

OFFICE OF ADJUDICATIONS

IN THE MATTER OF : **APPLICATIONS No. 201608469**
F&G, LLC : **NOVEMBER 28, 2018**

**RULING ON PARTIES' JOINT REQUEST
AND REVISED PROPOSED FINAL DECISION**

The Proposed Final Decision in this matter was released on October 12, 2018 (a copy of which is attached hereto). That decision adopts, with commentary, an agreed draft decision prepared by the parties to this matter, F&G, LLC (“Applicant”) and Department staff. No party filed exceptions to the Proposed Final Decision. However, on November 21, 2018, the parties jointly filed a “joint request” (“Request”) that certain sentences contained in the agreed draft decision that the parties believe are not necessary to support the conclusions reached in the agreed draft decision and the Proposed Final Decision, be “removed” from the Proposed Final Decision.

I

***Hearing Officer’s Authority to Modify an
Already Issued Proposed Final Decision***

Before turning to the substance of the parties’ Request, I must first determine if there exists a basis in the law to allow the Proposed Final Decision to be modified at this time. The parties cite, as the basis for the request, Regs., Conn. State Agencies § 22a-3a-6(y)(2), which states, “[a]t any time after issuance of a proposed final decision but before oral argument held pursuant to subdivision (3) of this subsection, the hearing officer may correct such decision for clerical errors and for errors of fact or law.” In addition to the authority cited by the parties - which has, in my experience, has been used when a hearing officer, *sua sponte*, corrects a typographical or other clear error in a decision - I have the broad authority to consider motions filed pursuant to § 22a-3a-6(h), as well as all the powers and duties vested in a hearing officer by § 22a-3a-6(d), particularly the power to “[d]ispose of motions and requests and make all necessary or appropriate rulings . . .” and to “[d]o any other acts and take any other measures to administer this section, expedite proceedings, and maintain order.” §§ 22a-3a-6(d)(B) and 22a-3a-6(d)(I). I therefore

conclude that I have the authority to consider the request and, if appropriate, to modify the Proposed Final Decision, pursuant to the authority provided to a hearing officer by the Department's Rules of Practice.

II

Ruling and Supplemental Conclusions of Law

Having determined that I have the necessary authority to act upon the Request, I next turn to its substance. The parties ask that I remove the following three sentences from the agreed draft decision and Proposed Final Decision:

1. P.23, [Finding of Fact] #107, The Applicant's special zoning permit allows for a substantial increase in vehicular traffic to and from the proposed facility if the City of Waterbury elects to deliver its municipal solid waste and recyclables to the proposed facility. (APP-40).
2. P. 49: "The Waterbury Zoning Commission has issued a zoning permit to the Applicant that allows the facility to accept, process, dispose, and transfer C&D materials, MSW and recyclables (APP-42a, 42b, 69).
3. P. 53: "The local zoning authority, by issuing the special permit, made a similar finding."

(Request, P. 1). The statements identified in the request, although included in the agreed draft decision, were not necessary to my analysis, and were not relied upon in making my recommendation that the Commissioner approve the permit requested by the Applicant. The Department has clarified that, when permitting a transfer station and volume reduction facility, there may be "concurrent or overlapping jurisdiction exercised by the Department and other governmental entities, such as local governments, each remain free to operate in their respective spheres." Final Decision, *In the matter of MSW Associates, LLC*,

November 28, 2016, p. 8¹. That decision further indicates that “there are many situations where a particular activity is subject to regulation by both the Department and local authorities. In these cases, the regulatory authorities co-exist – applicants must obtain approval from both levels of government . . . In reaching this conclusion, however, I note that nothing in this decision is intended to intrude on any prerogative of [a local authority] or to prevent the [local authority] from implementing its authority as [it] sees fit.” Id. at 8.

When making a recommendation, the task of the hearing officer is to determine whether the preponderance of the evidence in the record demonstrates that the proposed regulated activity complies with relevant statutory and regulatory criteria. While it is true that both a local zoning authority and the Department may consider similar issues – site location and suitability, traffic, and noise, to name a few – each must evaluate those issues based on the evidence in the record before it, and the separate statutory and regulatory schemes with which compliance must be achieved. To recommend that the Commissioner issue a permit for the construction and operation of the proposed facility, it is not necessary that I determine a local zoning permit has been issued. *See, e.g.,* Id. at 9. When evaluating traffic impacts in the vicinity of the proposed facility, it is not necessary to rely on a finding by another regulatory agency – considering a different record – that the activity complied with a statutory and regulatory scheme other than the one at issue here.

Instead, my recommendation is based only on the record developed during this proceeding. That record contains evidence, identified in the agreed draft decision, regarding all of the statutory and regulatory criteria relevant to my consideration. As I noted in the Proposed Final Decision, “had I drafted the decision myself, I would not have included every statement therein” Proposed Final Decision at 2. The statements identified by the request fall within that class. The statements the parties wish to

¹ This matter is currently the subject of an administrative appeal in the Superior Court identified as *City of Danbury v. Rob Klee, Commissioner of Energy and Environmental Protection*, HHB-CV-6036083-S.

remove from the agreed draft decision and Proposed Final Decision were not necessary to the conclusions of law set out in that document, and the removal of those statements would not alter my recommendation that the Commissioner authorize the proposed regulated activity. For that reason, I grant the request of the parties and remove the three statements identified above from the agreed draft decision and Proposed Final Decision.

III

Conclusion and Recommendation

I hereby modify the agreed draft decision adopted by the Proposed Final Decision in this matter to remove the statements identified above, and supplement it with the text of this ruling. For the reasons set out above, and those reasons set out in the October 12, 2018 Proposed Final Decision as modified herein, I conclude that, if the Applicant acts in accordance with the terms and conditions of the proposed draft permit, the proposed facility will be constructed and operated in compliance with all applicable legal requirements. I therefore respectfully recommend that the Commissioner issue the requested permit, incorporating the terms and conditions of the proposed draft permit.



Brendan Schain, Hearing Officer



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

OFFICE OF ADJUDICATIONS

IN THE MATTER OF :

APP. No.:201608469

F&G, LLC

:

October 12, 2018

PROPOSED FINAL DECISION

On September 12, 2018, F&G, LLC (Applicant) and staff of the Department of Energy and Environmental Protection jointly filed the attached Agreed Draft Decision for my review and consideration ([Appendix A](#)). Regs., Conn. State Agencies § 22a-3a-6(1)(3)(A). The Application proposes the expansion of an existing recycling facility at 260 Railroad Hill Street in Waterbury to include transfer and volume reduction facilities including the receipt of up to 500 tons per day of putrescible municipal solid waste (“MSW”), non-putrescible MSW, construction and demolition debris, clean wood, scrap tires, scrap metal, propane tanks and appliances with Chorflouro-carbons, in addition to 200 tons per day of recyclables.

I have reviewed this submission, the record, and the relevant law in this matter. I recommend that the Commissioner find that the Application filed by the Applicant satisfies the relevant statutory and regulatory criteria related to the construction and operation of a transfer station. Department staff has prepared a draft permit authorizing certain regulated activities at the Applicant’s site. (Attached as [Exhibit A](#) to the Agreed Draft Decision). The record and this draft permit reflect staff’s consideration of all the relevant criteria set forth in the applicable statutes and regulations governing the proposed activity. I therefore recommend that the Commissioner issue the draft permit to the Applicant.

I
Public Comment

During the hearing process, many comments on the Application were received, both in person, at the public comment hearing, and in writing. Many of these comments focused on the sufficiency of the environmental justice process required to be undertaken by the Applicant; commenters question both whether the environmental justice plans was sufficient and whether the Applicant had complied with its requirements. Other comments raised concerns regarding noise, odors, traffic, vectors, and the impact of the proposed regulated activities on the nearby river and a proposed greenway. Evidence regarding each of these concerns was submitted to the evidentiary record in this matter, and each of these concerns is addressed in sufficient detail in the Agreed Draft Decision. While I am sympathetic to the concerns of those who made comments – and while each of the concerns identified warranted careful consideration of the testimony and evidence submitted to the evidentiary record – the only conclusion I may properly reach is that the proposed regulated activities should be authorized because the Application satisfies the statutory and regulatory criteria relevant to each of these concerns and at issue in a hearing on a solid waste permit. While I understand that this recommendation will be disappointing to many who followed this hearing process, it is also the result required by law.

II
Agreed Draft Decision

The parties have submitted an Agreed Draft Decision in this matter. When an Agreed Draft Decision is presented for my consideration, I may accept, reject or modify that decision. In this matter, I conclude that the Agreed Draft Decision identifies sufficient facts, supported by citations to the evidentiary record, and correctly identifies the relevant statutory and regulatory criteria to which those facts must be applied. While had I drafted the decision myself, I would not have included every statement therein – particularly those statement concerning the consideration of the

proposed greenway in the permitting process and the applicability of the local zoning process to the public outreach required by the environmental justice statutes – I do conclude that the Agreed Draft Decision correctly applies the necessary facts to the relevant law. For that reason, I adopt the Agreed Draft Decision and its conclusion, as supplemented herein, and recommend that Commissioner authorize the proposed regulated activities.

III
Conclusion

For the reasons set out above, and for those reasons set out in the Agreed Draft Decision, I conclude that, if the Applicant acts in accordance with the terms and conditions of the proposed draft permit, the proposed facility will be constructed and operated in compliance with all applicable legal requirements. I therefore respectfully recommend that the Commissioner issue the requested permit, incorporating the terms and conditions of the proposed draft permit.



Brendan Schain, Hearing Officer

S E R V I C E L I S T

In the Matter of F&G, LLC – Application No.: 201608469

PARTY

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STATE OF CONNECTICUT
DEPARTMENT OF ENERGY & ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS

In the Matter of F&G, LLC

Application No. 201608469

September 12, 2018

AGREED DRAFT DECISION

I. Summary

F&G, LLC (Applicant) filed application No. 201608469 (“the Application”) with the Department of Energy and Environmental Protection (DEEP) for a permit to construct and operate a solid waste facility at 260 Railroad Hill Street in Waterbury, Connecticut (“”). Prior to the submission of the Application, DEEP's Environmental Justice program Administrator (“E.J. Administrator”) approved the Applicant's Public Participation Plan. DEEP issued a Notice of Tentative Determination (NTD) to approve the Application. Prior to the issuance of the NTD, DEEP staff (“Staff”) determined that the Administrator had confirmed the Applicant's compliance with General Statutes §22a-20a. A petition for hearing was filed, initiating the hearing process.

The parties to this proceeding are F&G, LLC and staff of the Waste Engineering and Enforcement Division of DEEP's Bureau of Materials Management and Compliance Assurance.
(Staff)

No person or entity filed a motion to intervene in the proceeding. No person elected to provide a sworn statement at the June 12, 2018 public hearing held for public comment. The evidentiary portion of the hearing was held on August 8, 2018.

The testimony and exhibits prove, by a preponderance of the evidence, that the proposed facility, if designed, constructed, and operated consistent with the terms and conditions of the proposed draft permit (attached hereto as Exhibit 1) will comply with all applicable statutory and regulatory criteria including General Statutes §§22a-208, and 22a-208, and Regs., Conn. State Agencies §§22a-209-9 and 22a-209-10. Based on the record, the draft permit should be issued by the Commissioner as a Final Permit.

