permit modifications must be made in accordance with the regulations and **Condition E of Module I** of this Permit.

C. GROUNDWATER MONITORING PLAN(S) AND PROGRAM

A facility may have an overall Groundwater Monitoring Program (GWMP) for a sitewide GWM system or may have GWM Plans for multiple areas. When combined these GWM Plans provide the sitewide GWMP.

1. The Permittee must design, implement, and maintain a groundwater monitoring program/plan as required under this Permit and the applicable regulations. The program/plan shall discuss, at a minimum, the following:
 - a. Proper identification and management of contaminated groundwater.
 - b. Identification and description of the uppermost aquifer and aquifers hydraulically interconnected as established in Subpart 373-1.5(3)(iii) and (3)(v).
 - c. A description of Facility activities.
 - d. A list of adjacent properties and/or roadways to north, south, east and west and adjacent property types (residential, agricultural, etc.); nearby wetlands/water bodies, private drinking water wells on adjacent properties, and existing wells on the Facility (including irrigation, private, monitoring) and location; an aerial site

map to demonstrate site layout (additional site maps may be necessary to show water bodies and existing well locations, utilities, etc.); and a written description of site layout (location of entrance, mulch piles, etc.)

- e. A history of the Facility, prior uses specifically any land-based RCRA units and their capacity, known spills or activities that may impact water quality or indicate a potential presence of specific contaminants known point source.
 - f. A description of the surface and subsurface characteristics of the Facility, including geology, hydrogeology, and depth to groundwater. Identify any sources of contamination, possible migration pathways, and actual or potential receptors of contaminants on or through air, soil, bedrock, sediment, groundwater, surface water, utilities, and structures at the contaminated Facility, without regard to property boundaries.
 - g. Aquifer characteristics and hydrogeologic units to identify groundwater flow paths and rates including hydraulic conductivity, hydraulic gradient, effective porosity, aquifer thickness, degree of saturation, stratigraphy, degree of fracturing and secondary porosity of soils and bedrock, aquifer heterogeneity, groundwater discharge, and groundwater recharge areas.
 - h. A combined use of direct and indirect techniques to produce an efficient and complete characterization to define the geology of the Facility including an identification of:
 - i. The seasonal/temporal naturally and artificially induced (e.g., off-site production well pumping, agricultural use) variation in groundwater flow. The Permittee should take into consideration atypical seasonal changes with potential groundwater direction shift. The GWMP and reports must include a minimum discussion on hydraulic gradient, sustained well yield, hydraulic conductivity, permeability and an estimated of the rate of groundwater and contaminant flow in the aquifer with formulas.
 - ii. Potential effluent zones to surface water and public drinking water supply intake infrastructure.
 - iii. Engineering controls including trenches, liners, cover systems, and aquifer controls (e.g., lowering the water table). These shall be evaluated under design and failure conditions to estimate their long-term residual performance.
 - iv. Assessment and estimation of microbiological degradation which may attenuate target compounds or cause transformation of compounds potentially forming harmful chemical species.
2. The Permittee must include, but is not limited to, the following for site characterization figures:

- a. An inventory of their monitoring well network for both off-site and on-site wells. This inventory must also include the laboratory analyses of subsurface samples.
- b. Geophysical techniques.
- c. Structure contour maps.
- d. Cross-sections
- e. Groundwater modeling.
- f. Topographic maps (1":200' scale) that show all features required by Subpart 373-1.5(a)(2)(xix), including:
 - i. Map scale.
 - ii. Aerial photography.
 - iii. Location of the operational units within the hazardous waste facility as well as any area where hazardous waste is treated, stored, or disposed including equipment clean up areas.

D. GROUNDWATER MONITORING SYSTEMS

- 1. The Permittee must observe requirements as established, but not limited to, those found in Subparts 373-2.6 and 373-3.6.
- 2. Groundwater Level Measurements: The Permittee must measure and report the elevation of the potentiometric surface in all monitoring wells and/or piezometers within the off-site and on-site monitoring well network identified in the GWMP or the appropriate Groundwater Monitoring Report (GWMR).
 - a. Water level measurements must have been collected within a 24-hour period. Within thirty (30) days of completing these measurements, the Permittee shall use the water level data to evaluate the direction and rate of groundwater flow. The facility must specify any other situations in which all measurements need to be taken within a short time interval as is the case of tidally influenced aquifers, impacts from impoundments, pumping charges and dischargers (including artesian wells if existing), stressed aquifers by production wells, recharge due to sudden precipitation, etc.
 - b. Piezometers must be re-surveyed as required in the Facility's GWMP to determine the extent of subsidence or rise in the ground surface.
 - c. In cases where immiscible contamination is found during the characterization, water level should be adjusted to reflect true elevation.

- d. Information gaps such as unidentified extraction wells in the vicinity, changes in seasonal precipitation causing groundwater plume shifting, formerly inaccessible areas, etc.
- e. Assess off-site or on-site well pumping as it may affect both the rate and direction of groundwater flow.

Additionally, the Permittee must provide, and keep current, a Facility map showing the locations of the GWM wells as discussed in **Conditions B.5 and D.6** of this Module.

- 3. Description of Wells: The Permittee must maintain an inventory of their monitoring well network for both off-site and on-site wells. This inventory must also include the status (active/inactive), purpose, type (e.g., upgradient/downgradient, compliance, monitoring, piezometers, replacement wells, etc.), depth and location of these wells. If at any time, another type of well(s) is found in the premises of the facility (e.g., extraction, artesian, emergency use, etc.), the Permittee must obtain and report their status and capacity to the DEC. The Permittee may coordinate efforts to obtain this information with local authorities and/or DEC. The Permittee is responsible to notify DEC on all status changes in the well network including decommissioned and/or underreported anytime a well is abandoned. The Permittee is responsible to update this inventory in the annual GWMR and a GWMP revision every five (5) years, or within 60 days of well decommissioning or replacement.
- 4. Monitoring Well Designations: The Permittee must ensure adequate placement of monitoring wells. This placement must include upgradient and downgradient monitoring wells relative to active and closed hazardous waste management units, solid waste management units and areas of concern at the Facility. Additionally, this placement must include screening of detection monitoring wells for the interception of predicted pathways of migration. The number of wells that shall be required shall be determined by DEC as the number necessary to achieve the performance objectives.
- 5. Plume Assessment Wells: The appropriately designated monitoring wells listed in the GWMP or GWMR shall be used to monitor the contaminant plume movement and to assess the effectiveness of the Post Closure Care or Corrective Action Program.
- 6. Documentation of Monitoring Wells: The Permittee must maintain an updated inventory of groundwater monitoring well information including but not limited to:
 - a. Date/time of original construction. Additionally, the inventory must include any well redevelopment or replacement information.
 - b. Well identification number. Wells must be properly identified in the administrative record as well as physically on the well protective casing, cover or flush mount.
 - c. Well type (e.g. background, sampling, point of compliance, etc.)
 - d. Well location (± 0.5 ft)

- i. Coordinates must be submitted in latitude/longitude coordinate system with a precision as required by DEC guidance.
- ii. The permittee must include a conversion factor or system whenever using Easting and Northing.
- e. Well development method and date.
- f. Unit(s) monitored.
- g. Bore hole diameter and well casing diameter.
- h. Casing materials.
- i. Well depth (± 0.1 ft, must be the well bottom).
- j. Ground elevation (± 0.01 ft relative to mean sea level (MSL)).
- k. Top-of-Riser elevation (± 0.01 ft).
- l. Screened interval (ft. relative MSL).
- m. Turbidity reported in a quantitative and measurable method (e.g., <5 NTUs).
- n. Drilling and lithological logs.
- o. Monitored zone.
- p. Detailed drawing of well (include dimensions).

All depth or elevations may be reported in ft BGS (below ground surface), ft AMSL (above mean sea level) or ft BTOC (below top of casing). Whatever system is used must be consistent across all GWM systems/plans/program for the Facility. All documentation must include the necessary definitions, units or acronyms used therein.

If requested by DEC, the Permittee must provide a copy of the Monitoring Well documentation within five (5) business days.

E. WELL LOCATION, INSTALLATION AND CONSTRUCTION

The Permittee must submit a written proposal to install and maintain a groundwater monitoring system a minimum of forty-five (45) days prior to planned installation. The Permittee must design all groundwater monitoring system(s) such that they comply with all applicable regulations and requirements. The Permittee may not install any wells without DEC approval, including any proposed replacement well(s).

- 1. The Permittee shall ensure that all wells are designed, installed, and maintained such that groundwater samples are representative of the true water quality. Additionally,

the wells shall be designed, installed and monitored in such a manner to prevent interconnection between different hydrologic units.

2. The Permittee must ensure the use of adequate construction materials that are durable enough to resist chemical and physical degradation and do not interfere with the quality of groundwater samples. Specific well components that are of concern include well casings, well screens, filter packs, and annular seals or backfills.
3. The Permittee must ensure the drilling method used minimizes disturbance of the surface and subsurface materials. Any method used should not contaminate these materials as well as groundwater or surface water. Emerging contaminants, chemicals or materials characterized by a perceived, potential, or real threat to human health or the environment or by a lack of published health standards, should be considered when selecting these materials.
4. The Permittee must maintain documentation on the design and construction of the wells. Otherwise, a placement of a monitoring well will be considered inadequate for groundwater monitoring if no documentation is provided to the DEC.
5. The Permittee shall measure total well depth annually and redevelop any monitoring well when sediment has entered the well and accumulated to a depth of one foot; or the accumulated sediment blocks ten percent of the screen length, whichever is less. The Permittee must notify DEC within fifteen (15) days of any need to redevelop a well or any sediment accumulation above ten (10) percent.
6. The Permittee must submit a written plan for any well abandonment or decommissioning a minimum of forty-five (45) days prior to implementation. The Permittee may not decommission any wells without DEC approval. The Permittee must follow DEC's well decommissioning policy per **Condition A.4 of Module I**.

