June 30, 2003

Tracy A. Peel
New York Public Interest Research Group, Inc.
9 Murray Street , 3rd Floor
New York, New York 10007

Re: In the Matter of Waste Management of New York, L.L.C. Petition Numbers: II-2002-07-A and II-2002-07-B

Dear Ms. Peel:

On July 31, 2002, the Environmental Protection Agency, Region 2 ("EPA") received petitions from Lana and Ronald Sheridan and Tess Cullis, submitted by Gary A. Abraham, Esq. on their behalf, and from the New York Public Interest Research Group, Inc. ("NYPIRG"), requesting that EPA object to the proposed title V state operating permit, pursuant to § 505(b)(2) of the Clean Air Act ("CAA"), 42 U.S.C. § 7661d(b)(2), and 40 C.F.R. § 70.8(d), for the C.I.D. Landfill (also known as "Chaffee"). The Chaffee permit was issued by the New York State Department of Environmental Conservation ("DEC") to Waste Management of New York, L.L.C., and took effect on June 4, 2002.

The petition period for the Chaffee permit ended July 29, 2002, the sixtieth day from the last day of the EPA 45-day review period that commenced April 15, 2002. On May 28, 2002, EPA responded to Mr. Abraham's letter, dated May 20, 2002, documenting April 15, 2002, as the exact date of the commencement of EPA's 45-day review period. EPA received the petitions on July 31, 2002, and further, the petitions were not signed until July 30, 2002, both dates beyond July 29, 2002. For these reasons EPA deems the petitions untimely, pursuant to both CAA § 505(b)(2) and 40 C.F.R. § 70.8(d).

However, in the course our review of NYPIRG's petition and Mr. Abraham's petition, and because of other information received after the petitions, EPA will be issuing a notice to DEC to reopen the permit for cause directly following this letter, pursuant to CAA § 505(e) and 40 C.F.R. § 70.7(g). The notice to DEC will provide specific instructions on how to modify the permit. The modified permit will be substantially changed, thus warranting another public

comment period. This decision is based on a thorough review of the June 4, 2002 permit, and other documents that pertain to the issuance of this permit.

Sincerely,

/ s /

Jane M. Kenny
Regional Administrator

cc: David Shaw, Director, Division of Air Resources, NYSDEC, Albany
David S. Denk, Permit Administrator, NYSDEC, Region 9
Gary A. Abraham, Esq.

June 30, 2003

Erin M. Crotty, Commissioner
New York State
Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3250

RE: Permit ID:9-1462-00001/00013,
effective date June 4, 2002

Dear Commissioner Crotty:

The U.S. Environmental Protection Agency, Region 2 Office ("EPA") hereby notifies the New York State Department of Environmental Conservation ("DEC") to reopen for cause the title V permit issued to the C.I.D. Landfill (also known as "Chaffee"), pursuant to 40 C.F.R. § 70.7(g). Based on our review, EPA has determined that mistakes or inaccuracies exist in the permit terms and conditions which must be corrected in order to assure compliance with applicable requirements. In addition, applicable requirements to which this source is subject, have not been included in the permit. As a result, ample grounds exist to warrant the reopening of this permit.

Within 90 days of receipt of this notice, DEC must forward to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. Failure to submit this determination in the specified time frame will lead to EPA terminating, modifying, or revoking and reissuing the permit. The reopening and subsequent issuance of a new permit must follow the same procedures that apply to initial permit issuance in 40 C.F.R.§ 70.7(a) and (h), including an opportunity for the owners of C.I.D. Landfill and the public to comment on the draft revised permit. The reopening shall not be initiated before notice of such intent is provided to C.I.D. Landfill by DEC at least 30 days in advance of the date that the permit is to be reopened. In light of existing public interest who have voiced concern in this permitting action, we encourage you to outreach to those groups so they have ample opportunity to review the proposed modifications. However, please note that the reopening only affects those parts of the permit subject to the reopening.