II. Proposed Findings of Fact

A. Procedural Facts

1. The Applicant submitted an Environmental Justice Public Participation Plan (“E.J. Plan”) to DEEP on or about February 2015, as required by General Statutes § 22a-20a (“the environmental justice statute”). (DEEP-3G).
2. On March 18, 2015, the E.J. Administrator approved the Applicant’s E.J. Plan (DEEP-3G)
3. Prior to submitting an application to DEEP, the Applicant published Notice of the Application in the Waterbury Republican – American, the newspaper of general circulation in Waterbury on April 20, 2016, and sent notice to Neil O’Leary, Mayor of Waterbury. (DEEP-3A; APP - 69)

4. On or about July 7, 2016, DEEP received F&G, LLC's Application for a permit to construct and operate a solid waste facility at 260 Railroad Hill Street, Waterbury, CT. (DEEP-3C)
5. On or about July 15, 2016, DEEP issued a Notice of Sufficiency to the Applicant and began its technical review of the Application. (DEEP-5)
6. The technical review of the Application was conducted by DEEP to determine its compliance with the Solid Waste Management Statutes also known as the Comprehensive Materials Management Plan (“CMMS”), regulations, and consistency with the State-wide Solid Waste Management Plan and the extent of any potential adverse impacts to the environment. (DEEP-4, 38, 39)
7. On August 18 and 19, 2016, DEEP issued review comments and requests for additional information to the Applicant based on the technical review of the Application. (APP-5, 6, 7, 8; DEEP-15, 39)
8. On September 29, 2016, the Applicant responded to the comments and request for additional information. (DEEP-16, 16A-16K)
9. On October 12, 2016 and October 26, 2016, DEEP issued further review comments and requests for additional information to the Applicant. (DEEP-17, APP –12) The Applicant responded on January 12, 2017. (DEEP-20, 20A-20D)
10. On March 27, 2017, the Applicant submitted its Final Report of the Environmental Justice Plan (Final Report) which included three appendices: Appendix A – Traffic

Impact Study, September 5, 2016, KWH Enterprise, LLC; Appendix B – Traffic Responses for 260 Railroad Hill Street Waterbury, Connecticut, dated February 9, 2017 & Addendum to Traffic Responses for 260 Railroad Hill Street Waterbury, Connecticut, dated February 9, 2017, KWH Enterprise, LLC; and Appendix C – Review of proposed Technical and Operational Control Measures, January 2017 by TRC. Appendix C was commissioned by the City of Waterbury. (DEEP-25)

11. DEEP's E.J. Administrator approved the Final Report on August 27, 2017 through an e-mail. (DEEP-26)
12. On June 21, 2017, DEEP issued a request for additional information to the Applicant. (DEEP-21)
13. On June 30, 2017, the Applicant responded to the request made in DEEP-21. (DEEP-22, 22A-22C)
14. On July 11, 2017, DEEP issued a request for additional information to the Applicant. (DEEP-23; APP-29)
15. The Applicant responded to DEEP's July 11, 2017 request for additional information with a July 17, 2017 letter. (DEEP-24)
16. On November 27, 2017, DEEP met with Applicant's representatives to discuss additional comments that were sent to the Applicant's representatives on November 22, 2017 regarding the sequencing of operations related to the various waste types. (DEEP-28, 29)
17. On December 6, 2017, the Applicant submitted a revised Building Layout Plan and an addendum to the Operation and Management Plan. (DEEP-29, 29A, 30)

18. On December 22, 2017, after subsequent discussions with DEEP, the Applicant submitted a revised Building Layout Plan and Addendum to the Operations and Management Plan. (DEEP-31, 31A, 39)
19. As part of its technical review of the Application, DEEP performed a compliance history check and concluded that neither the Applicant nor anyone associated with the Application had a history of non-compliance with statutes or regulations that required a denial of the Application or special conditions to an approved application. (DEEP-27)
20. DEEP staff prepared an NTD, draft permit, and a project summary to be routed for internal review and concurrence prior to publication. (DEEP-35, 38).
21. The project summary included a section entitled, "Special Language and Permit Conditions", in which several conditions were identified as specific conditions proposed for the management of wastes at the facility based on Appendix C of the Final Report relating to the minimization of odors. (DEEP-35)
22. On or about February 23, 2018, DEEP issued a NTD and draft Permit to Construct and Operate (draft permit) to the Applicant. (DEEP-32, 33, 34)
23. On February 28, 2018, the NTD appeared in the Waterbury Republican – American, the local newspaper prescribed by DEEP. (DEEP-36)
24. The Mayor of Waterbury was mailed a copy of the NTD. (DEEP-34)

25. On or about March 22, 2018, DEEP received a petition for hearing designating and authorizing Steven Schrag “to engage in discussions regarding the Application, and if a resolution was reached, to withdraw the petition on behalf of the individual petitioners.”

A status conference occurred on April 17, 2018. The parties’ representatives and Steven Schrag attended. At the conference, June 7, 2018 was set for a site visit; June 12, 2018 was set for a public hearing to hear public comments; June 22, 2018 was set as the deadline for filing written comments; and evidentiary hearings were scheduled for July 10 and 11, 2018. May 25, 2018 was set for the parties to file lists of legal issues and exhibits.

26. On or about May 25, 2018, the Applicant and Staff filed exhibit lists, witness lists, legal issues and exhibits, as required by the April 26, 2018 Scheduling Directive and Notice of Hearing.
27. On or about June 21, 2018, the Applicant filed a motion to add exhibits as evidence and request permission to add witnesses to the witness list.
28. On June 28, 2018, the motion was granted.
29. On or about June 29, 2018, the Applicant and Staff timely filed the written testimony of all experts called as witnesses.
30. On June 7, 2018, a pre-hearing conference occurred, as required by the April 26, 2018 scheduling directive. The petitioners’ representative did not attend.

31. On May 9 and 10, 2018, a notice specifying the time and place for a site visit and a hearing for public comment appeared in the Waterbury Republican-American as prescribed by DEEP.
32. Pursuant to the published notice, the site visit occurred on June 7, 2018. The parties, the Hearing Officer, some signatories to the petition, and other interested members of the public attended.
33. Pursuant to the published notice, a public hearing to hear comments occurred on June 12, 2018 at the Waterbury City Hall building. In addition to verbal comments, written comments were submitted to the Hearing Officer. No member of the public provided a statement under oath; however, forty-two people commented.
34. On August 6, 2018, an evidentiary hearing occurred at DEEP's Hartford offices. The following testified: Mark Zessin, Kermit Hua, Patrick Fennell, Jonathan Murray, Brent Madho, and Frank Gagliardo. The evidentiary hearing concluded on August 6, 2018; however, the record was kept open until August 10, 2018 solely to allow the Applicant to file APP-69 and provide DEEP with the opportunity to evaluate APP-71. Staff did not object to APP-71 becoming a full exhibit.
35. Mr. Zessin, President of Anchor Engineering, a professional environmental and engineering consultant firm, testified as an expert with respect to solid waste facility permitting, development, and operation. Mr. Zessin is a licensed professional engineer in Connecticut. He has approximately thirty-five years' experience. (APP – 46, 69). Staff stipulated to the admission of Mr. Zessin's expert testimony.

36. Mr. Hua of KWH LLC is a licensed professional engineer. He testified as a transportation/traffic engineer expert. Mr. Hua has approximately 19 years of experience as a traffic engineer. (APP-48, 55) Staff stipulated to the admission of Mr. Hua's expert testimony.
37. Mr. Fennell of TRC Environmental Corporation is a licensed professional engineer. He testified as an odor and hazardous materials management expert. Mr. Fennell is a board certified environmental engineer. Mr. Fennell's testimony related to best management practices for solid waste facilities to minimize malodors; the effectiveness of the draft permit, O&M plan, and a proposed odor mitigation system to minimize potential malodors; and the potential harm, if any, to the public from the use of the deodorant that would be included in the odor system. (APP-47, 54) Staff stipulated to Mr. Fennell's expert testimony.
38. Mr. Madho is a DEEP environmental analyst with approximately 10 years' experience. Since June, 2013 he has been assigned to the solid waste unit to review permit applications. Mr. Madho testified as a DEEP expert witness with regard to his review of the Application and evaluation of the components thereof in accordance with RCSA §§ 22-209-4, 9 and 10 including but not limited to setting of the facility, on-site traffic, site suitability, waste types and volumes, potential for odor and consistency with the state-wide Solid Waste Management Plan.. (DEEP-38) The Applicant stipulated to the admission of the expert testimony provided by Mr. Madho.

39. Mr. Gagliardo is a solid waste permitting supervisor for the western district of DEEP. He has held that position since May, 2003. Previously, Mr. Gagliardo held two other positions, one supervising DEEP's enforcement staff and the other as an environmental analyst functioning as a recycling coordinator. As the supervisor for the western district, Mr. Gagliardo ensures all permit applications assigned to analysts are reviewed in accordance with all applicable statutes and regulations and all permits are drafted in accordance with applicable statute and regulations. The Applicant stipulated to the admission of the expert testimony provided by Mr. Gagliardo's testimony. (DEEP-39) On or about March 29, 2018, DEEP received the Applicant's timely submitted comments on the draft permit. DEEP did not receive other comments. (DEEP – 37, 38)
40. Due to public comments made at the June 12, 2018 public hearing and comments received during the public comment period, with DEEP concurrence the Applicant held an informational meeting, with a Spanish speaking translator, on August 1, 2018 at the Maloney Elementary School, 233 South Elm Street, Waterbury, CT from 6 P.M. to 9 P.M. The meeting was held as a courtesy to the community as a result of claims made by Rep. Reyes and other City residents that the South-end community was not sufficiently informed about the proposed facility. (Zessin testimony: tape #2, 33).

B. The Proposed Facility

41. The Applicant proposes to construct and operate the proposed facility at 260 Railroad Hill Street, Waterbury, CT. 260 Railroad Hill, LLC owns the property. The Applicant

has continuously operated a permitted recycling facility since 2001. The property is 5.9 acres in size. (DEEP-3C, 22A, 34; App-69)

42. The site is comprised of a 38,040 square foot building including 30,200 square feet for processing. (App-69)
43. The site is accessed by a driveway approximately 500 feet in length that intersects Railroad Hill Street. (Zessin testimony: tape #2, 2:00)
44. The site is in a General Industrial District (IG Zone) located on the periphery of the city and is about 2.1 miles from Exit 29, Route 8 and about 4.5 miles from I-84, which provide convenient access to markets and disposal sites. Mr. Zessin testified the site is convenient and close to collection routes in Waterbury and nearby towns. (APP- 37;69)
45. The site is surrounded by a fence with a gate used to control access to the site. A sign will be posted at the entrance to the facility which will identify the permit number, issuance and expiration dates, hours of operation, and a phone number to provide public assistance. (DEEP-22B, 24; APP-69).
46. Residents will not have access to the facility for the purposes of delivery of wastes. The Applicant expects that about 90% of the materials will be delivered by hauling companies controlled by the owners of F&G, LLC. (DEEP-22B, 24; APP-69).
47. The property is not subject to any conservation easements or restrictions, has no inland wetlands or watercourses, and is not located in an aquifer protection area. The site is not located on Indian lands, within a coastal boundary, or in an area identified as a habitat for threatened, endangered, or special concern species. (DEEP 6-13, DEEP – 38; APP– 69)

48. The Zoning Commission for the City of Waterbury has issued a special permit allowing the Applicant to operate a hazardous industrial operations facility. A hazardous industrial operations facility under the Waterbury zoning regulations includes a volume reduction facility / transfer station operation. The special permit requires that trucks servicing the proposed facility use the "primary route." (APP – 38, 40)
49. The facility will have a maximum daily processing capacity of 700 tons per day (tpd). The facility may receive and manage up to 500 tpd of C&D / oversized MSW, Putrescible MSW, Non-Putrescible MSW, clean wood, scrap tires, scrap metal, propane tanks, and appliances with Chlorflouro-carbons. The facility will not be allowed to receive and manage more than 500 tpd of Putrescible MSW. The facility may receive and manage up to 200 tpd of recyclables such as commingled metal / plastic containers and paper, including cardboard, office paper, newspaper, Kraft paper, and similar fibrous materials. The facility does not expect to operate at its maximum capacity each day. (DEEP-32; APP- 69)
50. A DEEP General Permit Registration for Discharge of Stormwater associated with Industrial Activity is in place for the facility. The general permit will be updated to reflect the proposed activities. The stormwater flow will not change; therefore, no changes to the monitoring systems are required. The tipping, processing, storage, and loading areas have sufficient drainage and slope to substantially prevent accumulation of the water. The site has a system of catch basins with sumps, piping, and stormwater infiltration chambers to effectively manage stormwater. (DEEP-22B; APP - 69)

51. The draft permit provides that the facility will operate Monday – Friday between 5:00 am and 6:00 pm, and Saturday between 5:00 am and 12:00 noon. (DEEP - 32)
52. The draft permit requires that the facility recover ten percent of the C&D material and Non-Putrescible MSW delivered to the facility as recyclables in its first year with the percentage increasing each year to a maximum of forty percent in the fifth year. (DEEP - 32)
53. There is ample space for inbound and outbound vehicles to queue on site if multiple vehicles arrive at the same approximate time. Lengthy on-site queuing is not expected. The site can accommodate 6 to 7 vehicles on each side of the scale and more vehicles in the on-site track maneuver area, if necessary. There will be no queuing off-site. The draft permit and the Operations and Management plan provide for appropriate and acceptable on-site traffic flow for the receipt and transfer of materials. (DEEP–22A, 22B; APP–69)
54. The dispatch office will control deliveries. About 90% of all deliveries will be by hauling companies controlled by the owners of F&G, LLC; therefore, diverting trucks or controlling delivery times will not be problematic. (DEEP-22A, 22B, 24; APP-69)
55. Trucks delivering materials will be on site for about 3 to 5 minutes but 5 to 10 minutes if the site is very busy. Weighing will take about 10 to 15 seconds. Customers will set up accounts prior to delivering materials to, among other things, minimize delivery times. (DEEP - 22A, 22B; APP – 69; Zessin Testimony: tape #2, 2:00)