F. WELL MAINTENANCE

1. The Permittee is responsible to maintain the GWM system and ensure that all monitoring points yield representative samples of high integrity. During each sampling event the wells to be sampled shall be visually inspected for integrity. Any well found to be damaged beyond usability, blocked or broken, or that fails to recharge properly, shall be repaired, abandoned or replaced, if necessary, in accordance with the conditions of this Permit. Additionally, if the Permittee, or their contractor, observes any cracking or frost heaving of grout at any well, repairs shall be made and the top of the inner well casing will be resurveyed to ensure accurate definition of groundwater elevations. All repairs or replacements shall be completed prior to the next scheduled sampling event.
2. The Permittee shall perform inspection activities within one hundred eighty (180) days of the effective date of this Permit, and every three (3) years after the initial inspection. These inspections shall evaluate the exterior conditions and accessible parts of GWM wells as mentioned in **Condition F.1** above as well as assessing well performance and effectiveness in the GWMP (i.e., well screen depth versus plume locations, etc). The

Permittee shall report observations and maintenance actions in both an initial report and the Triennial Well Inspection Report as listed in **Table C of Module XIII**.

3. The Permittee shall maintain an inventory of all existing and historical wells throughout the facility and at off-site locations associated with the GWMP.

G. SAMPLING AND ANALYSIS PROCEDURES

1. The Permittee must ensure that the frequency of sample collection and the wells to be sampled are in accordance with the Groundwater Monitoring Schedule established in the GWMP or GWMR. The Permittee shall monitor groundwater quality throughout the compliance period to demonstrate conformance with the GWMP.
 - a. The Permittee must prepare and submit a Sampling and Analysis Plan (SAP) and its corresponding Sampling and Analysis Report (SAR) to DEC pursuant to **Conditions C.3 and C.5 of Module II**, as may be necessary. Any new groundwater monitoring requirements necessary based on any new SAP or SAR would subsequently be incorporated into the GWMP.
 - b. Any required SAP must include provisions for measurement of static water elevations in each well prior to each sampling event. A change in hydrologic conditions may necessitate modification to the design of the groundwater monitoring system.
2. Proposed sampling frequencies shall be submitted by the Permittee as part of the Permit application. The sampling frequency is determined on a case-by-case scenario and should reflect site-specific hydrogeological conditions. The minimum sampling is determined by the DEC as defined in the GWMP and per Subparts 373-2.6(h), (i) and (j).
3. Unless specified in the Permit and/or approved modifications to the GWMP, the Permittee must include all active wells in sampling activities. Monitoring wells can only be removed from sampling activities only after the review and approval of DEC.
4. The Permittee shall report water level data with the groundwater quality analytical results as specified in **Condition C and D** above and with a collection time within a twenty-four (24) hour time span for a given well, unless otherwise approved by the Department in the GWMP.
5. The Permittee must collect field data parameters during sampling activities to obtain pH, temperature, redox potential, dissolved oxygen, specific conductance, etc. Other field measurements may be required yet not limited to such as purged water collected and screened with photoionization detectors (PID) or organic vapor meters.
6. The Permittee shall take into account other indicator parameters additional to established hazardous constituents as described in Subpart 373-2.6(i) or as may be determined by the DEC on a case-by-case basis.

7. The Permittee must note and report the presence of immiscible layers: Non-Aqueous Phase Liquids (NAPLs), and Dense Non-Aqueous Phase Liquids (DNAPLs) not detected in the aqueous phase.
8. The Permittee must use the following techniques and procedures when obtaining and analyzing groundwater samples from the groundwater monitoring wells established in the GWMP. The GWMP and GWMR must include a discussion at a minimum with the following requirements:
 - a. Sampling procedures;
 - b. Sample collection quality assurance/quality control (QA/QC);
 - c. Sample preservation;
 - d. Chain of Custody; and
 - e. Sampling Shipment.
9. Sample Analysis: Samples shall be analyzed based on most current USEPA Hazardous Waste Test Methods SW-846, using the most recent and stringent procedure at the time of analysis, unless the DEC approves a different methodology prior to sampling. These samples must be analyzed by a laboratory with a NYS Environmental Laboratory Approval Program (ELAP) certification.
10. The Permittee is responsible to sample any wastes or other materials that may be generated as part of the GWMP and to ensure it is disposed of in accordance with all applicable regulations.
11. The GWMP should include provisions for measurement of static water elevations in each well prior to each sampling event.
12. The Permittee must report the presence of hazardous waste constituents that are consistently present in the monitoring wells exceeding established groundwater protection standards. DEC may require the Permittee to perform additional sampling and install additional wells to determine the horizontal and vertical extent of any contamination.
13. Inability to Obtain Samples: If the Permittee knows that a well may not provide representative samples, may not provide accurate piezometric values, may be damaged, or is inaccessible due to obstructions, the Permittee shall within seven (7) days of such knowledge notify DEC, in writing, of the problem and proposed remedy. Within fourteen (14) days of such knowledge, the Permittee shall attempt to remedy the problem and, when appropriate, sample or re-sample the well. Within twenty-one (21) days of such knowledge, the Permittee shall, through written notice to the DEC, provide information which describes the nature of the problem.

14. The Permittee must include a section with detailed procedures for evacuating wells in their GWMP (e.g., low-flow vs high-flow techniques, use of dedicated equipment, purging times, etc.). The Permittee must provide a written report to DEC within fourteen (14) days whenever a well cannot be sampled due to water table conditions, sediment built up, etc.
15. Insufficient groundwater for sampling: The Permittee must report wells with a history of pumping dry and discuss with DEC the order of sampling COCs. On wells in which the water table has lowered to consider the well dry and no longer adequate for sampling, DEC will make the determination on whether the well should be retained in the GWMP or replaced.
16. The Permittee is responsible for the characterization of all Investigation Derived Waste (IDW) generated during sampling activities. Characterization may include Toxicity Characteristics Leaching Procedure (TCLP) analysis. The Permittee shall treat, store and/or dispose of all IDW, including contaminated groundwater, in accordance with all applicable federal, state and local requirements.
17. At the request of the DEC, the Permittee shall allow the DEC and/or its authorized representatives to collect samples or splits of any samples collected by the Permittee pursuant to the requirements of this Permit. Similarly, at the request of the Permittee, the DEC will allow the Permittee or the Permittee's authorized representatives to take splits or duplicates of any samples collected by the DEC. The Permittee shall provide appropriate management of or disposal of purge water whenever samples are collected by the DEC.
18. Laboratory Reporting: As stated in **Condition G.9** above, all samples must be analyzed by an ELAP-certified laboratory. Additionally, the Permittee must provide DEC with ASP Category B deliverables for sample results in accordance with **Condition O.1 of Module I**. An associated Data Usability Summary Report (DUSR) must be prepared by a qualified and approved data validator and submitted along with all results.
19. Change in Analytical Laboratory: Whenever the Permittee changes analytical contractors, the Permittee shall submit to the DEC, within thirty (30) days of such a change, a copy of the new laboratory's New York State ELAP certification to be included in the permit application. This certification must state the expiration date, analytical test methods and parameters for which the laboratory is certified.
20. The Permittee is required to report the concentrations of any newly detected hazardous constituents found during analysis to the DEC in writing within seven (7) days after receipt of analytical data. The Permittee must immediately incorporate these new constituents into the GWMP when the presence of new hazardous constituents is confirmed by resampling. If the Permittee chooses not to resample, the original detections will be considered valid detections, and the hazardous constituents must be added to the GWMP.

21. The Permittee must use the appropriate statistical procedure to evaluate groundwater monitoring data for each hazardous constituent detected as established in Subpart 373-2.6(h)(8) and Subpart 373-2.6(h)(9) or otherwise approved by the DEC.

H. GROUNDWATER MONITORING PROGRAM TERMINATION CRITERIA

1. Request for Termination: The Permittee may submit a request for termination of the Groundwater Monitoring Program whenever the Permittee determines that the cleanup in all or part of the on-site area/aquifer is achieving the Termination Criteria. The termination request must provide information that the Permittee's GWMP has met all groundwater protection standards set forth in monitoring parameters in **Table XI-1** for an appropriate number of consecutive sampling episodes determined by the DEC.
2. Termination Monitoring: Following a request for termination of the Groundwater Monitoring Program, the Permittee shall conduct Termination Monitoring to demonstrate that Termination Criteria continue to be achieved. At least 60 days prior to commencing Termination Monitoring, the Permittee shall submit a Termination Monitoring Plan for DEC review. That plan will describe the area (or wells) for which Termination Monitoring is proposed, and the monitoring plan, including wells, which will be used to determine whether the Termination Criteria have been achieved. The Permittee may proceed with the Termination Monitoring Program, without DEC approval, at their own risk. Only those results which conform to a DEC-approved Termination Monitoring Plan shall be accepted by the DEC.
3. Basis for Termination: The basis for the DEC's determination of whether the groundwater monitoring for a particular well or area can be terminated shall be if DEC concurs that the **Table XI-1** groundwater protection standards have been met for three (3) years of sampling for Termination Monitoring.

I. GROUNDWATER WELL DECOMMISSIONING OR REPLACEMENT

1. The Permittee is responsible to submit a Permit modification request, in accordance with **Condition B.10** above, including a well decommissioning plan for any on plugging, capping, and abandonment of a GWMP well at the Facility. Once approved by the DEC and implemented, the Permittee must submit a GWM well decommissioning report to DEC for review and approval. All wells in the GWMP shall be decommissioned in accordance with **Condition A.4 of Module I** of this Permit. Once a well is decommissioned, the Permittee must update the GWMP and maintain changes in the GWMR to remove said well(s).
2. The Permittee must submit a Permit modification request, in accordance with **Condition B.10** above, including a work plan for any well replacement proposal. The Permittee must receive DEC approval prior to a well replacement installation. The new well should retain the same vertical and horizontal characteristics as well as the original well as well as the screen depth should be at the same stratigraphic unit. DEC will review this on a case-by-case scenario.