Enclosed is an attachment detailing the changes that must be made to the C.I.D. Landfill permit and the rationale behind each change. A swift reopening of the C.I.D. Landfill title V permit would be in the best interest of all parties involved. During the revision process, please encourage your staff to continue to work with my staff to assure that all necessary terms and conditions are included.

If you have any questions about the reopening process or any of the issues specific to C.I.D. Landfill, please call me or have your staff contact Steven Riva at (212) 637-4074.

Sincerely,

/ s /

Jane M. Kenny
Regional Administrator

cc: Mike Glasner
Waste Management of New York, L.L.C.
10860 Olean Road
Chaffee, NY 14030

David Shaw, Director, Division of Air Resources, NYSDEC, Albany
David S. Denk, Permit Administrator, NYSDEC, Region 9
Larry Sitzman, Regional Air Pollution Control Engineer, NYSDEC, Region 9
Tracy A. Peel, New York Public Interest Research Group, Inc.
Gary A. Abraham, Esq.

Attachment

Attachment

Reopening For Cause of the Title V Permit for Chaffee Landfill (also known as "C.I.D. Landfill), Permit ID 9-1462-00001/00013: Changes to be made per the Notice from the EPA Regional Administrator

The reopening for cause of the title V permit for Chaffee Landfill (also known as "C.I.D. Landfill), Permit ID 9-1462-00001/00013, is to address three primary issues. The paragraphs below identify the issues, indicate the nature of the changes to be made to permit conditions to address the issues, and provide the rationale for the changes indicated. This document refers to the permit as issued on June 4, 2002, unless qualified otherwise.

I. Issue 1

The permit does not include all requirements of the National Emissions Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills (MSW Landfills NESHAP), also known as the Maximum Achievable Control Technology standard (MACT).

A. Changes

Add MACT requirements that are additional to or more stringent than New Source Performance Standards/Emission Guidelines for MSW Landfills (NSPS/EG) requirements, and require that compliance with these new conditions commence January 16, 2004. The new requirements are found at 68 Fed. Reg. 2227 (January 16, 2003).

B. Rationale

All landfills that are subject to the New Source Performance Standards/Emission Guidelines for MSW Landfills (NSPS/EG) are also subject to the MACT, whether they are major sources of HAP or area sources. While the final MACT rule effective date is January 16, 2003, presumptive MACT dictated use of the proposed standard as of proposal on November 7, 2000, which was before the permit was issued. Once the MACT standard is issued, Title V permits must be reopened to include any new MACT standards should three or more years remain before renewal of the Title V permit; on this basis, also, this permit, which has four years remaining before expiring on June 4, 2007, must be reopened to include the new requirements.

While many of the MACT requirements are found in the NSPS, the MACT also contains requirements that are additional to or more stringent than NSPS/EG. These must be added to the permit. The MACT requirements are found at 68 Fed. Reg. 2227 (January 16, 2003). The compliance date for MACT-affected sources that commenced construction on or before November 7, 2000, and therefore, the compliance date for Chaffee Landfill, is January 16, 2004, for MACT

requirements that are more stringent than the NSPS and EG. The MACT does not change the compliance date for requirements of the NSPS and EG.

II. Issue 2

The permit does not treat the Facility as a major source of VOC that must comply with VOC RACT requirements.

A. VOC cap

1. Changes

Permit this facility as a major source of VOC. Remove references to a VOC cap and add a facility-wide VOC emission limit that includes VOC from uncollected landfill gas.

(I) Add a method for calculating facility-wide VOC emissions. The method for calculating the contribution of uncollected landfill gas emissions to the facility-wide total is to use the difference between the estimated annual gas generation rate and the actual landfill gas collected. The VOC content of the uncollected landfill gas is to be estimated as 85% by weight of the NMOC content, where the NMOC content is 2420 ppmv of the whole landfill gas. The use of other bases for the calculation of VOC from uncollected landfill gas is subject to EPA approval.