56. Trucks will tip loads on an impervious concrete floor where loads will be visually inspected for unacceptable materials. Visual inspection will also occur prior to tipping. Permitted processing will occur only indoors. The permit requires that 5% of the monthly deliveries be photographed and the estimated percentage of designated recyclables be logged. Loads that contain unacceptable waste will be rejected. (DEEP - 22A, 22B; APP-69)
57. Records of tonnages for inbound deliveries and outbound shipments to markets and final disposal will be maintained and monthly summaries will be submitted quarterly to DEEP. (DEEP - 22B, 32)
58. Trucks will be prohibited from idling for more than three consecutive minutes while waiting to deliver waste. (DEEP-22B, 32)
59. Putrescible MSW may be stored only indoors on the tipping floor and for no more than 48 hours. A first in / first out operations policy is required by the draft permit. If Putrescible MSW remains overnight, at the end of each day, the material will remain indoors and moved to a concrete bunker which will be covered with a tarp and the tipping area floor will be swept clean. (DEEP-22B, 32)
60. Most of the Putrescible MSW will be removed from the site on the day of delivery. (DEEP-32; APP-69)
61. No processing of Putrescible MSW is permitted at the facility. (DEEP-32)

62. Unacceptable wastes, such as hazardous waste, animal carcasses, human waste, liquids, waste oil, spent lead-and batteries, and spent anti-freeze may not be knowingly accepted. (DEEP-22B; APP-69)
63. Procedures for addressing the delivery and / or discovery of inadvertently received unacceptable materials are set forth in the draft permit, O&M plan, and facility layout plan. (DEEP-22B, 32; APP- 69)
64. A certified operator must be on the property at all times during the hours of operation. (DEEP-22B, 32)
65. The draft permit requires the installation and maintenance of an odor minimization system that, among other things, includes the placement of approximately 260 nozzles strategically placed throughout three zones in the facility. The system will disperse an odor counteractant that will be added to the mist water to neutralize potential malodors. The odor counteractant is not harmful to the public. The odor minimization system will be effective to minimize odor. Mr. Fennell and Mr. Zessin are familiar with solid waste facilities that use similar odor control systems and determined the systems effectively control odor. (DEEP-22B, 22C, 31; APP-54; Fennell testimony: tape #1, 21:00; Zessin testimony: tape #2, 48:00)
66. Odors at a facility such as the proposed facility are generally not a nuisance problem. Less "advanced" odor control systems are effective to control odors. The required odor system will provide additional controls to minimize potential nuisance odors. (APP-69)

67. The draft permit requires that the Applicant control vectors. The first in/first out requirement and the maximum 48 hours residence time for Putrescible MSW minimize the threat of vectors. Vectors at similar facilities are effectively controlled by using pest control products and, if necessary, a professional exterminator. (DEEP-29, 32; APP-69)
68. Dust is not expected to be a problem. The required misting system and the facility's wet sweeper will minimize the risk of fugitive dust; the site driveway and the site are paved with bituminous concrete; all tipping will occur indoors; all processing will occur indoors; the site roadways will be swept regularly and sprayed with water, when necessary and all materials will be delivered in covered containers or sealed vehicles. The site has operated as a recycling facility since 2001 and no resident, business, or public official has complained about fugitive dust created by the site operations. (DEEP-22B; APP-69)
69. The proposed facility will be equipped to control and extinguish fires with an automatic sprinkler system on the tipping floor. There will be an alarm system to detect and suppress a fire. There will be fire extinguishers on site. Fire hydrants are on the property and located 70 feet and 132 feet from the facility building. Spill control kits will be available on site. Procedures will be in place to determine when emergency personnel is necessary and how to contact the emergency personnel. The Waterbury Fire Marshall has approved the fire apparatus at the site. (DEEP-18, 19, 22B; APP-69)
70. The proposed facility will be consistent with the Connecticut Water Quality Standards. The site is in an area with the GB classification which means the groundwater is

degraded, likely due to the many historic industrial uses in the area. The site and the residential properties are served with public water. Groundwater is not expected to be degraded by the operation of the facility. All wastes will be processed indoors and not exposed to stormwater. The site is not located in a public water supply watershed protection zone. The proposed activities will not impact the Naugatuck River. (APP - 69)

C. Surrounding Area

71. The site is in an IG Zone. (APP-37, APP-38, APP-69).
72. The site is surrounded by industrial properties for over 500 feet in all directions and isolated from residential buildings. (APP-42a, 42b, 69)
73. Some of the permitted uses in an IG Zone are: manufacturing and processing; industrial services; warehouse and freight handling; vehicle service facilities; hazardous industrial operations; commercial earth excavations; commercial parking structures; commercial energy generators and storage facilities; and wireless communications facilities. (APP-38)
74. There are a few residential buildings near the proposed facility. The residential buildings are in the IG Zone and located on South Leonard Street. No residential building is within 500 feet of the facility. (APP-43)
75. There are no residential buildings on Eagle Street or Railroad Hill Street. (Zessin testimony: tape #2, 2:00)

76. The view from the nearest residential building, on South Leonard Street, is adequately screened and the facility building is not visible. (APP-69)
77. Between the residential buildings on South Leonard Street and the site is the Tilcon plant which processes aggregate and produces asphalt cement. There is a steep rise in elevation of over seventy feet to the west of the site that contributes to the isolation of the site. The hillside is densely wooded and, with the topography, provides a very effective screen of the proposed facility for the residents. (APP-42a, 42b, 69)
78. The design and development of the proposed project does not change the tree buffer or the existing topographic features. (APP-69)
79. In addition to the adjacent Tilcon plant are: Yankee Gas Services Company; a 140 foot high gas tank; Allegheny Ludlum Corp/Allegheny Technologies which processes metals; Hubbard Hall Chemical Company, a salvage yard containing hundreds of salvaged automobiles; and Superior Fuel Company which supplies fleet vehicle fuels and heating oils. (APP-42a, 42b, 69)
80. Other business in close proximity to the proposed site are: the City of Waterbury Sewer Plant, O&G Earth Products, Yankee Gas, Waterbury Plating & Paint Co., Rand Whitney, Euro-Pac Corp., Bender Plumbing, GSS Industries, Hocon Gas Inc., F.W. Webb Company, Wesson Energy, L.F. Powers Co., Inc., GSS Industries, Waterbury Generation. (APP-42a, 42b)
81. There are pedestrian sidewalks on Eagle Street, Railroad Hill Street and South Main Street; however, there is light use of those sidewalks. (APP-70)

D. Traffic

82. Trucks delivering solid waste to the facility shall be directed to use South Main Street to Eagle Street to Railroad Hill Street ("primary route"). From I-84, trucks will likely take Route 8 South to Exit 29. Most trucks leaving the site with outbound materials will turn right onto Railroad Street and head south, back to Eagle Street, and then right to South Main Street. (APP-41, 69).
83. When operating at maximum capacity, which is not expected to occur each day, the proposed facility conservatively will generate between 190 and 138 one way daily trips. The trips include employees' vehicles and trucks that presently deliver and transfer recyclables or 42 one way daily trips. Depending on the contents of the loads, the number of tips will vary since, for example, putrescible MSW loads are heavier than recyclable loads. (DEEP-3K; APP - 44, 69)
84. Most of the vehicular traffic will be collection trucks, i.e. roll off trucks, front end loaders, and automated side loading trucks. Those trucks are "single unit" trucks that the Waterbury municipal collection crews use daily to collect residential MSW and recyclables and private haulers, including USA Hauling and Recycling, Inc., use daily to collect MSW and recyclables in Waterbury and elsewhere. (APP-69)
85. Trailers will transfer loads from the facility to markets and processing facilities. (DEEP - 22B; APP-69)

86. Since 2001, single-unit trucks and tractor trailers have serviced the site. Such vehicles have used the facility safely and with no accidents. (APP-55, 69). The Applicant has operated a recycling facility at the site since 2001, and no business, resident, or public official has complained about its operations, including traffic. (APP-69)
87. The Applicant's traffic expert, Kermit Hua, examined the traffic impact from the proposed expansion of the facility. Mr. Hua analyzed levels of service (LOS) for traffic flows under the 2016 existing and 2017 no build and build traffic conditions to identify any deficiencies in existing and future traffic operations at area intersections, including Eagle Street/Railroad Hill Street and Eagle Street/South Main Street, and on the "primary route". (APP-55)
88. Twenty-four hour traffic counts for Railroad Hill Street north of the Eagle Street intersection were collected and the traffic count was 1,906. For both the northbound and southbound approaches, the per-lane hourly volumes did not exceed 150 vehicles per hour. In traffic engineering, the "rule of thumb" roadway capacity for each travel lane is 500 to 600 vehicles per hour; therefore, during the busiest hours, Railroad Hill Street is operating at less than a third of its capacity. (APP- 55; Hua testimony: tape #1, 34:40)
89. Mr. Hua reviewed the yearly average daily traffic (ADT) data compiled by ConnDOT on South Main Street, north of Eagle Street between 1990 and 2014. The ADT was 6,100 in 2008 and 5,800 in 2014; therefore, the traffic is stable. (APP-55)
90. Mr. Hua analyzed two intersections between the proposed site and Route 8, Exit 29: Eagle Street / Railroad Hill Street, and Eagle Street / South Main Street. Traffic counts

for the two intersections were collected during the week day morning and afternoon commuter hours on July 21, 2016 and December 6, 2016. Mr. Hua determined the morning and afternoon peak hours based on the traffic counts. The morning peak hour is 8:00 am to 9:00 am and the afternoon peak hour is 3:00 pm to 4:00 pm. The peak hour volumes are in Figures 1 and 2 of APP-55. The traffic peak hours for the proposed facility are not the peak hours for the two intersections. Mr. Zessin determined the morning peak hour for the proposed facility is 7:00 am to 8:00 am and the afternoon peak hour for the proposed facility is 1:00 pm to 2:00 pm. (DEEP-22)

91. Level of Service (LOS) is the term used to describe the different operating conditions that occur on a given roadway segment or intersection under various conditions. It is a qualitative measure of the effects of a number of factors including roadway geometry, speed, travel delay, freedom to maneuver and safety. Each LOS is given a letter designation from A to F with A representing the best operating conditions and F representing the worse. (APP-55)
92. LOS at intersections is measured in terms of average delay. For signalized intersections and all way stop controlled intersections, the analysis considers the operation of all traffic entering the intersection. For two way stop controlled intersections where side street traffic must stop for main street traffic, the analysis assumes that through traffic on the main street is not affected by traffic on side streets. Therefore, LOS is calculated for the main street left-turn and side street approaches, and no overall intersection LOS is defined for two way stop controlled intersections. (APP-55)

93. There will be limited incremental changes to traffic delays at the two intersections after truck traffic from the proposed facility is added. Intersections will continue to operate at favorable levels of service or better. Mr. Hua concluded that the LOS will improve from C to B at the eastbound Eagle Street / South Main Street intersection. (APP- 55)
94. Sight distances at the intersections of Railroad Hill Street and Eagle Street, and Railroad Hill Street and Washington Avenue were evaluated. At the Railroad Hill Street/Washington Avenue intersection, the sight distances from Railroad Hill Street are approximately 420 feet in both directions and meet the industry accepted requirement of 390 feet. The Railroad Hill Street/Eagle Street intersection is an all-way stop intersection, and the industry sight distance requirement is the ability to see traffic stopped on the approaches to the intersection. The sight distance requirement is met since the ability to see traffic stopped at the approaches to the intersection exists.
95. The sight distance north from the driveway along Railroad Hill Street is about 420 feet. For single unit trucks, a 320 feet sight distance corresponds to a roadway design of about 23 mph, and the 420 feet sight distance corresponds to a design speed of 30 mph. Because of the low traffic volumes on Railroad Hill Street and because drivers on Railroad Hill Street anticipate truck traffic from driveways given the area is industrial, the sight distances are adequate and safe. (APP – 55; Hua testimony: tape #1, 34:00)
96. Accident data for 2015, 2016 and 2017 from the Connecticut Crash Data Depositor website maintained by UCONN were reviewed. Six accidents occurred on Railroad Hill Street, including one near the site driveway. The accident was a one car incident that

occurred on a Sunday at 2:00 a.m., a time when the present facility was not operating.