TABLE XI-1
Groundwater Protection Standards
 Site Specific Parameters

Constituent	<u>Concentration Limit, µg/L (micrograms per liter)</u>
Acetone	50
Benzene	1
2-Butanone	50
Chlorobenzene	5
Dichlorobenzenes (1,2- , 1,3- , 1,4-)	3 ⁽²⁾
1,2-Dichloroethane	0.6
1,1-Dichloroethene	5
1,2-Dichloroethene	5
Ethylbenzene	5
Methylene Chloride	5
Naphthalene	10
Styrene	5
Toluene	5
1,1,1-Trichloroethane	5
Trichloroethene	5
Vinyl chloride	2
Xylenes (1,2- , 1,3- , 1,4-)	5 ⁽²⁾

Footnotes:

1. The total concentration of all organic constituents, excluding pesticides, herbicides, vinyl chloride, and trihalomethanes, shall not exceed 100.0 ug/l.
2. Applies to each isomer individually.
3. The concentration shall not be at or above the method detection limit established by SW-846 Method 8260.

MODULE XIII SCHEDULED DATES

A. COMPLIANCE SCHEDULE

The Permittee must complete the following activities within the scheduled timeframes indicated in the following table in accordance with 6 NYCRR 373-1.6(d):

Item No.	Item	Requirement	Compliance Date ¹
1.	Not Applicable		

Footnotes:

1. The Permittee must comply with the reporting requirements of 6 NYCRR 373-1.6(d)(1)(iii) for each interim date and the final compliance date.

B. SCHEDULE OF DELIVERABLES

The Permittee must complete the activities indicated in the following table within the scheduled timeframes from the effective date of the Permit:

Item No.	Item	Requirement	Deliverable Date ¹
1.			

Footnotes:

1. Deliverable Date changes may be made with written approval from the DEC.

C. ROUTINE REPORTING

The Permittee must submit the following routine reports to the Department by the indicated due date in accordance with the requirements of this Permit (Note: the table below is intended to serve as a guide for certain routine reporting required by this Permit. However, the Permittee is still obligated to comply with all applicable regulations cited in this Permit and all conditions and requirements contained in the Modules, Attachments and documents incorporated by reference into this Permit, regardless of whether they are or are not listed in the table below.):

Item No.	Item	Frequency	Due Date ¹	Requirement
1.	Annual Report	Annually	March 1	6 NYCRR 373-2.5(e)

Item No.	Item	Frequency	Due Date ¹	Requirement
2.	SWMU/AOC Current Conditions Assessment Report	Triennially, unless requested by DEC	Three years from the date of Department submittal of initial report required in Module XIII, Condition B.3 or within 30 days of request.	Module II, Condition B.13
3.	Corrective Action Cost Estimate Adjusted for Inflation	Annually	60 days prior to anniversary date of establishment of financial instrument	6 NYCRR 2.6(l)(2), 6 NYCRR 373-2.8(c)(2), 6 NYCRR 373-2.8(e)(2) and Module I, Condition O.3
4.	Evidence that Financial Assurance Instruments have been maintained and not lapsed	Annually	30 days prior to anniversary of initial approval	Module I, Condition O.11
5.	Well Inspection Report	Triennially	Three years after submittal of the Initial Report	Module XI, Condition F.2
6.	Groundwater Monitoring Reports	Annually	March 1, or as approved in GWMP	Module XI, Condition D
7.	Groundwater Monitoring Well Inventory	Every 5 years, or when wells are modified	Dependent on activity	Module XI, Condition D.3 and Condition I

Footnotes:

1. Routine Date changes may be made with written approval from the DEC.

**ATTACHMENT A – EPA PART A APPLICATION
AND FACILITY DESCRIPTION WITH
CERTIFICATION**

**NOURYON FUNCTIONAL CHEMICALS LLC
BURT, NEW YORK**

EPA ID NUMBER: NYD043815158

PERMIT NUMBER: 9-2928-00001/00003

United States Environmental Protection Agency
HAZARDOUS WASTE PERMIT PART A FORM



1. Facility Permit Contact

First Name	Steven	MI		Last Name	Converse
Title	Site Manager				
Email	steven.converse@nouryon.com				
Phone	(716) 778-8554	Ext	104	Fax	(716) 778-0054

2. Facility Permit Contact Mailing Address

Street Address	2153 Lockport Olcott Road				
City, Town, or Village	Burt				
State	New York	Country	USA	Zip Code	14028

3. Facility Existence Date (mm/dd/yyyy)

10/3/1984

4. Other Environmental Permits

A. Permit Type	B. Permit Number												C. Description
N	N	Y	R	0	0	F	7	1	1				NPDES-Stormwater

5. Nature of Business

The Nouryon Function Chemicals LLC site at Burt, NY serves as a storage and distributions center for various solid and liquid organic peroxides. The storage and distribution operations are conducted in an approximate 30 acre fenced-in area within a larger, 350 acre property. Current operations include the storage and distribution of chemicals ranging in container sizes from 1 to 250-gallons. Containers remain sealed, onsite and are stored indoors, except for short periods when they may be staged outside for loading. No re-packing or sampling of products are conducted.

6. Process Codes and Design Capacities

Line Number	A. Process Code				B. Process Design Capacity		C. Process Total Number of Units	D. Unit Name
					(1) Amount	(2) Unit of Measure		

7. Description of Hazardous Wastes (Enter codes for Items 7.A, 7.C and 7.D(1))

Line No.	A. EPA Hazardous Waste No.				B. Estimated Annual Qty of Waste	C. Unit of Measure	D. Processes											
							(1) Process Codes						(2) Process Description (if code is not entered in 7.D1))					
	D	0	0	1	<400	lbs/yr												Damaged container
	D	0	0	3	<400	lbs/yr												Damaged container
	U	1	6	0	<400	lbs/yr												Damaged container
	D	0	3	5	<400	lbs/yr												Damaged container
	U	0	9	6	<400	lbs/yr												Damaged container

8. Map

Attach to this application a topographical map, or other equivalent map, of the area extending to at least one mile beyond property boundaries. The map must show the outline of the facility, the location of each of its existing intake and discharge structures, each of its hazardous waste treatment, storage, or disposal facilities, and each well where it injects fluids underground. Include all spring, rivers, and other surface water bodies in this map area. See instructions for precise requirements.

9. Facility Drawing

All existing facilities must include a scale drawing of the facility. See instructions for more detail.

10. Photographs

All existing facilities must include photographs (aerial or ground-level) that clearly delineate all existing structures; existing storage, treatment, and disposal areas; and sites of future storage, treatment, or disposal areas. See instructions for more detail.

11. Comments

For Question 7.0: When damaged containers are identified at the Site, the containers may carry multiple classification codes as part of its disposal. However, the total quantity of hazardous waste generated is not anticipated to exceed 500 lbs combined per year.

United States Environmental Protection Agency
RCRA SUBTITLE C SITE IDENTIFICATION FORM



1. Reason for Submittal (Select only one.)

<input type="checkbox"/>	Obtaining or updating an EPA ID number for on-going regulated activities (Items 10-17 below) that will continue for a period of time.
<input type="checkbox"/>	Submitting as a component of the Hazardous Waste Report for _____ (Reporting Year)
<input type="checkbox"/>	Site was a TSD facility, a reverse distributor, and/or generator of $\geq 1,000$ kg of non-acute hazardous waste, > 1 kg of acute hazardous waste, or > 100 kg of acute hazardous waste spill cleanup in one or more months of the reporting year (or State equivalent LQG regulations)
<input type="checkbox"/>	Notifying that regulated activity is no longer occurring at this Site
<input type="checkbox"/>	Obtaining or updating an EPA ID number for conducting Electronic Manifest Broker activities
<input checked="" type="checkbox"/>	Submitting a new or revised Part A (permit) Form

2. Site EPA ID Number

N	Y	D	0	4	3	8	1	5	1	5	8
---	---	---	---	---	---	---	---	---	---	---	---

3. Site Name

Nouryon Functional Chemicals LLC

4. Site Location Address

Street Address 2153 Lockport-Olcott Road		
City, Town, or Village Burt		County Niagara
State NY	Country USA	Zip Code 14028
Latitude	Longitude	<input type="checkbox"/> Use Lat/Long as Primary Address

5. Site Mailing Address

☒ Same as Location Street Address

Street Address		
City, Town, or Village		
State	Country	Zip Code

6. Site Land Type

<input checked="" type="checkbox"/> Private	<input type="checkbox"/> County	<input type="checkbox"/> District	<input type="checkbox"/> Federal	<input type="checkbox"/> Tribal	<input type="checkbox"/> Municipal	<input type="checkbox"/> State	<input type="checkbox"/> Other
---	---------------------------------	-----------------------------------	----------------------------------	---------------------------------	------------------------------------	--------------------------------	--------------------------------

7. North American Industry Classification System (NAICS) Code(s) for the Site (at least 5-digit codes)

A. (Primary) 484121	C.
B.	D.

8. Site Contact Information

☒ Same as Location Address

First Name	William	MI	Last Name	Myers	
Title	Site Manager				
Street Address	2153 Lockport-Olcott Road				
City, Town, or Village	Burt				
State	NY	Country	USA	Zip Code	14028
Email	william.myers@nouryon.com				
Phone	7162667403	Ext	Fax		

9. Legal Owner and Operator of the Site

A. Name of Site's Legal Owner

☐ Same as Location Address

Full Name	Nouryon Functional Chemicals LLC		Date Became Owner (mm/dd/yyyy)	7/1/2019	
Owner Type	<input checked="" type="checkbox"/> Private <input type="checkbox"/> County <input type="checkbox"/> District <input type="checkbox"/> Federal <input type="checkbox"/> Tribal <input type="checkbox"/> Municipal <input type="checkbox"/> State <input type="checkbox"/> Other				
Street Address					
City, Town, or Village	525 W. Van Burent Street				
State	IL	Country	Cook	Zip Code	60607
Email					
Phone	(312) 544-7000	Ext	Fax		
Comments					

B. Name of Site's Legal Operator

☒ Same as Location Address

Full Name			Date Became Operator (mm/dd/yyyy)		
Operator Type	<input type="checkbox"/> Private <input type="checkbox"/> County <input type="checkbox"/> District <input type="checkbox"/> Federal <input type="checkbox"/> Tribal <input type="checkbox"/> Municipal <input type="checkbox"/> State <input type="checkbox"/> Other				
Street Address					
City, Town, or Village					
State		Country		Zip Code	
Email					
Phone		Ext	Fax		
Comments					

10. Type of Regulated Waste Activity (at your site)

Mark "Yes" or "No" for all current activities (as of the date submitting the form); complete any additional boxes as instructed.