(ii) Modify the permit conditions, including Conditions 69 and 70, to include uncollected landfill gas emissions from the placed waste. Replace references to "fugitive" emissions of landfill gas with the term "uncollected."

(iii) Correct the permit Description section to reflect these modifications.

2. Rationale

The facility-wide potential to emit (PTE) for VOC exceeds the 50-ton-per-year major source threshold for the Facility location based on an estimation of VOC emitted in uncollected landfill gas. The permit's facility-wide VOC limit of 49 tons per year (TPY) does not recognize the contribution of uncollected landfill gas emissions to the facility-wide total VOC emissions and the inability of controls at the coatings operation to render the facility-wide PTE less than 50 TPY.

B. VOC RACT

1. Changes

Add and modify permit conditions, including Condition 24, to comply with VOC Reasonably Available Control Technology (RACT) requirements. Add conditions reflecting the different requirements for motor vehicle refinishing and for miscellaneous metal parts and products coating.

2. Rationale

Since the Facility is a major source of VOC, the use of VOC RACT-compliant coatings is required at the surface coatings operation per 6 NYCRR 228.

III. Issue 3

The permit lacks an emission limit for carbon monoxide (CO) and sufficient periodic monitoring and waste placement characterization to ensure that the Facility will operate both as a minor source of CO for Prevention of Significant Deterioration (PSD) purposes and in compliance with all applicable requirements for landfill gas collection and control.

A. Waste placement characterization

1. Changes

Add waste placement rate and design capacity conditions consistent with scenarios used in the permitting.

(I) Add the design capacity that represents the full projected size of the landfill over its lifetime in terms of both mass and volume. This is the capacity used in the applicability determinations for the October 1999 modification.

(ii) Add the maximum waste placement rate. This is the rate used in the applicability determinations for the October 1999 modification.

Modify the conditions of the permit as issued, including Conditions 69 and 70, to be consistent with these requirements. Correct the permit Description section to reflect these modifications.

2. Rationale

The NSR and PSD non-applicability determinations for the modification granted October 18, 1999, were based on waste placement scenarios to which the Facility is not constrained by the permit conditions. Fixing the waste placement rate and design capacity in this permit serves to clarify the basis for current NSR and PSD applicability determinations. In addition, it signals the possible need to modify the permit and conduct new applicability determinations when a solid waste permit is modified, e.g., to increase the volume of waste placed per calendar year quarter or to expand the landfill otherwise.

The relationship between waste placement and PTE for CO, the subject of item III.B below, is as follows: The waste placement rate and design capacity (maximum waste mass that may be placed in the landfill) are variables used in EPA's landfill gas emissions model (LandGEM) to estimate the maximum potential landfill gas generation rate for the landfill. The NSPS/EG and MACT require that the gas collection and control system be designed to accommodate landfill gas at the maximum expected gas generation rate. This rate, with some assumptions about collection efficiency, is the basis for estimating maximum landfill gas flow rate to the flare and maximum annual CO emissions from combustion of landfill gas in the flare. It is also the basis for estimating maximum annual emissions of VOC from the flare and from uncollected landfill gas, which is the concern of Issue 2 above.

B. CO

1. Changes

a. Add a CO emission limit for the flare. The 240-TPY limit of the draft permit modification by DEC is acceptable. The applicable Federal requirement is 6 NYCRR 201-7.

b. Add CO conditions to monitor status of the Facility in terms of its becoming or operating as a PSD major source.

(i) Require stack testing, recordkeeping, and reporting for CO concentration, gas flow rate, and gas temperature for the flare exit gas; and a means for converting these measurements into a 12-month rolling total annual emissions value for CO in tons per year. The stack test is to be performed once per permit term within one year of permit issuance. If the gas feed rate to the flare exceeds 110% of the gas feed rate of the most recent stack test, the regulatory agencies are to be notified within 14 days of the occurrence and a new stack test is to be performed within 30 days of the occurrence.