Based on all the available accident data for 2015, 2016 and 2017, no accidents at the site driveway occurred that were attributable to the current operations of the facility. (APP - 55)

97. No queuing on the site driveway will occur during peak hours of operation, assuming 700 tons per day (“tpd”) are actually delivered. Assuming 700 tpd are delivered, there will be no off site queuing. (DEEP – 22, 22B; APP–55, 69)
98. The driveway and railroad crossing are safe, sufficiently sized, and able to handle the expected increase in two way driveway traffic without added safety concerns and without queuing in the street during normal operations. (DEEP – 22, 22B; APP – 55, 69)
99. The project is estimated to generate 38 and 19 vehicular trips during the respective weekday morning and afternoon peak hours of the adjacent streets. (APP-55)
100. The expansion will not produce significant traffic impact on area streets. All area intersections will operate at LOS A or B with minimal delays during the peak hours when the expansion is in place. (APP-55)
101. The minimal trip increases from the proposed expansion will be adequately accommodated by area streets with no issues. (APP-55)
102. The planned Mixmaster projects by the Connecticut Department of Transportation for the interchange of I-84 and Route 8 will not affect Exit 29 of Route 8 on South Main Street, the designated highway access point for most of the site trucks. Any detours, ramp

- closures, and lane reductions resulting from the Mixmaster projects will have no impact on the proposed truck route. (APP-55)
103. Because the proposed expansion will produce a limited number of trips, it is not expected to adversely affect the safety conditions of area roadways. (App-55)
104. The level of operations on the "primary route," area streets, Route 8, and Interstate 84 will remain substantially unchanged. The increase in traffic from the proposed facility is minimal. The daily trips on Railroad Hill Street, South Main Street, Route 8, and Interstate 84 are: 1,906 on Railroad Hill Street; 5,500/10,900 on South Main Street; 53,400/60,300 on Route 8; and 132,600 on Interstate 84. (APP-45, 55, 69)
105. There are no state or local restrictions on trucks using the "primary route". (Hua testimony: tape #1, 43:00)
106. South Main Street is and will continue to be an urban collector road providing through access and direct access to commercial and industrial properties in the south end of Waterbury. (APP-69)
107. The Applicant's special zoning permit allows for a substantial increase in vehicular traffic to and from the proposed facility if the City of Waterbury elects to deliver its municipal solid waste and recyclables to the proposed facility. (APP-40).
108. The vast majority or about 90% of all materials delivered to the facility will be by USA Hauling and Recycling, Inc.'s fleet. USA's fleet assigned to the Waterbury division has no vehicle model that pre dates 2014; therefore, the vehicles are in compliance with current EPA clean air standards. (DEEP – 22, 24; APP - 70)

E. The Role of a Transfer Station and/or Volume Reduction Facility

109. Without the use of out of state disposal facilities Connecticut's disposal system would not be sufficient to process the waste generated in the state because Connecticut has a significant disposal shortfall capacity. (APP-70)
110. Connecticut relies almost exclusively on its five waste to energy facilities for the disposal of MSW. Unfortunately, the facilities are old and require significant repairs. Scheduled and unscheduled shutdowns each year are increasing and, consequently, the capacity to accept MSW is diminishing. This leads to the need to access out of state disposal markets. Transfer stations are crucial to accessing those disposal sites. (APP-70)
111. A number of environmental benefits accrue from transfer of solid waste. Some of the benefits are: reduced route collection vehicle impacts on traffic and air emissions; reduced fuel usage for route collection vehicles; increase flexibility in selecting more environmentally sound disposal facilities; the potential to remove recyclable materials and thereby reduce energy and GHG emissions associated with product manufacture using virgin materials; and the potential to reduce the volume of vehicles; thus reducing truck traffic, energy usage, air emissions, land consumption and potential environmental impacts of landfills (APP-70)
112. A major consideration in the overall cost of disposal and recycling is the price to deliver MSW and recyclables to a site. A transfer station reduces cost to transfer materials. (APP-70)

113. Transfer stations are instrumental in providing feedstock to the in-state waste to energy facilities that are strategically located in our state. (APP-70)
114. Connecticut has little, if any, disposal capacity for C&D waste and bulky waste; therefore, the waste, after sorting, must be transferred to out of state facilities. (APP-70)
115. There are no intermediate processing centers for recyclables in the Waterbury area. The transfer of materials from the proposed facility to processing centers will reduce the overall truck traffic and vehicle emissions related to the delivery of recyclables to processing centers. (APP-70)

E. Environmental Justice

116. On February 27, 2015, the E.J Administrator received the Applicant's E.J. Plan. (DEEP - 3G)
117. In a March 18, 2015 letter to the Applicant, Ms. Pestana approved the E.J. Plan after determining that the E.J. Plan satisfied the requirements of General Statutes §22a-20a. Before submitting the E.J. Plan, the Applicant confirmed the date, time, and meeting location with Ms. Pestana. (DEEP – 3G)
118. The Applicant used DEEP-EJ-Plan-001, a form created by DEEP. (DEEP – 3G)
119. Part II.A. of the E.J. Plan was revised, with Ms. Pestana's approval, to change the date for the informal public meeting from March 19, 2015 to April 2, 2015. In her March 18 approval, Ms. Pestana approved the April 2, 2015 date and planned publication of the

notice in the Waterbury Republican-American, the newspaper of general circulation for Waterbury, as specified on www.ct.gov/deep/permitsandlicenses. (DEEP-3G)

120. When the Application was received and reviewed by Frank Gagliardo, he knew the Application would receive "heightened scrutiny" from DEEP because Waterbury is a municipality covered by the environmental justice program. At the beginning of the technical review, Mr. Gagliardo told DEEP staff to be mindful that the proposed facility was in an environmental justice community; and the environmental justice program applied. He also told DEEP staff that General Statutes Section 22a-208aa may apply. (DEEP-39; (Gagliardo: tape #3, 29:50) In its August 19, 2016 request for additional information, DEEP asked the Applicant to provide information about the April 2, 2015 public information meeting; local concerns, if any, concerning increased traffic; the environmental impact, if any, of the increased traffic; the local fire marshal's review and approval of the proposed fire protection system; additional environmental controls to minimize odor, and confirmation that the proposed facility was not located within one-hundred fifty feet of a Connecticut housing authority. DEEP made the request as well as subsequent requests for information to the Applicant because it knew the public was concerned about odor and traffic. (Gagliardo testimony: tape 3, 16:40) DEEP advised the Applicant that it would not process the Application until the Applicant resolved the questions to the Commissioner's satisfaction. (DEEP-15; 39)

121. In an August 31, 2016 email, DEEP requested that the Applicant also submit an additional site plan focusing on inbound and outbound traffic flow and potential queuing on Railroad Hill Street. (DEEP-39; APP-9)
122. On September 29, 2016 DEEP received the Applicant's response to DEEP-15. The Applicant answered the questions and provided a revised Operations and Maintenance Plan incorporating its responses. In its response, the Applicant told DEEP that there would be local zoning meetings and it would submit a final Environmental Justice Plan Report after zoning meetings were completed. As part of its response, the Applicant referred to additional traffic studies relating to queuing, anticipated approval of the fire protection system from the local fire marshal, and installation of an odor control misting system due to local concerns about odor. (DEEP-16, 16A-K, 38)
123. On October 12, 2016 DEEP sent an e-mail to the Applicant's engineer. The e-mail was sent as a result of DEEP's review of DEEP-16, 16A-K. DEEP requested, among other things: the zoning commission hearing dates and the time frame when the fire marshal was expected to provide his approval. DEEP also asked that the Applicant provide the zoning commission dates to Ms. Pestana. DEEP advised the Applicant that it would not approve the Application until the requests were resolved to the Commissioner's satisfaction. (DEEP-17, 39)
124. On October 27, 2016, the Applicant provided the requested information and stated that on November 17, 2016 the zoning commission planned to hold a public hearing and the fire marshal's approval was expected "over the next few days/weeks." The department asked

for the additional information about the zoning hearings because it was seeking assurance that the environmental justice process was occurring and would be completed. (DEEP-17, 39)

125. The Applicant advertised the April 2, 2015 informal public meeting in the Waterbury Republican-American on March 23, 2015 which has an approximate daily circulation of 58,000, posted the approved agenda at the intersection of the site driveway and Railroad Hill Street which measured 2 feet by 3 feet, provided timely notices of the April 2, 2015 meeting to thirteen neighborhood businesses including abutting businesses, and provided timely notices to the Mayor of Waterbury, Representative D'Amelio for the district in which the site is located, Senator Hartley for the district in which the site is located, the local building officials; the local zoning enforcement official and the Chairman of the Waterbury Environmental Control Commission (Steven Schrag). (DEEP-3G, 25; APP-58-60, 69; Murray testimony: tape #3, 3:38-8:28).
126. On April 2, 2015, pursuant to the E.J. Plan the meeting began at approximately 5:30 P.M and ended shortly after 7:00 P.M. A tour of the facility was conducted and the proposed operations, layout of the facility, facility safety features, recycling goals, permit parameters, requested increase in tonnage, additional waste streams, additional truck traffic, benefits of the facility and operating equipment were discussed. The meeting was attended by Representatives from the Mayor's office, the Waterbury fire department; planning and zoning, President of the Board of Alderman, Senator Hartley,

representatives from the City's public works department, Chairman of the Waterbury Environmental Control Commission and members of the public. (DEEP – 25; APP-69).

127. On May 7, 2015, the Applicant's attorney appeared at the Waterbury Environmental Control Commission ("WECC") public hearing to continue the Applicant's outreach efforts with the community. The meeting began at approximately 7:05 P.M and ended at 9:30 P.M. WECC Chairman Schrag sent the meeting agenda to Ms. Pestana of DEEP and Mr. Corcoran of the Mayor's office. Before the meeting, Mr. Schrag e-mailed 43 questions and comments to the Applicant's director of operations and engineer. On May 6, 2015 the Applicant, in writing, responded to all the questions, some of which related to hours of operation, additional truck traffic, projected traffic counts, types of materials that would be received, the proposed tons per day increase to 700, anticipated routes, potential odors and mitigation efforts for fire protection. Ms. Pestana and the ombudsman for the environmental justice program appeared at the meeting to explain the environmental justice program and to respond to questions. The Applicant's attorney explained the proposed operations, the need for a transfer station/volume reduction facility in Waterbury, Waterbury's low recycling rate, Waterbury's generation of 80,000 tons per year of MSW, a future application to local zoning, DEEP's application process, the role of the proposed facility, the number of additional trucks that would service the proposed facility, conditions DEEP would place on the permit to operate the facility and potential benefits from siting the proposed facility in Waterbury. The Applicant's representative answered questions posed by the WECC and the public. While the Applicant's attorney

agreed that the Applicant's representatives would attend future WECC meetings and respond to additional WECC questions, the WECC did not invite the Applicant to other meetings or send additional questions until February 6, 2017. (APP-15, 64, 69).

128. The Applicant attended additional public hearing meetings of the Waterbury Zoning Commission on November 17, 2016, January 26, 2017 and February 16, 2017 as well as an Informational Meeting of the Waterbury Neighborhood Council on February 1, 2017. (APP 67, 69). The November 17, 2016 meeting was published in the Republican American on November 3 and 8, 2016. (APP-17). The January 26, 2017 public hearing was advertised on January 13 and 19, 2017 in the Waterbury Republican-American. (APP-66). The February 16, 2017 public hearing meeting notice was published in the Waterbury Republican American on February 2, and 9, 2017. (APP-19). At those hearings, the Applicant, City planner and the City's experts provided detailed information about the proposed operations including potential for odor and traffic impact. These hearings resulted in numerous hours of public comment regarding the proposed facility. Speakers at the hearings included local and state elected officials including Rep. Reyes, Rep. Butler, Alderwomen Cotto and Martinez-McCarthy.
129. On March 27, 2017, DEEP received the Applicant's Final Report. The Final Report was sent to the E.J. Administrator and to solid waste permitting staff. The Final Report identified the following public informational meetings: April 2, 2015 information meeting, May 7, 2015 special meeting of the WECC; September 28, 2016 pre-application discussion with the Zoning Commission; November 17, 2016 Zoning Commission

hearing; January 26, 2017 Zoning Commission hearing; February 1, 2017 informational meeting with the Waterbury Neighborhood Council; and the February 16, 2017 Zoning Commission hearing. (DEEP-25; APP-69).