A. Hazardous Waste Activities

<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	1. Generator of Hazardous Waste—If "Yes", mark only one of the following—a, b, c	
<input type="checkbox"/>	a. LQG	-Generates, in any calendar month, 1,000 kg/mo (2,200 lb/mo) or more of non-acute hazardous waste (includes quantities imported by importer site); or - Generates, in any calendar month, or accumulates at any time, more than 1 kg/mo (2.2 lb/mo) of acute hazardous waste; or - Generates, in any calendar month or accumulates at any time, more than 100 kg/mo (220 lb/mo) of acute hazardous spill cleanup material.
<input type="checkbox"/>	b. SQG	100 to 1,000 kg/mo (220-2,200 lb/mo) of non-acute hazardous waste and no more than 1 kg (2.2 lb) of acute hazardous waste and no more than 100 kg (220 lb) of any acute hazardous spill cleanup material.
<input checked="" type="checkbox"/>	c. VSQG	Less than or equal to 100 kg/mo (220 lb/mo) of non-acute hazardous waste.
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Short-Term Generator (generates from a short-term or one-time event and not from on-going processes). If "Yes", provide an explanation in the Comments section. <i>Note: If "Yes", you MUST indicate that you are a Generator of Hazardous Waste in Item 10.A.1 above.</i>	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. Treater, Storer or Disposer of Hazardous Waste—Note: Part B of a hazardous waste permit is required for these activities.	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	4. Receives Hazardous Waste from Off-site	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	5 Recycler of Hazardous Waste	
<input type="checkbox"/>	a. Recycler who stores prior to recycling	
<input type="checkbox"/>	b. Recycler who does not store prior to recycling	
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	6. Exempt Boiler and/or Industrial Furnace—If "Yes", mark all that apply.	
<input type="checkbox"/>	a. Small Quantity On-site Burner Exemption	
<input type="checkbox"/>	b. Smelting, Melting, and Refining Furnace Exemption	

B. Waste Codes for Federally Regulated Hazardous Wastes. Please list the waste codes of the Federal hazardous wastes handled at your site. List them in the order they are presented in the regulations (e.g. D001, D003, F007, U112). Use an additional page if more spaces are needed.

D001	D003	D035	U160			

C. Waste Codes for State Regulated (non-Federal) Hazardous Wastes. Please list the waste codes of the State hazardous wastes handled at your site. List them in the order they are presented in the regulations. Use an additional page if more spaces are needed.

11. Additional Regulated Waste Activities (NOTE: Refer to your State regulations to determine if a separate permit is required.)**A. Other Waste Activities**

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Transporter of Hazardous Waste—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Transporter
<input type="checkbox"/>	b. Transfer Facility (at your site)
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Underground Injection Control
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. United States Importer of Hazardous Waste
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	4. Recognized Trader—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Importer
<input type="checkbox"/>	b. Exporter
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	5. Importer/Exporter of Spent Lead-Acid Batteries (SLABs) under 40 CFR 266 Subpart G—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Importer
<input type="checkbox"/>	b. Exporter

B. Universal Waste Activities

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Large Quantity Handler of Universal Waste (you accumulate 5,000 kg or more) - If “Yes” mark all that apply. Note: Refer to your State regulations to determine what is regulated.
<input type="checkbox"/>	a. Batteries
<input type="checkbox"/>	b. Pesticides
<input type="checkbox"/>	c. Mercury containing equipment
<input type="checkbox"/>	d. Lamps
<input type="checkbox"/>	e. Aerosol Cans
<input type="checkbox"/>	f. Other (specify) _____
<input type="checkbox"/>	g. Other (specify) _____
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Destination Facility for Universal Waste Note: A hazardous waste permit may be required for this activity.

C. Used Oil Activities

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Used Oil Transporter—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Transporter
<input type="checkbox"/>	b. Transfer Facility (at your site)
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Used Oil Processor and/or Re-refiner—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Processor
<input type="checkbox"/>	b. Re-refiner
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	3. Off-Specification Used Oil Burner
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	4. Used Oil Fuel Marketer—If “Yes”, mark all that apply.
<input type="checkbox"/>	a. Marketer Who Directs Shipment of Off-Specification Used Oil to Off-Specification Used Oil Burner
<input type="checkbox"/>	b. Marketer Who First Claims the Used Oil Meets the Specifications

D. Pharmaceutical Activities

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	1. Operating under 40 CFR Part 266, Subpart P for the management of hazardous waste pharmaceuticals—if "Yes", mark only one. Note: See the item-by-item instructions for definitions of healthcare facility and reverse distributor.
<input type="checkbox"/>	a. Healthcare Facility
<input type="checkbox"/>	b. Reverse Distributor
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	2. Withdrawing from operating under 40 CFR Part 266, Subpart P for the management of hazardous waste pharmaceuticals. Note: You may only withdraw if you are a healthcare facility that is a VSQG for all of your hazardous waste, including hazardous waste pharmaceuticals.

12. Eligible Academic Entities with Laboratories—Notification for opting into or withdrawing from managing laboratory hazardous wastes pursuant to 40 CFR Part 262, Subpart K.

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	A. Opting into or currently operating under 40 CFR Part 262, Subpart K for the management of hazardous wastes in laboratories— If "Yes", mark all that apply. Note: See the item-by-item instructions for definitions of types of eligible academic entities.
<input type="checkbox"/>	1. College or University
<input type="checkbox"/>	2. Teaching Hospital that is owned by or has a formal written affiliation with a college or university
<input type="checkbox"/>	3. Non-profit Institute that is owned by or has a formal written affiliation with a college or university
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	B. Withdrawing from 40 CFR Part 262, Subpart K for the management of hazardous wastes in laboratories.

13. Episodic Generation

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you an SQG or VSQG generating hazardous waste from a planned or unplanned episodic event, lasting no more than 60 days, that moves you to a higher generator category. If "Yes", you must fill out the Addendum for Episodic Generator.
--	---

14. LQG Consolidation of VSQG Hazardous Waste

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you an LQG notifying of consolidating VSQG Hazardous Waste Under the Control of the Same Person pursuant to 40 CFR 262.17(f)? If "Yes", you must fill out the Addendum for LQG Consolidation of VSQG hazardous waste.
--	---

15. Notification of LQG Site Closure for a Central Accumulation Area (CAA) (optional) OR Entire Facility (required)

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	LQG Site Closure of a Central Accumulation Area (CAA) or Entire Facility.
A. <input type="checkbox"/> Central Accumulation Area (CAA) or <input type="checkbox"/> Entire Facility	
B. Expected closure date: _____ mm/dd/yyyy	
C. Requesting new closure date: _____ mm/dd/yyyy	
D. Date closed : _____ mm/dd/yyyy	
<input type="checkbox"/>	1. In compliance with the closure performance standards 40 CFR 262.17(a)(8)
<input type="checkbox"/>	2. Not in compliance with the closure performance standards 40 CFR 262.17(a)(8)

16. Notification of Hazardous Secondary Material (HSM) Activity

<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you notifying under 40 CFR 260.42 that you will begin managing, are managing, or will stop managing hazardous secondary material under 40 CFR 260.30, 40 CFR 261.4(a)(23), (24), (25), or (27)? If "Yes", you must fill out the Addendum to the Site Identification Form for Managing Hazardous Secondary Material.
--	---

17. Electronic Manifest Broker

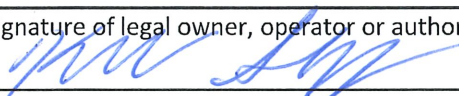
<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Are you notifying as a person, as defined in 40 CFR 260.10, electing to use the EPA electronic manifest system to obtain, complete, and transmit an electronic manifest under a contractual relationship with a hazardous waste generator?
--	--

18. Comments (include item number for each comment)

RCRA Part 373 permit (9-2928-00001/00003), authorizes the operation of corrective action measures at the Nouryon Functional Chemicals LLC Facility at 2153 Lockport-Olcott Road, Burt, New York 14028.

The current permit requires that the site maintain a long-term groundwater monitoring program to ensure that the concentration of contaminants continues to decline in the central area of the facility. In addition, the site is required to continue ground water monitoring in the perimeter wells to ensure that there is no off-site contaminant migration. The permit does not authorize accumulation, storage, treatment or disposal of hazardous wastes at the site. Limited hazardous wastes are generated and accumulated under the provisions of 6 NYCRR part 373-1.1(d) [very small quantity generator provisions].

19. Certification I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations. **Note: For the RCRA Hazardous Waste Part A permit Application, all owners and operators must sign (see 40 CFR 270.10(b) and 270.11).**

Signature of legal owner, operator or authorized representative 	Date (mm/dd/yyyy) 3/28/2025
Printed Name (First, Middle Initial Last) Kevin Sharp	Title Regional Manufacturing Director-Americas
Email kevin.sharp@nouryon.com	

Signature of legal owner, operator or authorized representative	Date (mm/dd/yyyy)
Printed Name (First, Middle Initial Last)	Title
Email	

1.0 Introduction

This Corrective Action Only Permit Renewal application is provided for the Nouryon Chemicals LLC (Nouryon) facility located at 2153 Lockport Olcott Road in Burt, Niagara County, New York (the Site). The Site is subject to the requirements of 6NYCRR part 373 and maintains a Part 373 Permit, permit no. 9-2928-00001/00003, which expires on August 9, 2021. The following information is provided as part of this application package:

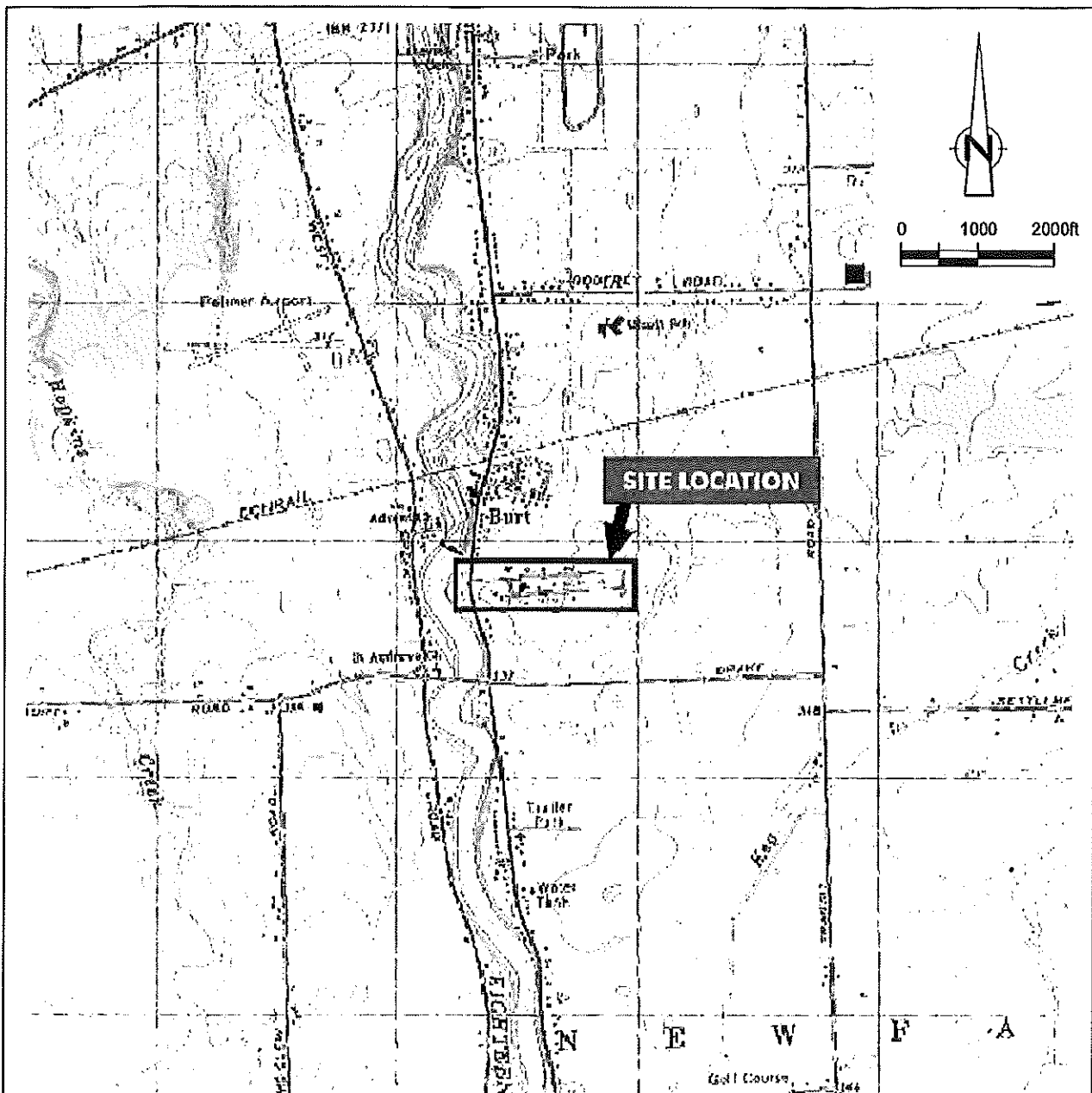
- Site Background Information
- An updated Part A Form
- A current SWMU / AOC conditions summary
- A copy of the Statement of Basis
- Copies of the most recent NYSDEC approvals
- A cost estimate for the remaining corrective actions
- Contingency/Evacuation and security information
- A copy of the institutional control
- Financial assurance information

1.1 Site Background Information

Nouryon Chemicals LLC (Nouryon) Burt facility is located at 2153 Lockport Olcott Road in Burt, Niagara County, New York (the Site). A site location map and site plan are provided with the updated Part A Form in Section 2.0.

The Site formerly produced organic peroxides including benzoyl peroxide, methyl ethyl ketone peroxide, acetyl acetone peroxide, 2,4-dichlorobenzoyl peroxide, and parachlorobenzoyl peroxide. The manufacturing activities were conducted within the fenced-in production area that represents approximately 30 of the 350 acre size of the Site. In April 2003, all chemical production ceased. Since that time, most of the buildings on-site have been razed or vacated. The Site now serves as a warehouse and distribution center for the finished products.

Nouryon implemented a NYSDEC-approved corrective measures study in 2004. The 6NYCRR 373 Permit is maintained for the ongoing corrective actions.