(ii) Require reporting of times when the 12-month rolling total emission rate for CO reaches the PSD major source threshold of 250 TPY.

Modify the conditions of the permit, including Conditions 16 and 26, to be consistent with these requirements. Correct the permit Description section to reflect these modifications.

2. Rationale

a. The Facility is a major source of CO, with an estimated PTE of 100 TPY or more, per 6 NYCRR Part 201-2.1. As such, it must have an emission limit for CO. The draft modification by DEC adds an emission cap of 240 TPY to the original permit, citing 40 C.F.R. § 52.21 as the applicable Federal requirement.

b. The PSD applicability determination was based on an operational scenario to which the Facility is not constrained by the permit conditions or the capability of the equipment at the Facility to emit. In the absence of other specific limits in the permit, the default assumptions used for the applicability determinations include AP-42 emission factors for the enclosed flare, methane as 50% by volume of the landfill gas, and a maximum gas feed rate to the flare of 2400 standard cubic feet per minute (scfm). This leads to a CO emission potential just below the major source threshold for PSD. The following are bases for concern that the Facility is or may operate as a major source of CO:

- Generally, in consideration of collection efficiencies that are less than 100%, the maximum gas feed rate to the flare is assumed to be less than the maximum estimated gas generation rate. In this case, however, reported gas flaring rates for past years demonstrate that the

landfill is capable of generating gas at rates that exceed the LandGEM estimates used in the permitting. Thus, while 2400 scfm, the nominal capacity of the flare, is already higher than the maximum estimated gas generation rate, feed rates higher than 2400 scfm may be realized.

- If the methane content of the gas flared is 55%, as characterized by DEC based on various concentration measurements, then the CO emission rate may exceed the PSD level if the gas feed rate reaches 2400 scfm.

- Since the permit was issued, the Permittee has applied for a facility-wide CO emissions cap so that it can operate at landfill gas feed rates as high as 3300 scfm. This is higher than the nominal 2400-scfm for which the flare was rated, and higher than the estimated maximum landfill gas generation rate used by DEC in the permitting. In response, DEC has drafted a permit modification that caps CO emissions at 240 TPY, citing 40 C.F.R. § 52.21, the PSD regulation, as the applicable Federal requirement.

- When operated according to the manufacturer's instructions, the flare is capable of operating well below the AP-42 default emission factors used in the permitting; however, the manufacturer will not guarantee those emission rates when the flare is operated at gas feed rates higher than its nominal 2400-scfm capacity.

IV. Other matters

Since the permit must be reopened to address Issues 1 through 3, correct the following, as well, at this time.

A. Remove permit Condition 35, Compliance Milestones-Increments of Progress.

Items 1, 2, and 3 are completed. The validity of Item 4 has been rendered moot by the passage of time. Items 5 and 6, the final two items in Condition 35, are a report and a test due June 30, 2003. If deadlines for these are not met, the permit should include a schedule for compliance.

B. When creating a Process Definition under Condition 70 to address the placed waste and uncollected landfill gas emissions as directed under II.A.1.ii above, provide a description of the landfill gas collection and control system in place at the Facility. The description must be sufficient to delineate which alternatives in the permit conditions apply to this Facility. Include the following information: landfill acreage; date of first waste placement; type of liner; amount of waste in place; amount of waste that may be placed; active or passive gas collection system; numbers and types of gas collectors (e.g., wells, horizontal); final cover material; use of temporary/interim cover material, collectors, or control devices; number and

capacity of blowers providing vacuum; type, model, and capacity of flare; and maximum estimated landfill gas generation rate over the lifetime of the landfill.

C. Revise the Permit Review Report to address the rationale for the changes to the permit as issued originally.

This completes the list of matters to be addressed in response to this Notice to reopen for cause.