130. The E.J. Administrator confirmed approval of the Final Report in an August 24, 2017 e-mail to Mr. Madho (DEEP-26).
131. Due to public comments made at the June 12, 2018 public hearing and comments received during the public comment period, with DEEP concurrence the Applicant held an informational meeting, with a Spanish speaking translator, on August 1, 2018 at the Maloney Elementary School, 233 South Elm Street, Waterbury, CT. The meeting began at 6:00 P.M and ended at approximately 9:00 P.M. The meeting was held as a courtesy to the community because Rep. Reyes and others claimed the southend community was not sufficiently informed about the proposed facility. (Zessin testimony: tape #2, 33).
132. DEEP's E.J. Administrator secured the site for the meeting, suggested the agenda items, suggested the start and end time, suggested the agenda be published in the Waterbury Republican-American and La Voz, suggested that a translator be present, and provided a list of individuals and groups that should personally receive the agenda before the meeting. The Applicant followed all the suggestions. During the meeting, the Applicant discussed all the agenda items and answered questions from the public. Only about 45 people attended, many of whom attended previous meetings. Many of the speakers were speakers who provided comments at previous meetings and the June 12, 2018 public hearing. All of the comments were consistent with comments made at previous

informational meetings and the June 12, 2018 public hearing. Ms. Pestana, Robert Isner, and Brent Madho attended the meeting and responded to questions. Mr. Gagliardo also attended the meeting. The translator provided services to no more than four attendees, one of whom asked a question. (APP-71; Zessin testimony: tape #2, 25:53; Gagliardo testimony: tape #3, 13:00).

133. During the environmental justice public participation period, the Applicant reached out to the Mayor and the President of the Board of Alderman. As a result of the outreach efforts, the Applicant concluded that Waterbury's officials were committed to opposing the expansion and had no interest in discussions. (APP-69).
134. DEEP's draft permit included special conditions: C.5.a., C.6.h.i, C.6.h.ii, C.6.i, and C.6.j. to minimize objectionable odors as a result of the Department's awareness of the local community's concerns voiced during the Applicant's environmental justice outreach. Due to the community's concerns, DEEP incorporated in the draft permit best management practices to control odors from Mr. Fennell's odor report to the Zoning Commission. (Madho testimony: tape #3, 36:00)

III. Conclusion of Law

The proposed facility is a combined transfer station and volume reduction facility. The proposed facility is subject to the statutory and regulatory criteria applicable to both types of solid waste facilities. Below, the parties address the regulatory criteria in subsection A and the statutory criteria in subsection B.

A. Regulatory Criteria

The relevant regulations are Regulations of Connecticut State Agencies (“RCSA”) §22a-209-9, "Solid Waste Transfer Stations," and RCSA §22a-209-10, "Resource Recovery Facilities and Other Volume Reductions Plants." There are 17 criteria in §22a-209-9 and 14 criteria in §22a-209-10 that the Applicant must satisfy. The two regulations have 12 similar or identical criteria, one of which, Temporary facilities, is irrelevant to these proceedings. The 12 criteria are: 1) An applicant must comply with the permit requirements of Section 22a-209-4; 2) Access; 3) Certified operator; 4) Storage; 5) Working area; 6) Litter control; 7) Restrictions On Certain Wastes; 8) Air quality; 9) Fire control; 10) Shutdown; 11) Measuring procedures; and 12) Temporary facilities.

RCSA §22a-209-9 includes the following criteria not found in Reg. §22a-209-10:

1) If a public haul away contract exists, a copy shall be attached to the application; 2) Enclosure; 3) Screening; 4) Storage (a minimum of 24 hours storage capacity is required if the facility's design capacity is for more than 100 tons of solid waste per 8 hour day); 5) Air quality (no open burning shall be conducted except upon compliance with the applicable regulations of the Department for the Abatement of Air Pollution); 6) Fire control (burning waste, highly flammable or explosive waste shall not be accepted); 7) Vector control; and 8) Maintenance.

Reg. §22a-209-10 includes two criteria not found in Reg. §22a-209-9: 1) An application shall include the specifications for all process equipment, and 2) Explosion.

Evaluation of Common Regulatory Criteria:

1. The Applicant submitted a complete application with the information required by statutes, regulations or otherwise necessary for the Commissioner to conclude that the information provided was sufficient to demonstrate the ability of the facility to comply with the applicable regulations. (DEEP-5)
2. Access – Access to the proposed facility is controlled through the use of a fence, locking gates, and signs. A sign shall be posted that states the name of the permittee, hours of operation, authorized users and required safety precautions. (DEEP-22B, 32)
3. Certified operator – An operator certified by the Commissioner shall be present at the proposed facility at all times during operating hours. (DEEP-22B, 32)
4. Storage – The draft permit and the O&M plan provide that no solid waste shall be stored on site for a period greater than 48 hours with the exception of legal holidays, unless authorized by the Commissioner; MSW must be removed within 48 hours of receipt unless it is a holiday weekend; MSW stored indoors shall be covered with tarps; MSW stored outdoors in trailers may not be stored overnight; C&D material, oversized MSW, and recyclables may be stored outdoors in covered, water tight containers; full containers must be removed within two business days; total storage is limited on a volume basis. A minimum of 24 hours storage capacity is provided. (DEEP 22B, 32)

5. Working area – The draft permit and O&M plan provide that unloading of solid waste shall occur only within an enclosed structure and/or any designated areas approved by the Commissioner; scavenging is prohibited at the unloading area.
6. Litter control – The draft permit and the O&M plan provide that solid waste shall be confined to the unloading, loading and handling areas; the facility and adjacent areas shall be kept clean and reasonably free of litter. (DEEP 22B, 32)
7. Restrictions on certain wastes – The draft permit and O&M plan provide that hazardous wastes and special wastes shall be excluded unless plans for special handling are approved by the Commissioner. Most loads will be inspected and loads will be inspected on the tipping floor. Unacceptable materials will be rejected. Inadvertently received materials will be isolated and temporarily stored in a safe manner for off-site transport to an authorized facility. (DEEP 22B, 32)
8. Air quality – The draft permit and O&M plan provide that air emissions, dust, and potential for odors resulting from the unloading of solid waste and the operation of the facility shall be controlled at all times to ensure compliance with applicable regulations. No open burning of solid waste shall occur. The draft permit requires that the Applicant monitor and mitigate the potential for airborne lead and asbestos. The draft permit also requires monitoring for potential for odor, maintenance of the odor system, and record keeping. All on-site roads are paved and will be swept regularly. All materials will be unloaded and processed

indoors. The misting system and wet sweeping will also minimize dust and potential for odor. (DEEP 22B, 32)

9. Fire control – Adequate equipment will be provided to control fires; arrangements for immediate services, when necessary, will be made with the local fire protection agency; and DEEP must be immediately notified when a fire occurs. Solid waste that is burning or is at a temperature likely to cause a fire or is of a highly flammable or explosive nature will not be accepted. The sprinkler and alarm systems will be maintained and inspected. There is a sprinkler system with a dependable public water supply and fire hydrants are on site. There will be a misting system that will minimize the risk for fires. The Waterbury fire marshal has accepted the fire apparatus systems that will be in place. (DEEP- 18, 19, 22B)
10. Shutdown – The draft permit and O&M plan provide that if the facility is inoperable, DEEP must be notified within 24 hours and there must be a DEEP approved diversion plan for disposal or processing. A proper plan to divert is in place. The Applicant will require its customers to divert deliveries to other permitted facilities. (DEEP 22B, 32)
11. Measuring procedures – Daily records to measure and identify tonnage of waste received and tonnage of waste disposed, processed or sent to markets and to identify delivery sites will be maintained with monthly summaries provided quarterly to DEEP. There will be a weight scale on site. (DEEP 22B, 32)

Additional Criteria Under Reg. §22a-209-9

1. Enclosure – Facility operations will be conducted in a building roofed and enclosed on all sides, or otherwise enclosed to satisfactorily control dust and litter. (DEEP-22B)
2. Screening – Screening from view shall be provided for a transfer station located within 500 feet of a residence. No residence is located within 500 feet of the facility building; however, adequate screening from view exists. (DEEP-20A)
3. Vector control – The draft permit and O&M plan provide that conditions shall be maintained that are unfavorable for vectors. Additional means to control and exterminate vectors such as hiring an exterminator contractor shall be instituted, when deemed necessary. Vectors will be controlled by keeping tipping areas clean and transferring putrescible MSW off site within 48 hours. Liquid spills will be absorbed with absorbents and disposed with the MSW. (DEEP-22B, 32)
4. Maintenance - The draft permit and O&M plan provide that there shall be routine maintenance of the facility. All site roads will remain paved and will be regularly swept. Dust, odors, water discharges and noise will be controlled to assure compliance with all applicable laws and regulations. The Applicant will prevent spillage of solid waste. Loaded containers will be covered. Litter will be removed on a daily basis. The Applicant will install and maintain a nuisance odor monitoring system. (DEEP-22B, 32)

Additional Criteria under Reg. §22a-209-10

1. The Application and the O&M Plan include specifications for all processing equipment (DEEP-22B)
2. Explosion – The facility and/or equipment provide for explosion protection; DEEP will be immediately notified if an explosion occurs. Explosions are extremely rare occurrences at facilities similar to the proposed facility. The fire protection water, sprinkler, and alarm systems will minimize the impact of an explosion. (DEEP-22B; APP-69)

B. Statutory Criteria

General Statutes §§22a-208 and 22a-208a apply to the Application. The two statutes include explicit criteria that must be considered. Also, both statutes are sufficiently broad to allow the Commissioner to evaluate the suitability of the immediate area near the proposed facility and the impacts of the increased traffic and potential odor, noise, and emissions resulting from the operation of the proposed facility on the area in the immediate vicinity of the proposed facility. This analysis, however, is restricted because the Commissioner's authority is limited to overseeing the design, planning, construction, operation, and closure and post closure maintenance of a solid waste facility.

General Statutes §22a-208 states that the Commissioner shall provide for the proper planning, design, construction, operation, monitoring, closure, and post closure maintenance of a solid waste facility:

- 1) to ensure against pollution of the waters of the state; 2) to prevent the harboring of vectors; 3) to prevent fires and explosions; and 4) to minimize the emissions of objectionable odors, dust, or other air pollutants so that the health, safety, and welfare of the Connecticut people is safeguarded and enhanced and the natural resources and environment are conserved, improved, and protected.

Monitoring and Measuring Procedures

The draft permit requires that the facility maintain daily records in a manner acceptable to the Commissioner. The daily records must be maintained for the life of the permit. Monthly summaries of the daily records must be prepared and submitted quarterly to the Department. The records must identify the types and quantities of wastes received, origin of waste loads, waste hauler name, destinations to which such wastes were delivered, and criteria for delivering municipal solid waste to landfills. (DEEP-32) The proposed facility has a scale to measure and record inbound and outbound loads. The draft permit requires quarterly compliance audits by an engineer licensed to practice in Connecticut or a consultant. The Department must approve the engineer or consultant. (DEEP-22B)

The record demonstrates that the Applicant will comply with all statutory and regulatory monitoring and measuring requirements.

Closure and Post Closure Maintenance

The record demonstrates that if the proposed facility is shutdown, solid waste deliveries will be diverted to other permitted facilities. When operations commence, customers will be notified. The Department will be notified within 24 hours if the facility is shut down and unable

to accept materials. No waste will be disposed on site. No provision for closure of open waste disposal areas or continued maintenance and monitoring is necessary.

Prevents Pollution to the Waters of the State

The proposed facility is not in an aquifer protection area. (DEEP-8, 38; APP-69) There are no wetlands on the property. (DEEP-11, 38; APP-69) The site and the area are served by a public water infrastructure. The area is classified GB which means the groundwater is degraded. (DEEP-12) Groundwater will not be degraded by the proposed operations. The west bank of the Naugatuck River is approximately one-half mile from the site. Between the Naugatuck River and the site are industrial buildings and Railroad Hill Street. (DEEP-20A) All materials will be processed and stored indoors or stored in covered containers. Putrescible MSW will be stored in a concrete block bunker and covered with a tarp. (DEEP-32) The tipping area consists of impervious concrete. No materials will be disposed on the site. The site is paved. The current Stormwater Pollution Prevention Plan will be updated to reflect the proposed operations. The tipping, processing, storage, and loading areas have sufficient drainage and slope to substantially prevent accumulation of water. The site has a system of catch basins with sumps, piping, and stormwater infiltration chambers to effectively manage stormwater. (APP-69)

For all the above reasons, it is clear that the design, construction, and operation of the proposed facility prevents pollution to the waters of the State.