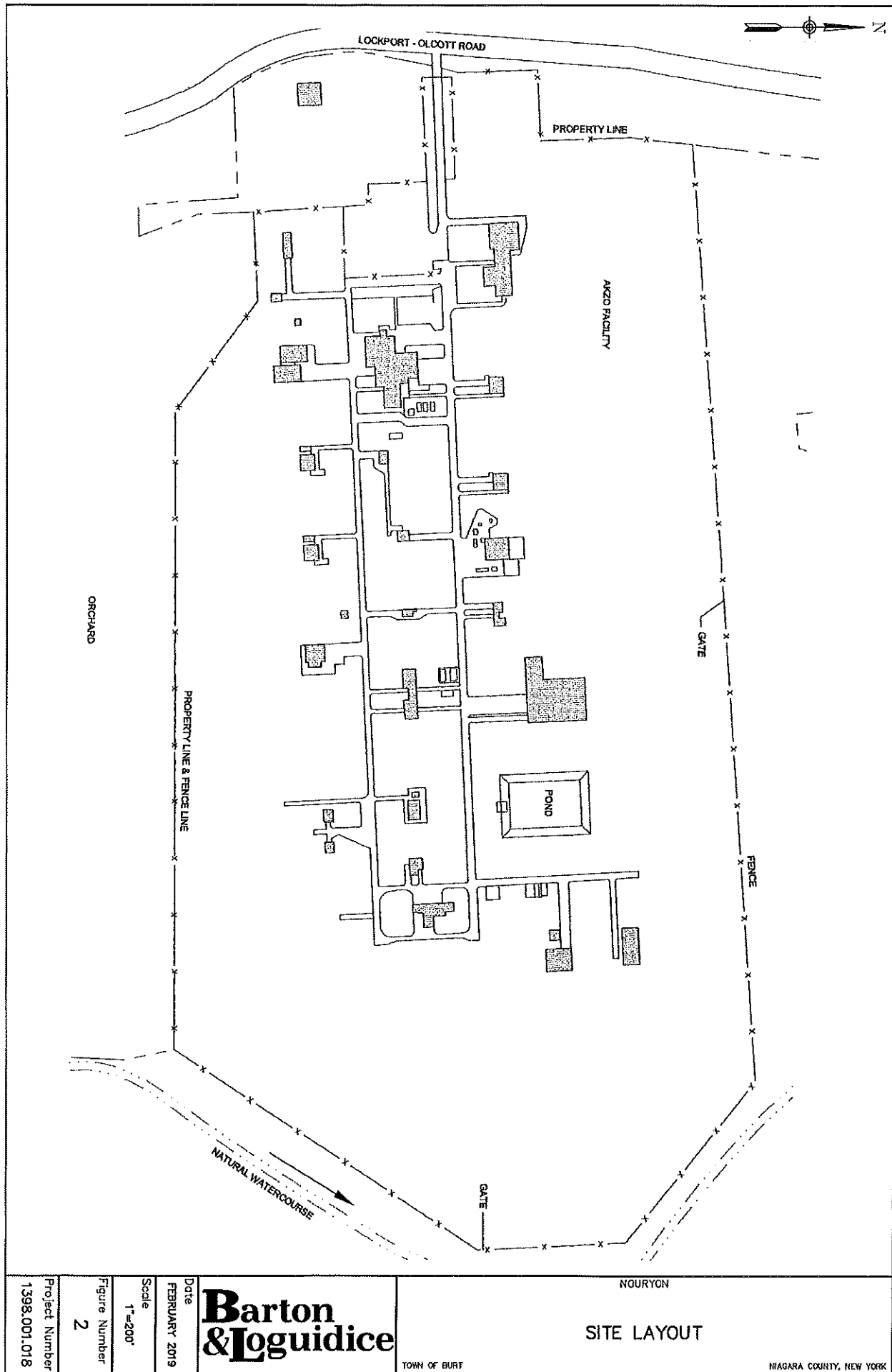


SOURCE REFERENCE

TRC SITE LOCATION MAP PJ.#19045
 TOPOGRAPHIC QUADRANGLE: NEWFANE, NY, 1978

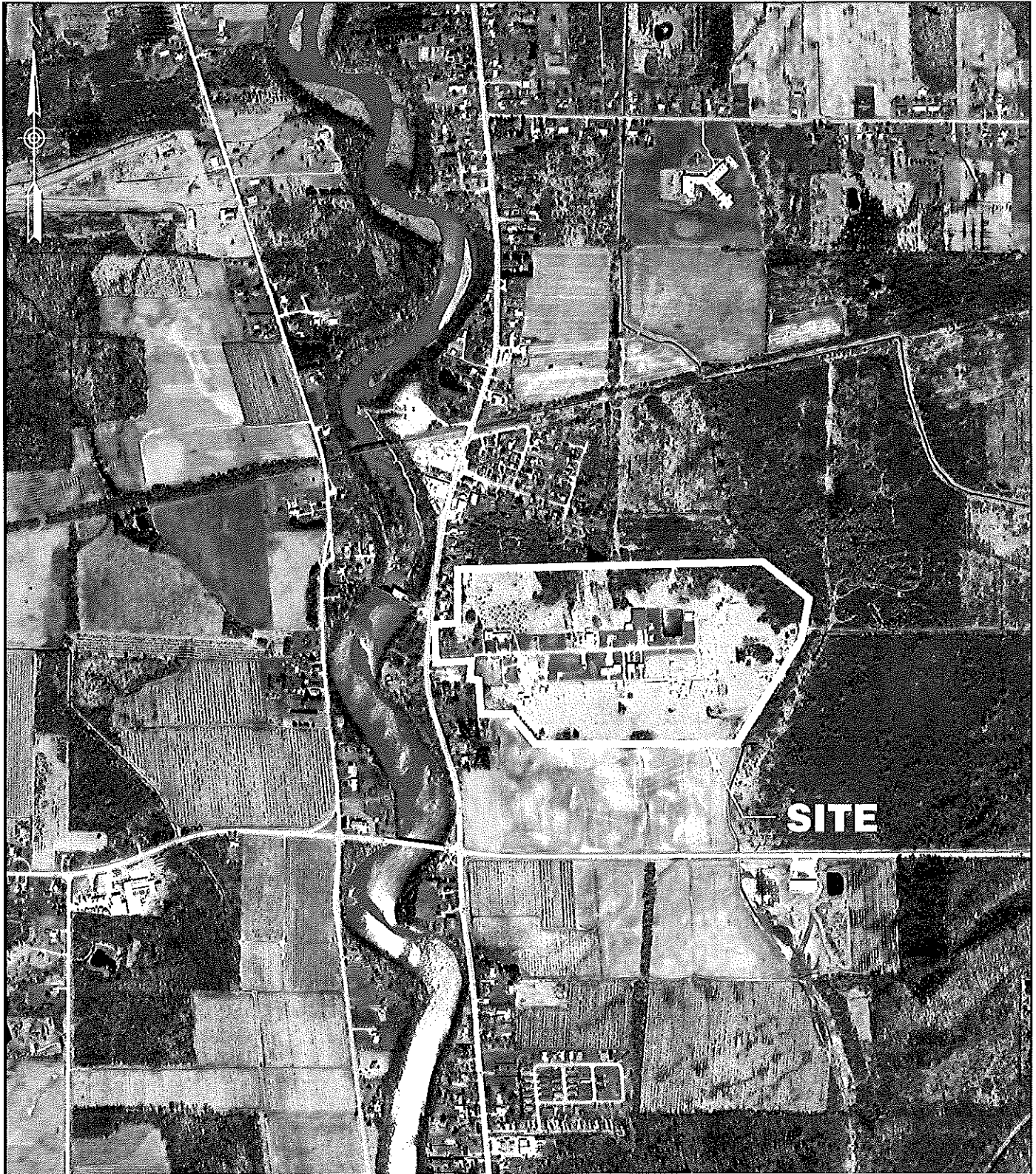


figure 1
 SITE LOCATION MAP
 AKZO NOBEL POLYMER CHEMICALS LLC
 Burt, New York

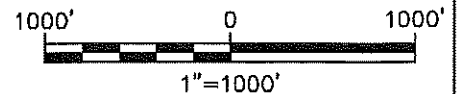


Plotted: Feb 25, 2020 - 8:38AM
Z:\BL-Vault\ID2\18217AD2-1C71-4823-8927-99D5C4054147\0\1655000-1655999\1655718\1\1398001018_JAN_2019_FIG1 (ID 1655718).dwg

SYR By: WBG



SOURCE REFERENCE:
NEW YORK STATE GIS CLEARINGHOUSE, 2008.



**Barton
& Loguidice**

NOURYON

Figure Number
3

SITE LOCATION MAP

Project Number
1398.001.018

Date
FEBRUARY 2019

Scale
AS SHOWN

TOWN OF BURT

NIAGARA COUNTY, NEW YORK

Certification

Corrective Action Only Permit Application

Nouryon Functional Chemicals LLC Burt Facility – Site No. 932030B

2153 Lockport-Olcott Road Burt, New York 14028

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Heath Herbold

(Print Name)

Heath Herbold

(Signature)

Pasadena /Burt Site Director

(Title)

2/11/21

(Date)

ATTACHMENT F – SECURITY PLAN

**NOURYON FUNCTIONAL CHEMICALS LLC
BURT, NEW YORK**

EPA ID NUMBER: NYD043815158

PERMIT NUMBER: 9-2928-00001/00003

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

2153 Lockport Olcott Road
Burt, NY 14028

Burt, NY Site Security Plan and Procedures

**BURT SS-001 Version 12
Reviewed: May 23, 2017 by T.M.**

Revised: May 23, 2017

Managed by:
Site Manager
716-778-8554 ext. 104

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

Burt, NY Site Security Plan and Procedures

Index

Purpose	Section	1
Overall Security Policy – Fundamental Rule	Section	2
Administrative Duties	Section	3
Risk Analysis	Section	4
Target Areas	Section	5
Prevention Measures	Section	6
Personnel Security	Section	7
General Employee Security Responsibilities	Section	8
Suspicious Activity	Section	9
Employer Responsibility Statement	Section	10
Employee Responsibility Statement	Section	11
Reporting Procedures	Section	12
Employee Screening	Section	13
Proof of Citizenship and Right to Work	Section	14
Employment Qualifications	Section	15
Pre-Employment Qualifications	Section	16
Security Qualifications	Section	17
Unauthorized Access	Section	18

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

Facility Access	Section	19
Gate Protocol	Section	20
Property Security Signs	Section	21
Site Map	Section	22
Employee Entry	Section	23
On-Site Vehicle Rules	Section	24
Visitors, Vendors, and Suppliers Security	Section	25
General Visitor Guidelines and On-Premise Procedures	Section	26
Visitor Safety Rules	Section	27
Hazardous Material Specific Security	Section	28
Employees, Truck Drivers, and Hirschbach – John Munson Only	Section	29
Truck Overnight Parking and/or Other Site Occupancy	Section	30
Equipment and Driver Entry/Exit Log	Section	31
Employee In/Out Board	Section	32
Radio Policy	Section	33
Cell Phone Policy	Section	34
Evacuation Procedures	Section	35
PPE and Long Pants	Section	36

Visitors Allowed 24/7 Access	Section	37
Company Owned Property	Section	38
Security Guard Rounds - General	Section	39
Security Guard Rounds and Procedures - Building 8, 8 Staging, and 8 Freezer	Section	40
Security Guard Rounds and Procedures - Building 10, 10A, and 10B	Section	41
Pump Building Adjacent to Fire Pond	Section	42
Logistics Office Trailer	Section	43
Building 23 and 23 Annex	Section	44
Building 22B, 16, 7, 3, Main Electrical Main Electrical Building/ Sub-Station and Other Structures	Section	45
Fire Pump Starts or Begins Running	Section	46
Environmental Issue – Spill or Leaking	Section	47
Power Failure	Section	48
Material		
Refrigerated Trailers	Section	49
Review Policy	Section	50
Emergency Contact Information and Services	Section	51
General Site Contact List	Section	52

Burt, NY Site Security Plan and Procedures

1. Purpose

Nouryon is dedicated to the protection of its employees, visitors, the surrounding community, plant facilities, and any, and all hazardous materials. To comply with the Department of Transportation's Research and Special Programs Administration, Hazardous Materials: Enhancing Hazardous Materials Transportation Security regulation, as well as site security and safety in general, Nouryon has developed this Site Security Plan and Procedures.

Anyone who gains authorized entry to the property of Burt, NY site, who is not an employee of the Burt, NY site, is herein referred to as "visitor". This includes but is not limited to contractors, suppliers, non-Nouryon truck drivers, and Nouryon employees from other sites.

2. Overall Security Policy – Fundamental Rule

If anything occurring on-site or adjacent to the site has potential to be a risk/concern or has escalated beyond a potential risk/concern as it relates to site security, authorities must be called immediately at 911. This includes any suspicious or odd activity, no matter how minor it may seem. A detailed list of further contacts is provided in Section 51 and Section 52 of this document.

3. Administrative Duties

The Site Manager and their designee(s) will administer Nouryon's Burt, NY Site Security Plan and Procedures. They are responsible for establishing and implementing the written Site Security Plan in conjunction with outside resources as required. The Site Manager and their designee(s) has/have the full authority to make necessary decisions to ensure the success of this plan. Copies of this written plan may be obtained from the Site Manager.

- **Contact 716-778-8554 ext. 104**

4. Risk Analysis

This written plan is designated to protect the company's Hazardous Materials. Generally, Nouryon's hazardous materials include organic peroxides, which are the primary products warehoused and distributed from the Burt, NY facility.

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

A complete listing of emergency telephone numbers shall be provided to all security staff and employees of Nouryon. This list shall include the numbers of pertinent Nouryon management personnel, numbers for local police and fire departments, regional state police officers and the FBI. A copy of this listing can be found in Section 51 and Section 52 of this document.

19. Facility Access

Access to facilities, parking lots, and general premises shall be confined to one designated gate or entrance point at all times. This entrance point is located at 2153 Lockport-Olcott Road (New York State Rte. 78), Burt, NY and is considered by all employees as the "main entrance/exit". All traffic entering or exiting this entrance is monitored in the following ways:

- Fulltime around the clock contract security personnel stationed at the top of the drive with a visible line of sight to the gate and road entrance.
- CCTV camera surveillance of the main entrance/exit monitored by the Logistics Supervisor during business hours.
- A fencing/barrier layout that prevents more than one vehicle from entering or exiting at the same time or passing within the gate proper.
- All traffic entering through this entrance must report to security personnel unless they are a current employee, the designated employee of Hirschbach trucking, or pre-approved to be granted entry by a member of management.
- Any non-employee is required to stop at the guard building before entering the plant and sign the visitor log. Non-employees include, but are not limited to the following: any visitors, contractors, customers, vendors, Nouryon personnel from other sites, and suppliers.
- Security personnel may inspect any belongings, materials, or vehicle(s) before granting entry.

20. Gate Protocol

The main chain link gate is to be kept closed at all times outside of the hours of 8:00 to 16:30 as well as during these hours if any suspicious activity is present.

The yellow arm must be kept closed at all times with the exception of authorized vehicle entry/exit and immediately closed after each entry/exit.

There shall be no exceptions to this.

Radios shall always be charged when not in use.

34. Cell Phone Policy

Security guards must carry the security cell phone on their person anytime they leave the guard house for any reason during their shift, unless another guard is present on-site and in the guard house. This is due to safety and security purposes in the event of emergency.

The security cell phone shall be plugged in and charged whenever the guard is in the guard house. It is critical that this phone be fully charged and working.

35. Evacuation Procedures

The role of security in an evacuation is to contact appropriate emergency response personnel and authorities and to direct them upon arriving at the site. Security will also provide the Site Manager or their designee with a list of employees who are at the site based off of the in/out board maintained by security.

The site radios are the primary means of notification in the event an evacuation is required.