Vectors

The draft permit requires that the Applicant operate the facility in a safe manner to control vectors. (DEEP-32)

Vectors will be controlled by keeping tipping areas clean and transferring materials on a first in, first out basis as soon as practicable after arrival. MSW will not be stored on the property for more than 48 hours, except during legal holiday weekends. Putrescible MSW typically will be removed on the day of delivery. Liquid spills will be absorbed with absorbents and disposed with the outgoing MSW. (DEEP-22B; APP-69)

The Applicant will engage a professional exterminator contractor to install, monitor, and maintain traps and other devices to minimize potential vector problems. (APP-69)

Vectors will not be attracted to the site because all materials are tipped and processed indoors and outdoor storage of putrescible MSW is allowed only during the daytime hours while loaded in covered containers or trailers waiting to be transferred.

When best business practices are used, vectors will not be a problem at the proposed facility. Effective methods and procedures are available to control vectors, if they become problematic.

Fire and Explosion

There will be visual inspections of loads to prevent the delivery of hot or smoldering loads. Fire suppression equipment, alarms, and sprinklers will be on site. The Waterbury fire marshal has approved the fire suppression system. (DEEP-19) The odor misting system will minimize the threat of fire and explosion. There are two on-site fire hydrants supplied with

public water. Portable fire extinguishers are located throughout the building. There are fire prevention procedures on-site personnel must follow. The Applicant has a safety director who oversees the Applicant's safety education program and routinely performs safety audits. (DEEP-22B) Explosions are not expected to occur at the proposed facility since explosions rarely, if ever, occur at similar facilities. If an explosion occurs, it will be managed with the on-site suppression equipment and the facility's fire suppression procedures. (App – 69

The evidence demonstrates that the Applicant will prevent fires and explosions. Explosions and fires are unlikely to occur due to the types of waste accepted and the processing activities that will be performed at the proposed facility.

Odor, Dust and Air Quality

General Statutes §22a-208 requires that the proposed facility "minimize the emissions of objectionable odors, dust, or other air pollutants." (emphasis added) The proposed facility must comply with "applicable regulations of the Department for the Abatement of Air Pollution." Reg. §§22a209-9(k), 22a-209-10(a).

Odor

The design, construction, and operation of the proposed facility, as provided in the draft permit and O&M Plan, will minimize objectionable odors. Nuisance odors generally are not created by similar facilities. Putrescible MSW is a potential source of nuisance odors. Putrescible MSW, and all other materials, will be delivered in covered containers or in covered trucks. All materials will be tipped, processed and loaded for transfer indoors. Putrescible MSW will not be processed at the proposed facility. When deliveries are not occurring, all doors to the

facility will be closed. Putrescible MSW must be transferred within 48 hours of delivery on a first in / first out basis. (DEEP-32) Most often, putrescible MSW will be transferred on the delivery day. Putrescible MSW may be stored outdoors during the day in covered trailers while waiting to be transferred. At the end of each day, the tipping area for putrescible MSW must be swept clean.

The draft permit includes best management practices to control odor recommended by the United States Environmental Protection Agency and Patrick Fennell, the Applicant's "odor" expert. Those best management practices are incorporated in conditions: C.5.a, C.6.h.i, C.6.h.ii, C.6.i, and C.6.j. These "special" conditions require that the Applicant store putrescible MSW indoors in a concrete bunker that will be covered with a tarp; install and maintain an odor control system; conduct off site evaluations of odor at the nearest residences based on prevailing wind directions; take immediate remedial actions if nuisance odors are detected offsite; keep doors to the building closed except when loads are being delivered or transferred; and divert loads that present a potential to create nuisance odors. The draft permit also requires that the odor control system be subject to the quarterly compliance audit. The draft permit requires that the Applicant post on its signage a phone number that the public may use to register complaints twenty-four hours per day.

The Applicant's expert, Mr. Fennell, opined about the effectiveness of the draft permit and O&M plan in controlling odor. Mr. Fennell is a highly qualified odor control and hazardous materials management expert. Mr. Fennell is familiar with similar facilities that use odor control systems and concluded such systems effectively control odors.

Mr. Fennell provided the following expert opinions, all within a reasonable probability:

1. The proposed design and operation of the proposed facility conform to industry standards and best management practices for control of odors. If the proposed facility is constructed and operated in compliance with the draft permit and revised O&M plan, the proposed facility is not expected to create an odor nuisance, except possibly in unusual circumstances.

2. The odor counteractant used in the prescribed misting system does not pose a health risk to members of the public.

Mr. Fennell also opined that a garbage odor could be recognized a few times per year on Railroad Hill Street or at the residential buildings on South Leonard Street.

The Applicant has proven by a preponderance of evidence that the design, construction and operation of the proposed facility, as required by the draft permit and O&M Plan, minimize the emission of objectionable odors, safeguard human health, safety, and the environment, and do not cause disproportionately high adverse human health or environmental effects. There will be no adverse impact on residents because the proposed facility is in an IG Zone; there are only a few residential buildings in the neighborhood; and the "primary route" is not in residential neighborhoods.

Dust

Compliance with the draft permit and O&M plan will minimize the emission of fugitive dust. The required odor control system and the facility's wet sweeper will minimize the risk of fugitive dust. The site driveway and the site are paved with bituminous concrete; all tipping will

occur indoors; all processing will occur indoors; and the site's paved areas will be swept regularly and sprayed with water. All materials will be delivered in covered containers or sealed vehicles.

The Applicant has operated a recycling processing facility at the site since 2001. No resident, business, or public official has complained about fugitive dust emanating from the site.

The design, construction and operation of the proposed facility, as required by the draft permit and O&M Plan, minimize the emission of dust. The Applicant has proven by a preponderance of the evidence that there will be no adverse impact on human health, safety, or the environment and no disproportionately high adverse human health or environmental effects.

Other Air Pollutants

The Applicant has operated a recycling processing facility at the site since 2001. Next door to the site is USA Hauling and Recycling, Inc.'s garage facility which houses 18 trucks. The on-site equipment currently used by the Applicant will be the equipment that the Applicant will use if a final permit is issued. The vast majority of the trucks that will service the proposed facility are 2014 or later models that meet the present federal Clean Air Act criteria. The vehicles that will service the facility are the same types of vehicles that the City of Waterbury uses daily to collect residential materials. Trucks may not idle for more than three minutes while on site. (DEEP-32) Trucks will be on site for about 3 to 5 minutes but 5 to 10 if the site is very busy. (DEEP-22A, 22B; APP-69; Zessin Testimony: tape# 2, 2:00) Vehicles serving the proposed facility will be on the "primary route" for a short period of time since the route is not congested and only 2.1 miles at its farthest point from the site. The proposed facility is on the

periphery of Waterbury and in a high industrial zone. The draft permit minimizes emissions, including vehicular exhaust, by limiting the amount of solid waste that may be accepted each day; limiting the days and hours of operation; and allowing for the consolidation of loads.

(DEEP-32) The O&M Plan minimizes emissions, including vehicular exhaust, because there will be no queuing on or off site due to the short residence time of vehicles on-site.

The draft permit requires that the Applicant monitor and mitigate the potential for airborne lead and asbestos within the enclosed processing areas. Monitoring is not required outside the processing area because processing will not occur outside the building. (DEEP-32; APP-69)

The Applicant has proven by a preponderance of the evidence that the design, construction, and operation of the proposed facility, as required by the draft permit and O&M Plan, will minimize air pollutants, protect the public's health and the environment, and not cause disproportionately high adverse human health or environmental effects.

Conserves Natural Resources

A substantial amount of the materials processed by the proposed facility will be recyclables that will be separated, consolidated, marketed for reuse, or delivered to recycling processors. The draft permit also provides that the Applicant should recover a substantial amount of non-mandated recyclables from the C&D waste and non-putrescible MSW. (DEEP-32) The proposed facility will reduce fuel usage for route collection vehicles. The recovery of recyclables will reduce energy and greenhouse gas emissions, land consumption, and potential environmental impacts of landfills. There are no intermediate processing centers for recyclables

in the Waterbury area; therefore, the proposed facility will be a convenient option that will improve local recycling rates. The proposed activities; therefore, will conserve natural resources.

Noise

Mark Zessin provided expert testimony regarding noise that may be generated by the proposed facility. Mr. Zessin has more than thirty years' experience designing similar solid waste facilities. For many years, he has audited many solid waste facilities. He has substantial knowledge about the current operations of the recycling operations at the current site. He is knowledgeable about the equipment the facility is using and will continue to use at the proposed facility. Mr. Zessin testified, without objection, that noise is not an issue at facilities like the proposed facility, and noise will not be a problem if the Applicant complies with the draft permit and O&M Plan. There is no evidence in the record to indicate that the Applicant will not comply with the draft permit which requires that the Applicant comply with all local ordinances, including noise regulations and ordinances. (DEEP-32, APP-69)

Since 2001, no person, business, or public official has complained about noise emanating from the site. (App-69) The proposed operations will be similar to the current operations. The design and operations of the proposed facility will minimize and control noise. All waste processing will continue indoors, most often with all the doors closed; trucks will be on-site for only a few minutes; experienced equipment operators will load trailers to minimize noise; loads will be delivered between 5:00 am and 6:00 pm on weekdays and 5:00 am and noon on

Saturdays; and processing equipment will be equipped with rubber on its blades to minimize noise.

The proposed facility is not in a residential neighborhood and the "primary route" is not in a residential neighborhood. The noise generated by the proposed facility will not differ from the noise that is created by the current recycling facility and the area businesses. The Applicant, by a preponderance of the evidence, has proven that noise from the proposed facility will not harm the health or safety of the area residents or cause disproportionately high adverse human health or environmental effects.

Traffic

No statute or regulation requires the Commissioner to consider off-site traffic impacts caused by the proposed facility. General Statutes §§22a-208 and 22a-208a; however, are sufficiently broad to allow consideration of the impact the proposed facility's increased traffic may have on the immediate surrounding neighborhood. When addressing the potential traffic impact, the neighborhood in the vicinity of the proposed facility must be evaluated. The analysis is restricted to the immediate surrounding area because the Commissioner's authority is limited to the design, construction, and operation of the proposed facility.

The site is in a well-established IG zone on the periphery of the city. The site is about 2.1 miles from Exit 29, Route 8 and about 4.5 miles from I-84, which provide convenient access to markets and disposal sites. There are only a few residential buildings near the proposed facility. Those buildings also are located in the IG zone. There are pedestrian sidewalks in the area, but there is minimal pedestrian traffic. The site is surrounded by industrial properties and isolated

from many of the area businesses. Some of the nearby or abutting industrial properties are: a Tilcon asphalt processing and storage facility; Yankee Gas Services Company; Allegheny Ludlum Corp. which processes metals; Hubbard Hall Chemical Company; a large salvage yard containing hundreds of salvaged automobiles; Superior Fuel Company which supplies fleet vehicle fuels and heating oils; and a Waterbury sewage treatment plant. (APP-42a, 42b, 69)

In an IG zone, the Waterbury Zoning Regulations permit many types of industrial businesses including: manufacturing and processing, industrial services, warehouse and freight handling, commercial earth excavations, commercial parking structures and commercial energy generators and storage facilities. The regulations permit hazardous industrial operations which include the proposed operations. The Waterbury Zoning Commission has issued a zoning permit to the Applicant that allows the facility to accept, process, dispose, and transfer C&D materials, MSW, and recyclables. (APP-42a, 42b, 69)

As previously stated, since 2001 the Applicant has accepted, processed, disposed, and transferred recyclable materials from the proposed facility without a complaint from any resident, business, or public official. The record demonstrates that the proposed operations are consistent with its current use and the area businesses. The area is highly suitable for the proposed facility.

When operating at maximum capacity, which is not expected to occur each day, Mark Zessin, the Applicant's expert, determined that the proposed facility conservatively will generate one way between 138 and 190 daily trips. The volumes are conservative because they include the passenger vehicles and trucks that currently use the facility. The volume will vary because

the contents of the loads will vary in weight. For example, putrescible MSW loads are heavier than recyclable loads; therefore, the traffic volume decreases when putrescible MSW loads are delivered.

Most of the vehicular traffic servicing the proposed facility will be single unit collection trucks, i.e. roll off trucks, front end loaders, and automated side loading trucks which are used daily by the City to collect residential MSW and recyclables. The vehicles servicing the proposed facility will be similar to the vehicles that currently use and will continue to use the local area roads and service the businesses in the local industrial neighborhood.

As part of its settlement with the Waterbury Zoning Commission, F&G, LLC agreed to restrict vehicles servicing the proposed facility to South Main Street, Eagle Street, and Railroad Hill Street (the "primary route"). The Applicant has committed to coordinating with local authorities regarding truck routes. There are no laws, ordinances, or regulations that restrict the types of vehicles that may use the "primary route".

The Applicant introduced the expert testimony of Kermit Hua to prove that the increased traffic from the proposed facility will be minimal and not adversely impact the roads or the users of the roads.

Mr. Hua examined the traffic impact the proposed facility may have on the area streets, including the "primary route". Mr. Hua analyzed levels of service on the area streets and at two intersections – Railroad Hill Street/Eagle Street and Eagle Street/South Main Street. Mr. Hua determined peak hours for traffic flows. Mr. Hua analyzed twenty-four hour traffic counts for

Railroad Hill Street and South Main Street. Mr. Hua relied on Mr. Zessin's projected increased traffic calculation.

Based on his review of the relevant documents, analyses, education, and experience, Mr. Hua reached the following conclusions (APP-42a, 42b, 55):

1. the morning and afternoon peak hours for the "primary route" differ from the proposed facility's morning and afternoon peak hours;
2. there will be limited incremental changes to traffic delays at the analyzed intersections and the intersections will continue to operate at favorable or better levels of service;
3. sight distances at the intersections of Railroad Hill Street and Eagle Street, and Railroad Hill Street and Washington Avenue meet industry accepted requirements;
4. the sight distance north from the driveway along Railroad Hill Street is about 420 feet and, therefore, is adequate and safe;
5. 2015, 2016 and 2017 accident data from the Connecticut Crash Data Depositor website show no accidents at the site driveway occurred that were attributable to the current operations of the facility;
6. the proposed facility will generate 38 and 19 vehicular trips during the respective morning and afternoon peak hours on the adjacent streets;

7. the Railroad Hill Street 24 hour traffic count is 1,906 vehicles per day or about one-third of the street's capacity and, therefore, will easily and safely handle the increased traffic;
8. the South Main Street 24 hour traffic count is 5,500 vehicles or about fifty percent of the street's capacity and, therefore, will easily and safely handle the increased traffic;
9. the driveway to the facility and railroad crossing are safe, sufficiently sized, and able to handle the projected increase in two way traffic without safety concerns and without queuing off site during normal operations; and
10. the planned "Mixmaster" projects by ConnDOT will not affect Exit 29, Route 8 or South Main Street; therefore, the projects will not impact the "primary route."

Mr. Zessin, the Applicant's licensed professional engineer who has more than 30 years of experience with the design, construction and operation of solid waste facilities, credibly testified that there will be no off site queuing and that trucks servicing the proposed facility will be on site generally for only 2 to 3 minutes and 5 to 10 minutes if the site is very busy.

The Applicant has proven by a preponderance of the evidence that the impacts to traffic resulting from the proposed operations will not cause disproportionately high adverse human health or environmental effects. The Applicant has proven by a preponderance of the evidence that the traffic impacts will not adversely impact the health, safety, or welfare of Connecticut's people.

Health, Safety, and Welfare and Disproportionately High Adverse Human Health and Environmental Effects

General Statutes §22a-208 states that the Commissioner must provide for the proper planning, design, construction, and operation of solid waste facilities to safeguard the health, safety, and welfare of the people of Connecticut.

General Statutes §22a-208a provides that, for a new transfer station, the Commissioner must conclude that the new facility will not cause disproportionately high adverse human health or environmental effects.

The standard in the two statutes is similar. The Commissioner is not required to consider the character of the neighborhood because the proposed facility is a combined transfer station/volume reduction facility. The Commissioner, however, may exercise his discretion and consider the character of the neighborhood when determining if the design, construction, and operation of the proposed facility will safeguard the health, safety and welfare of the people or cause disproportionately high adverse human health or environmental effects.

The record shows that the proposed facility is located in a well-established industrial area, zoned as such, which is on the periphery of Waterbury. The record proves the proposed facility is consistent with the character of the neighborhood that has remained highly industrial for many decades. The local zoning authority, by issuing the special permit, made a similar finding.

The Applicant has proven by a preponderance of the evidence that the proposed facility will not create noise, dust, malodors, traffic, or emissions inimical to residents. The draft permit

and the O&M Plan safeguard the safety, health, and welfare of the citizens of Waterbury and the State. The draft permit and O&M Plan ensure that the proposed facility will not cause disproportionately high adverse human health or environmental effects.

At the same time, the proposed facility will promote and increase recycling; create a net decrease in traffic and, consequently, reduce fuel usage and air pollutants; increase flexibility in selecting more environmentally sound disposal facilities; and potentially reduce energy and greenhouse gas emissions associated with product manufacture using virgin materials.

Consistency with the Statewide Solid Waste Management Plan a/k/a Comprehensive Materials Management Strategy (CMMS)

RCSA §22a-209-4(d) requires that the proposed operations be consistent with the CMMS. The CMMS is not a regulation. General Statutes §22a-228. Staff and Mr. Zessin determined the proposed operations are consistent with the CMMS. The CMMS promotes recycling and prefers waste disposal at a waste to energy facility. The CMMS acknowledges that transfer stations and volume reduction facilities are key parts of the State's waste management infrastructure. The draft permit promotes the use of waste to energy and promotes recycling. The draft permit includes conditions that allow processing of non-putrescible MSW and C&D materials to recover materials for reuse, and sets recovery performance goals. The draft permit requires that the Applicant provide an explanation for disposal of MSW at a landfill. (DEEP-32) A significant component of the proposed operations focuses on recycling. The proposed facility will be a convenient and efficient component of the area's waste management infrastructure.

The Applicant has proven by a preponderance of the evidence that the proposed facility, if it complies with the draft permit and O&M Plan, will operate consistent with the CMMS.

The "Waterbury Greenway"

During the public comment period and at the June 12, 2018 public hearing, some people expressed concern that the proposed facility will negatively impact the "Waterbury Greenway". No one provided a sworn statement in opposition to the proposed facility. No person or entity moved to intervene to demonstrate how and why the proposed facility would impact the "Waterbury Greenway." People elected to voice opposition to the proposed facility by making general comments unsupported with evidence. DEEP Rules of Practice and established case law do not allow the department to consider conjecture or general assumptions not substantiated by competent, credible evidence. Regs. §22a-3a-6(s)(1), 22a-3a-6(t); *River Bend Associates Inc. v. Conservation and Inlands Commission*, 269 Conn. 57, 70 (2004).

There is no statute or regulation that requires Staff to consider the impact the proposed facility may have on the "Waterbury Greenway." The legislature may enact laws that require the Commissioner to consider a specific criterion when acting on an application for a solid waste facility permit. For example, General Statutes §22a-208aa requires the Commissioner, when the proposed facility is within one-hundred fifty feet of public housing, to conclude "the facility does not pose a threat to the environment of the surrounding geographic area or to public safety." In this case, there is no such legislative requirement.

As previously mentioned, DEEP's authority is limited when acting on an application for a permit to construct and operate a solid waste facility. General Statutes §22a-208 limits that

authority to the proper planning, design, construction, operation, and closure of a solid waste facility. General Statutes §22a-208a, for a new transfer station, requires the Commissioner to determine if the proposed facility causes disproportionately high adverse human health and environmental effects.

Mr. Zessin has experience providing engineering services on several "greenways." He has provided engineering and design services on the "Naugatuck Greenway" for Torrington, Connecticut. He reviewed design plans for the "Waterbury Greenway" and his staff provided information to him about greenways that it received from the Connecticut Department of Transportation.

Mr. Hua reviewed design plans for the "Waterbury Greenway". Mr. Hua has provided professional engineering services for bike and pedestrian paths in several areas, including the "Shoreline Greenway" that is located in East Haven and Madison, Connecticut.

The plan is to develop a multi-purpose path that will be located partially along South Main Street and partially near the Naugatuck River. The path will be paved and be approximately 10 feet wide. Where the path parallels South Main Street, there will be a landscaped buffer and guardrail designed to protect bikers and pedestrians from errant drivers. (Hua testimony, tape #1, 41:00; Zessin testimony, tape #2, 17:00) The greenway will be a considerable distance from the proposed facility, the distance being about 2.1 miles near Exit 29 and one-half mile near Eagle Street.

Currently, between Exit 29, Rte. 8 and Eagle Street, South Main Street has four lanes that are reduced to two lanes in the area approaching Eagle Street. (Hua testimony, tape #1, 42:00;

Zessin testimony, tape #2, 17:00) If the "Waterbury Greenway" is built, according to the design plans Mr. Hua and Mr. Zessin reviewed, the four lanes will be reduced to two lanes. The reduction to two lanes will create a "calming effect". The "calming effect" will create a safer roadway because operators will likely travel at reduced speeds. If South Main Street's four lanes are reduced to two lanes, South Main Street will continue to have sufficient capacity to handle the present volume of traffic, which is not expected to decrease the minimal increase in traffic from the proposed facility.

The design plans show that the "Waterbury Greenway" was intentionally and knowingly sited near a very busy state maintained road that travels in and through areas zoned for businesses and high industrial operations. The design plans for the "Waterbury Greenway" do not restrict the types of vehicles that will be allowed to use South Main Street, Eagle Street, or Railroad Hill Street. (Hua testimony, tape #1, 43:10; Zessin testimony, tape #2, 20:59) Additionally, the bridges on South Leonard Street and Eagle Street will remain and continue to provide access to and egress from the businesses on Railroad Hill Street.

No dust, odor, emissions, or noise that may be created by the proposed facility will impact the "Waterbury Greenway". (Zessin testimony, tape #2, 23:00) The proposed facility will increase the traffic on South Main Street by 3.45%, assuming the worst case scenario (190 additional vehicles). This minimal increase will not endanger the safety of the greenway users or negatively impact the greenway.

The "Waterbury Greenway" most often will be used on Sundays, with Saturdays being the next most often used day according to data compiled by the State of Connecticut. The data

also shows that people will most likely use the "Waterbury Greenway" during late morning and after dinner. Mr. Zessin determined the morning peak hour for the proposed facility is 7:00 A.M. to 8:00 A.M. and one afternoon peak hour for the proposed is 1:00 P.M. to 2:00 P.M (DEEP-22) The proposed facility's hours of operation, therefore, will minimize the facility's potential impact on the users of the "Waterbury Greenway." (Zessin testimony, tape #2, 34:00)

Assuming DEEP's authority allows it to consider the "Waterbury Greenway", the Applicant has proven by a preponderance of the evidence that the proposed facility will not adversely impact the health or safety of the users of the greenway or cause disproportionately high adverse human health or environmental effects on the users of the greenway or the area near the greenway. The proposed facility does not pose a threat to the greenway or the area near the greenway.

Environmental Justice

The environmental justice statute requires "Applicants who...seek... new or expanded permit or siting approval from the Department of Energy and Environmental Protection or the Connecticut Siting Council involving an affecting facility that is proposed to be located in an environmental justice community or the proposed expansion of an affecting facility located in such a community, shall (A) file a meaningful public participation plan with such department or council and shall obtain the department's or council's approval of such plan prior to filing any application for such permit..."

A public participation plan must "...identify a time and place where an informal public meeting will be held that is convenient for the residents of the affected environmental justice

community” and “...identify the methods...by which the applicant will publicize the date, time and nature of the informal public meeting.”

The environmental justice statute also directs that “The Department of Energy and Environmental Protectionshall not take any action on the applicant's permit, certificate or approval earlier than sixty days after the informal public meeting.”

The Applicant submitted an E.J. Plan to the Department on or about February 2015. The E.J Plan identified proposed outreach efforts to publicize the meeting which included notifying neighborhood and environmental groups in writing and notifying local and state elected officials in writing which were approved by DEEP’s E.J. Administrator.

The Applicant submitted and received approval from DEEP’s E.J. Administrator of its E.J. Plan on March 18, 2015. (DEEP-3G). The Department did not take any action on the solid waste application until July 15, 2016, more than a year after the public participation plan was approved, when it issued a notice of sufficiency (DEEP-15).

The E.J. Plan clearly identified the time and location of the meeting in the affected area. In this instance, the meeting location was the proposed facility in order to conduct a site tour. The Applicant published notification of the April 2, 2015 meeting in the Waterbury Republican American on March 23, 2015, more than 10 days prior to the meeting as required by the E.J Statute. The notification of the meeting was in the form of a quarter page advertisement in a newspaper of general circulation as required by the E.J statute.

The Applicant hosted the April 2, 2015 public information meeting pursuant to the approved E.J plan and attended all meetings in which they were invited and responded to all

questions presented to them at these meetings. The April 2, 2015 meeting began at approximately 5:30 P.M. and ended shortly after 7:00 P.M. The Applicant provided detailed information regarding the proposed facility and explained the proposed operations, layout of the facility, facility safety features, recycling goals, permit parameters, requested increase in tonnage, additional waste streams, additional truck traffic and benefits of such a facility. The Applicant also conducted a tour of the proposed facility on April 2, 2015. Numerous persons from the community and representatives of the community were in attendance and had ample opportunity to ask questions and obtain information regarding the proposed operations. During the April 2, 2015 meeting no-one voiced any concern of the content of meeting, notice or location.