Employees are required to carry plant radios on their person when on the site at all times. There should be one radio present for each employee working alone or one radio present for a group of employees on the same job to stay in contact with others at the site.

Security is to be contacted immediately at extension 113 or via radio if an emergency requiring an evacuation occurs. Security will then call the appropriate emergency response personnel or authorities at 911.

The caller shall state the company address 2153 Lockport-Olcott Road (New York State Rte. 78), Burt, NY 14028 and the nature of the event taking place.

Should an all-out evacuation of work area be required during an emergency, employees are to leave their working areas and report to the most upwind marshalling area of the site and stand by for further instructions.

The primary marshalling area is located outside the main entrance gate at the fence line immediately West of the Security Building. This is due to the prevailing wind being from the West. A sign located at this point indicates it as a marshalling area.

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

The secondary marshalling area is located at the fire pump building at the East end of the site. A sign located at this point indicates it as a marshalling area.

The wind direction and associated most upwind marshalling area can be identified by the windsocks located on Building 23 and Building 8. No one is to remain at their work areas if an evacuation is called for but should proceed out of the immediate wind stream of the issue that is occurring and make their way to the upwind marshalling area. If there is no wind present, employees shall report to the primary marshalling area located adjacent to the guard shack outside of the main gate at the West end of the site.

Should an issue occur, employees should immediately call via radio that an issue is occurring and whether or not evacuation necessary. If the employee cannot make the determination and review is needed, the Site Manager or designee will review and call for an evacuation by radio.

Employees leaving a work area due to evacuation should notify others in the area, including contractors, truck drivers, and visitors, of what is taking place and that they too should proceed to the most upwind marshalling area. Prior to leaving their work area, each employee should conduct a brief sweep to ensure anyone else in the area knows to leave.

Once at the appropriate upwind marshalling area, a headcount will be taken by the Site Manager or their designee if the Site Manager is not present. The in/out board maintained by security is the roster used to take this count headcount. This board is referenced in Section 32 of this document.

Do not go back out into the plant or disaster area to look for missing persons.

36. PPE and Long Pants

Any visitor entering the site must have safety glasses and be wearing long pants.

If the visitor requires loaner safety glasses, the guard shall note that in the log book with a "G" and provide them with loaner safety glasses. These must be returned prior to allowing the visitor to exit the site. Upon return of the glasses, the "G" shall be crossed out with an "X" through it.

If the visitor requires long pants, the security shall note this in the log book with a "P" and provide the driver with a Tyvek suit. These must be returned prior to allowing the visitor to exit. Upon return of the glasses, the "P" shall be crossed out with an "X" through it.

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

A review of this policy shall take place at least once annually not to exceed 15 months between reviews or when any procedure, process, or security related facility relating to or covered by this plan has been altered or changed.

51. Emergency Contact Information and Services

A. Public Emergency Contact Information

All emergency situations	911
Police	
• Niagara County Sheriffs	716-438-3393
Federal Bureau of Investigation (Buffalo)	716-856-7800

B. In-Plant Security Contact Information

Nouryon Burt, NY Site Security	716-778-8554 Ext. 113
--------------------------------	-----------------------

To retrieve messages in the Guard House the password is 113. Messages shall be documented with detail as needed.

C. Site Manager

716-778-8554 Ext. 104

The Site Manager shall be contacted for all plant related emergencies including safety, security, facility damage, etc... The Site Manager will then contact all governmental agency inspections and address all requests for information by government agencies including OSHA, EPA, local, state, federal law enforcement agencies, etc...

D. Logistics Supervisor

716-778-8554 Ext. 130

The Logistics Supervisor shall be contacted in the event the Site Manager cannot be reached and shall perform the same duties as would normally be performed by the Site Manager.

E. Safety Manager (Pasadena, TX based)

281-291-2555 Office

Burt, NY Site Security Plan and Procedures BURT SS-01 Version 12
Reviewed: May 23, 2017 by T.M. (2021 Nouryon Name)

The Safety Manager shall be contacted for any and all plant emergencies including safety, injuries, employee accidents, etc... In the event of an emergency, the appropriate local, state, and/or federal agencies having to do with labor, safety, and/or health may request access to Nouryon's facilities and/or health/safety information. These agencies include, but are not limited to, OSHA, NYSDOL, and the NYSDOT. The Safety Manager and Site Manager will work to address the requests of these agencies, if applicable.

F. Environmental Manager (Deer Park, TX based) 281-817-9131 Office
 832-205-0290 Cell

The Environmental Manager is the contact for all plant related environmental issues. In the event of an emergency the Environmental Manager shall contact immediately any local, state, and or federal agency having to do with environmental issues on site requesting access to any of the company's facilities and or information. Include but not limited to EPA and the NYSDEC.

G. Additional Site Numbers



The Burt, NY site has the following phone numbers, all of which go to the automated attendant/switchboard.

- 716-778-8554 – Primary Phone
- 716-778-8555 – Additional Line
- 716-778-8556 – Additional Line

The Burt, NY site also has the following fax number, which goes directly to the fax machine in the Logistics Office.

- 716-778-0054

52. General Site Contact List

Management:	Tom Madej	Cell Phone Office	 716-778-8554 ext. 104
	Darryl Blumrick	Cell Phone Office	 716-778-8554 ext. 130
	Kathleen McBee	Cell Phone Office	 716-778-8554 ext. 132
Nouryon Drivers:	James Clark <i>Tractor 675826</i>	Truck Cell Cell	

**ATTACHMENT K – CORRECTIVE ACTION AND
FINANCIAL ASSURANCE DOCUMENTS**

**NOURYON FUNCTIONAL CHEMICALS LLC
BURT, NEW YORK**

EPA ID NUMBER: NYD043815158

PERMIT NUMBER: 9-2928-00001/00003

3.0 Current Conditions Summary

3.1 Current Conditions Background

Nouryon initiated a RCRA Facility Assessment (RFA) in 1994. The RFA identified 37 Solid waste management units (SWMUs) and 5 Areas of Concerns (AOCs). The primary RFI began in 1995 and was completed in 2002 and included soil vapor screening analysis at 470 locations, 247 groundwater screening samples, the installation of 15 groundwater monitoring wells, the installation of 3 piezometers, and numerous soil borings and soil samples across the site¹. The remaining 10 SWMUs were subject to Corrective Measures Study (CMS) or the post closure sampling conducted in 2004.

3.2 Summary of Current Conditions

The following table summarizes the current conditions of the SWMUs and AOCs.

Summary of Current SWMU & AOC Status		
SMWU/ AOC	Description	Determination ^(a)
1	Hazardous Waste Storage Pad - Area 1	No Further Action Required
2	Hazardous Waste Storage Pad - Area 2	No Further Action Required
3 (b,c,f,g)	Process Sewer	Corrective Action: IC, MNA
4	Destruction Tank	No Further Action Required
5 (b,e,f,g)	East Influent Well	Corrective Action: IC, MNA
6 (b,e,f,g)	West Influent Well	Corrective Action: IC, MNA
7	Holding Tank	No Further Action Required
8 (b,h)	Equalization Basin	No Further Action Required
9	Settling Channel	No Further Action Required
10	Filter Carts	No Further Action Required
11	Primary Clarifier	No Further Action Required
12	East Sludge Tank	No Further Action Required
13	West Sludge Tank	No Further Action Required
14	Process Reactor	No Further Action Required
15 (b,h)	Building 2 Sump	No Further Action Required
16 (b,e,g)	Building 2B Separator	Corrective Action: IC
17 (b,e,f,g)	Former UST No. 2 Area	Corrective Action: MNA
18 (b,d)	Former UST No. 9 Area	No Further Action Required
19 (b,d)	Sewer Pre-Treatment Pit	Corrective Action: IC
20	Inside Building 2B Accumulation Area	No Further Action Required
21	Outside Building 2B Accumulation Area	No Further Action Required
22	QC Laboratory Accumulation Area	No Further Action Required
23 (b,e,g)	Burning Cage	Corrective Action: IC
24 (b,e,g)	Landfill Site No. 1	Corrective Action: IC, MNA

¹ New York State Department of Environmental Conservation, Division of Solid & Hazardous Materials, Statement of Basis for Akzo Nobel Polymer Chemicals LLC, 2153 Lockport-Olcott Road, Burt, NY, dated August 26, 2005

25 (b)	Landfill Site No. 2	No Further Action Required
26 (b)	Landfill Site No. 3	No Further Action Required
27 (b)	Former Clay Pad Storage Area	No Further Action Required
28 (b)	Dimethyl Phthalate Meter Leak	No Further Action Required
29	Venturi Scrubber	No Further Action Required
30	Fume Scrubber	No Further Action Required
31 (b,e,g)	Building 16 Drum Storage Area	Corrective Action: IC
32 (b)	Debris Pile	No Further Action Required
33 (b,d)	Former Waste Sulfuric Acid Tank Area	No Further Action Required
34	Empty Drum Storage Area No. 1	No Further Action Required
35 (b)	Empty Drum Storage Area No. 2	No Further Action Required
36 (b)	Empty Drum Storage Area No. 3	No Further Action Required
37	Truck Trailer Storage Area	No Further Action Required
A (b)	Dimethyl Phthalate Spill Area	No Further Action Required
B (b,d)	Building 32 fuel Line Leak	No Further Action Required
C (b,d)	Former Underground Storage Tank No. 11 Area	No Further Action Required
D (b,d)	Former Underground Storage Tank No. 12 Area	No Further Action Required
E (b,e)	Former Underground Storage Tank No. 20 Area	Corrective Action: IC

- (a) Original determination based on Akzo Nobel's July 10, 1995 responses to NYSDEC comments from Thaddeus Moskal, P.E. dated June 13, 1995, updated in RFI reports
- (b) Evaluated during RFA-SV
- (c) Added to RFI scope voluntarily by Akzo Nobel in July 1996 following preliminary RFA work
- (d) Resampled during TRC RFA-SV; see April 1997 SV report addendum
- (e) Characterization completed during TRC RFI; see April 1997 report
- (f) See October 1998 RFI Addendum
- (g) See 2003 CMS
- (h) See 2004 SWMU Specific Investigation Correspondences

IC = Institutional Control

MNA = Monitored Natural Attenuation

3.3 Summary of Corrective Actions

Further information relative to the SWMUs and AOC subject to the Corrective Action is as follows:

Summary of Corrective Actions			
SMWU	Description	COCs	Corrective Action
3/5/6	<p>Process Sewer (SWMU 3): Approximately 3,000 linear feet of process sewer were located along the central portion of the Site and directed liquid wastewater effluent from plant buildings to the on-site Wastewater Treatment Plant. The sewer lines were constructed of vitrified clay pipe in 1954 and expanded to its final extent in 1976^(b). Sewer improvements were also conducted in 1995 and 1996, which included the removal and offsite disposal of 3,853.5 tons of soil^(a).</p> <p>East and West Influent Wells (SWMUs 5 and 6): The East and West Influent Wells were located in the center of the property and collected effluent from the process sewers and then pump to the wastewater treatment plant^(b). The wells were decontaminated and abandoned and subsequently replaced with contaminated soils removed^(a).</p> <p>2-butanone was detected above NYSDEC Soil Cleanup Objectives and acetone was detected above 6NYCRR Pat 703.5 Action Limits (Groundwater Cleanup Objectives) during the RFI^(c) at SWMU 3.</p>	<p>Soil: VOC</p> <p>GW: VOC</p>	<p>Soil: IC</p> <p>GW: MNA</p>

	<p>Acetone was detected above NYSDEC Soil Cleanup Objectives and select VOCs were detected above Groundwater Cleanup Objectives during the RFI^(c) at SWMUs 5 and 6. The select VOCs in groundwater included acetone, benzene, ethylbenzene, toluene, xylene, 2-butanone, chlorobenzene, 1,1-dichlorobenzene (1,1-DCB), 1,2-dichlorobenzene (1,2-DCB), 1,3-dichlorobenzene (1,3-DCB), 1,4-dichlorobenzene (1,4-DCB), 1,2-cis-dichloroethene (1,2-cis-DCE), 1,1,1-trichloroethane (1,1,1-TCA) ^(c).</p> <p>ICs and MNA were the approved corrective actions for the soil and groundwater COCs, respectively.</p>		
16	<p>Building 2B Separator: The Building 2B Separator was a 3,150-gallon underground unit located next to Building 2 and Building 2B. The unit was installed in 1978 and used to separate peroxide solids from the Building 2 wastewater.</p> <p>Butylbenzophthalate and Di-n-butylphthalate were detected above NYSDEC Soil Cleanup objectives during the RFI^(c).</p> <p>ICs were the approved corrective actions for these COCs.</p>	Soil: Phthalates	Soil: IC
17	<p>Former UST No. 2 Area: 8,000-gallon No. 2 fuel oil underground storage tank located just southeast of Building 2 and south of Building 2B. The tank was cleaned and closed in place by filling with sand in June 1987^(b).</p> <p>Fuel oil compounds were the COCs detected in soil, primarily at and below the groundwater table, and groundwater during the RFI^(c). These compounds included benzene, toluene, ethylbenzene, xylenes, chloroethane, chlorobenzene, 1,1-DCA, 1,2-DCB, 1,2-cis-DCE, Naphthalene, and methylene chloride.</p> <p>MNA was the approved corrective action for these COCs.</p>	GW: Fuel Oil Compounds	GW: MNA
19	<p>Sewer Pretreatment Pit: This pit is located approximately 80 feet east of Building 32. It formerly received effluent between 1980 and 1986, when Building 32 operated as a pilot plant^(c).</p> <p>Acetone and chloroform were detected above NYSDEC Soil Cleanup objectives during the RFI^(c).</p> <p>ICs were the approved corrective action for these COCs.</p>	Soil: VOCs	Soil: ICs
23	<p>Burning Cage: The Burning Cage was located in the north-central portion of the property and used to for burning miscellaneous trash, packaging materials, and other combustible debris from 1955 to 1972^(b).</p> <p>Dimethylephthalate was detected above NYSDEC Soil Cleanup objectives during the RFI^(c).</p> <p>ICs were the approved corrective action for this COC.</p>	Soil: phthalates	Soil: ICs
24	<p>Landfill Site No. 1: The Landfill Site No. 1 is located in the north-central portion of the property just west of the Burning Cage. The landfill was used for disposal between 1955 and 1969^(b).</p> <p>VOC and phthalates were the COCs above NYSDEC Soil Cleanup objectives and acetone above Groundwater Cleanup Objectives during the RFI^(c). These compounds included 2-butanone, butylbenzophthalate, dimethylphthalate, di-n-butylphthalate in soil and acetone in groundwater.</p> <p>ICs and MNA were the approved corrective actions for the soil and groundwater COCs, respectively.</p>		
31	<p>Building 16 Drum Storage Area: The Building 16 Drum Storage Area is located in the southeast corner of the facility. Building 16 burned down in February 1987 and a decomposition by-product (acetophenone) of the peroxides stored in the building was detected in soil^(b).</p>	Soil: sVOC	Soil: ICs

	Acetophenone was detected above NYSDEC Soil Cleanup objectives during the RFI ^(c) . ICs were the approved corrective actions for this COC.		
E	Former UST No. 20 Area: The Former UST No. 20 area is located near the east end of the facility, southwest of Building 20. The tank was 10,000-gallon in size and used to store No. 2 fuel oil. On May 20, 1987, the tank was cleaned and closed in place by filling with sand ^(b) . Benzo(a)pyrene was detected slightly above the NYSDEC Soil Clean Up Objective (SCO) in one of three RFA-SV soil borings. An additional boring was installed during the RFI and all constituents of concern (COCs) including benzo(a)pyrene were below the analytical detection limit and below the NYSDEC SCO ^(c) . ICs were the approved corrective actions for this COC.	Soil: sVOC	Soil: ICs

COCs = Constituents of Concern IC = Institutional Controls MNA = Monitored Natural Attenuation

VOCs = Volatile Organic Compound sVOC = Semi-Volatile Organic Compound

- (a) 2005 Statement of Basis
- (b) 1995 RFI Description of Current Conditions Report
- (c) 1997 RFI – SV Report Addendum
- (d) 2003 CMS

The CMS selected institutional controls and monitored natural attenuation (MNA) of groundwater contamination as the final remedy for the Site. The institutional controls were established in 2009, when a *Declaration of Covenants and Restrictions* was filed with the Niagara County Clerk on December 3, 2009. The MNA was initiated in 2005 and, as detailed in the 2019 Periodic Review Report for the Site:

the remedy is performing properly and as designed. The results of groundwater monitoring demonstrate progress towards the remedial objective of restoration of groundwater quality through natural attenuation. Continued improvement in water quality is expected to occur over time.

NOURYON FUNCTIONAL CHEMICALS LLC
Burt, New York

Financial Assurance Requirement Calculations

Phase	Calendar Year	Year Number	Scope of Work	Spend ⁽²⁾
Cost Basis	2024⁽¹⁾	0	Cost Basis	\$35,250
Monitored and Natural Attenuation (MNA) (20-years)	2025	1	Semiannual Groundwater Monitoring	\$36,103
	2026	2		\$36,103
	2027	3		\$36,103
	2028	4		\$36,103
	2029	5		\$36,103
	2030	6		\$36,103
	2031	7		\$36,103
	2032	8		\$36,103
	2033	9		\$36,103
	2034	10		\$36,103
	2035	11		\$36,103
	2036	12		\$36,103
	2037	13		\$36,103
	2038	14		\$36,103
	2039	15		\$36,103
	2040	16		\$36,103
	2041	17		\$36,103
	2042	18		\$36,103
	2043	19		\$36,103
	2044	20		\$36,103
Post-Termination Monitoring (3-years)	2045	21	Semiannual Groundwater Monitoring	\$36,103
	2046	22		\$36,103
	2047	23		\$36,103
			Total	\$830,369
			Current LoC Amount⁽³⁾	\$1,007,536
			Difference⁽⁴⁾	\$177,167

NOURYON FUNCTIONAL CHEMICALS LLC

Burt, New York

NOTES REGARDING THE ABOVE FINANCIAL ASSURANCE CALCULATIONS

In the email dated April 22, 2025, the New York State Department of Environmental Conservation (NYSDEC) indicated that the cost estimate provided in the 2021 Resource Conservation and Recovery Act (RCRA) Corrective Action Only Permit Application must be amended. Based on the uncertain nature of the remedy and the stipulations in Module II Section C.1.4.d of the current Part 373 Permit, NYSDEC requested the permit be revised to account for 30-years of monitored and natural attenuation (MNA) implementation and 3-years of Post Termination Monitoring based on 2024 costs. In subsequent correspondence dated June 9, 2025, NYSDEC indicated for the purpose of the permit renewal, the financial assurance cost estimate can include 20-years of MNA as opposed to 30-years, and 3-years Post Termination Monitoring

(1) - The 2024 spend is based on the proposal received from the Site's environmental consultant for completion of semiannual groundwater sampling and associated reporting as required by the 2015 Groundwater Monitoring Plan approved by NYSDEC on December 7, 2015

(2) - Per 6 NYCRR 373-2.8(c)(2) the owner or operator must adjust the closure cost estimate for inflation. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce

An inflation factor of 2.41939% was calculated using the ratio of the Current Year (2025) Implicit Price Deflator (IPD) for Gross Domestic Products (GDP) over the Prior Year (2024) IPD for GDP. Note: The IPD value issued by U.S. Department of Commerce is for the previous year. Therefore, the IPD released in 2025 (current year) is the value for 2024.

The inflation factor calculation is provided below:

Current Year IPD		=	Inflationary Adjustment
Prior Year IPD			
125.220		=	2.41939%
122.262			(1.0241939)

The annual estimated spend for all years beginning with 2025 was calculated by adjusting the prior year estimated amount by the inflationary adjustment. The calculation for 2025 is provided below:

Inflationary Adjustment	x	Prior Year Required Amount	= Required Amount
1.0241939	x	\$35,250	= \$36,103

(3) Amount of the existing Letter of Credit (LoC) as of May 31, 2025

(4) The different between the existing Letter of Credit (LoC) as of May 31, 2025 (\$1,007,536) and the financial assurance cost estimate