As a follow up to the April 2, 2015 meeting, the Applicant appeared at the Waterbury Environmental Control Commission (WECC) public hearing on May 7, 2015 to continue the Applicant's outreach efforts with the community. The May 7, 2015 meeting began at 7:05 P.M. and ended at 9:30 P.M. At this meeting, the Applicant explained the proposed operations, the need for a transfer station/volume reduction facility in Waterbury, Waterbury's low recycling rate, Waterbury's generation of 80,000 tons per year of MSW, DEEP's application process, the role of the proposed facility, the number of additional trucks that would service the proposed facility, conditions DEEP would place on the permit to operate the facility and potential benefits from siting the proposed facility in Waterbury. The Applicant's representative answered questions posed by the WECC and the public. DEEP's E.J. Administrator attended this meeting

and provided an overview of the environmental justice program and was available to answer any questions related to environmental justice requirements.

In addition to these two meetings, the Applicant provided information regarding the proposed facility operations at Waterbury's Zoning Commission meetings. The first of these meetings was held on November 17, 2016 and the notice of the meeting was published in the Waterbury Republican-American November 3 and 8, 2016. At the November 17, 2016 meeting details of the Applicant's proposal were presented by the Waterbury City Planner. The City Planner identified the location, described the layout, provided site plans, explained the application was to increase the facility's capacity to 700tpd and to add municipal solid waste and C&D materials to the recyclables waste stream that was permitted, and identified the twenty-two operating rules the proposed facility would follow. The operating rules were the standard conditions DEEP includes in solid waste facility permits to operate. The City Planner also summarized the traffic study of F&G, LLC's traffic engineer. (APP – 65).

As a follow up to the November 17, 2016 meeting, on January 25, 2017, the Waterbury Zoning Commission held a public hearing on F&G, LLC's zoning application. Notice of the public hearing was published on January 13 and 19, 2017 in the Waterbury Republican-American. At this meeting, eighteen residents provided public comment and the public hearing was continued to February 16, 2017. (APP-18, 66). The February 16, 2017 meeting began at 7:03 P.M and ended at 12:28 A.M. (APP – 19). Notice of the meeting was again published in the Waterbury Republican-American on February 2 and 9, 2017. During this meeting, fifteen residents provided public comments and the Applicant again explained the proposed activities,

traffic routes and counts, plans to minimize the potential for odor and vectors, and the benefits of locating the proposed facility in Waterbury.

The Applicant's efforts to engage the City of Waterbury did not lead to a community environmental benefit agreement. The E.J. statute does not require such an agreement.

Following execution of the approved E.J. Plan, the Applicant submitted a Final Report documenting its outreach efforts. The report was reviewed by DEEP's E.J. Administrator and subsequently approved.

Throughout the permitting process the Applicant created several opportunities for the Waterbury residents to learn about the proposed activities and to comment on those activities. The Applicant initiated all the zoning commission hearings by submitting an application to the zoning commission. Beginning in May, 2015, the Waterbury residents became aware that the DEEP environmental justice program applied to the proposed facility. DEEP's E.J. Administrator was invited to and attended the May 7, 2015 WECC public meeting. The WECC chairman also communicated with DEEP's E.J. Administrator. (APP-64).

Although having complied with General Statute §22a-20a, as a result of comments made at the June 12, 2018 DEEP public hearing with regard to the environmental justice process, the Applicant with the guidance of the E.J. Administrator organized another public informational meeting. The meeting took place on August 1, 2018, in which the Applicant provided information about the proposed facility's operation including measures to minimize the potential for odors, suitability of the facility for the proposed activities, health, safety and welfare of the community, responsiveness of Applicant to questions and concerns which may be raised by the

public during facility operations, safety features of the facility and how the facility will help meet the State's Solid Waste Management Plan goals.

The goals of the E.J statute were met since it is clear that meaningful participation occurred. The E.J statute defines "Meaningful public participation" to contain three components: (A) residents have an appropriate opportunity to participate; (B) the public's participation may influence the regulatory agency's decision; and (C) the applicant for a new or expanded permit, certificate or siting approval seeks out and facilitates the participation of those potentially affected during the regulatory process. The Applicant engaged the community on multiple occasions through E.J statute's required informal meeting process and attended and facilitated additional meetings beyond those required by the E.J statute. The Applicant hired odor and traffic experts to alleviate the concerns raised by the community at these meetings. As a result of the concerns expressed by the community the draft permit includes several conditions intended to address those concerns, thereby manifesting the community's influence on the regulatory process. The Applicant also notified community groups, neighbors, and elected state and local officials to engage these groups in the process. Prior to implementing the E.J Plan, DEEP's environmental justice Administrator approved the plan to ensure the requirements of the E.J. statute were met.

Conclusion

Staff reviewed the Application in accordance with DEEP's practice, protocols and guidelines. The draft permit incorporates appropriate conditions to ensure the protection of the

public welfare and the environment and was drafted in accordance with relevant statutes and regulations and DEEP's practice, protocols, and guidelines. (DEEP-39)

The draft permit complies with all the applicable statutes and regulations. The draft permit ensures that the proposed operations are consistent with the CMMS. The proposed operations will increase recycling rates and conserve natural resources. The proposed facility will not result in disproportionately high adverse human health or environmental impacts and will not adversely impact the health, safety or welfare of Connecticut's people. (App – 69)

The parties request that the draft permit be issued as a Final Permit.

Connecticut Department of Energy
and Environmental Protection

Applicant, F&G, LLC

By /S/ Brent Madho
Brent Madho
Waste Engineering and Enforcement
Division, Bureau of Materials
Management and Compliance
Assurance
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By _____
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above was electronically delivered to all parties of record and to the Petitioner at the addresses below on September 13, 2018:

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Filing Location:
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Department of Energy & Environmental Protection
79 Elm Street
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/S/ Brent Madho
Brent Madho
Waste Engineering and Enforcement
Division, Bureau of Materials
Management and Compliance
Assurance
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Environmental Protection
79 Elm Street
Hartford, CT 06106

Exhibit A



PERMIT TO CONSTRUCT AND OPERATE

PERMITTEE: F&G LLC
FACILITY ADDRESS: 260 Railroad Hill Street, Waterbury, CT, 06708
PERMIT No. Permit No. 1510 _____ PCO

Pursuant to Section 22a-208a of the Connecticut General Statutes (“CGS”) and Section 22a-209-4 of the Regulations of Connecticut State Agencies (“RCSA”), a PERMIT TO CONSTRUCT AND OPERATE (“Permit”) IS HEREBY ISSUED by the Commissioner of Energy and Environmental Protection (“Commissioner”) to F&G LLC (“Permittee”) to construct and operate a solid waste volume reduction plant (“Facility”) located 260 Railroad Hill Street in Waterbury, Connecticut. Subsequently, the General Permit No. 15101223-CGP-F issued on June 1, 2016 will no longer be in effect and will be replaced by this Permit upon the authorization to operate, granted by the Commissioner, under Condition B.5 of this Permit.

A. GENERAL TERMS AND CONDITIONS

- 1. a. This Permit is based on and incorporates by reference pertinent and appropriate sections of documents and specifications submitted as part of Application No. 201608469, to establish the Permit to Construct and Operate, including:
 - i. Application form received on July 8, 2016.
 - ii. Operation and Management Plan (O&MP) dated July 2016, revised in September 2016, and June 2017.
 - iii. Addendum to the O&MP dated December 22, 2017.
 - iv. A Site Plan prepared by Anchor Engineering Services, Inc. dated July 1, 2016, revised November 27, 2016 and January 9, 2017 (“Site Plan”);
 - v. Responses to comments dated September 29, 2016, January 12, 2017, June 30, 2017, July 17, 2017 and August 2, 2017.
 - vi. Engineering Drawing set dated June 7, 2016 including: Area Plan, Existing Conditions Plan, Site Plan, Phase 1 – Building Layout, Phase 2- Building Layout, Building Elevation-North View, Building Elevation-West View, and Site Location.
 - vii. Engineering Drawing set dated November 27, 2016, prepared by Anchor Engineering Services including: Area Plan, Existing Conditions Plan, Site Plan, Building Layout, Building Elevation-North View, Building Elevation-West View, On-Site Traffic Patterns: Tractor Trailer Turning & Queuing and On-Site Traffic Patterns: Single Unit Truck Turning & Queuing.
 - viii. Engineering Drawing Set dated January 9, 2017, prepared by Anchor Engineering Services including: Area Plan, Building Layout, Operations with Existing Fire Protection System and Cross Sections, and an updated Building Layout dated December 22, 2017.
 - ix. Area Plan dated June 30, 2017, prepared by Anchor Engineering Services.

- b. The Permittee shall maintain at the Facility and have available for reference by Facility staff and inspection by the Commissioner:

- i. All documents or copies of such documents submitted as Application No. 201608469 and any document submitted in support of said application for the life of this Permit; and
 - ii. A copy of this Permit and the Facility's Facility Plan which consists of the Operation and Management Plan and the engineered drawings which describe the Facility and its operations; and
 - c. The Permittee shall for the life of this Permit, provide to the Department notification within thirty (30) Days of any changes in the information provided as part or in support of the application on which this Permit was based. Any inaccuracies found in the information submitted by the Permittee may result in revocation, reissuance, or modification of this Permit and civil or criminal enforcement actions.
2. As used in this Permit, the following definitions apply:

"Certified Operator" means the solid waste facility operator or an employee of such operator who is present at the facility and oversees or carries out the daily operations authorized through this Permit, and whose qualifications are currently certified in accordance with Section 22a-209-6 of the RCSA.

"CFR" means the Code of Federal Regulations in effect the date this Permit is issued.

"Clean Wood" as defined in Section 22a-208a-1 of the RCSA means any wood which is derived from such products as pallets, skids, spools, packaging materials, bulky wood waste, or scraps from newly built wood products, provided such wood is not Treated Wood as defined in Section 22a-209a(a)(2) or Demolition Wood waste. For the purposes of this Permit, Clean Wood may also include Land Clearing Debris.

"Commingled Recyclable Items" means a combination of metal, glass, and plastic containers, or Mixed Paper.

"Commissioner" means the Commissioner of Energy and Environmental Protection.

"Construction and Demolition Waste" or "C&D Waste" means waste from construction and demolition activities as defined in Section 22a-208x of the CGS.

"Covered Electronic Device" or "CED" means desktop or personal computers, computer monitors, portable computers, CRT-based televisions and non-CRT-based televisions or any other similar or peripheral electronic device specified in regulations adopted pursuant Section 22a-638 of the CGS, sold to consumers, but does not include: (A) An electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchise dealer, including replacement parts for use in a motor vehicle; (B) an electronic device that is functionally or physically part of a larger piece of equipment designed and intended for use in an industrial, commercial or medical setting, including diagnostic, monitoring or control equipment; (C) an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier; (D) telephones of any type unless they contain a video display area greater than four inches measured diagonally; or

(E) any handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.

“Day” means calendar Day.

“Demolition Wood” for the purposes of this Permit means the wood portion of solid waste generated as a result of demolition activities.

“Department” means the Department of Energy and Environmental Protection.

“Designated Recyclable Item” means an item designated for recycling by the Commissioner in regulations adopted pursuant to subsection (a) of Section 22a-241b or designated for recycling pursuant to Section 22a-256 or 22a-208v of the CGS.

“Land Clearing Debris” as defined in Section 22a-208a-1(19) means trees, stumps, branches or other wood generated from clearing land for commercial or residential development, road construction, routine landscaping, agricultural land clearing, storms, or natural disasters.

“Mercury-Containing Lamps” means the bulb or tube portion of an electric lighting device that contains mercury in any amount. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of Mercury-Containing Lamps include, but are not limited to, fluorescent, high intensity discharge, neon, high-pressure sodium, mercury vapor and metal halide lamps. The term “Mercury-Containing Lamp” does not include lamps that are subject to regulation under Section 22a-449(c)-113 of the RCSA.

“Mercury-Containing Equipment” means a device or part of a device (including thermostats, but excluding lamps and batteries) that contains elemental mercury integral to its function.

“Mixed Paper” means recyclable solid waste which is a combination of differing grades of source-separated recyclable paper including corrugated cardboard.

“Municipal Solid Waste” or “MSW” means Municipal Solid Waste as defined in Section 22a-207 of the CGS.

“Oversized Municipal Solid Waste” or “OMSW” means large solid waste items from residential, commercial and industrial sources, which may include but is not limited to such items as furniture, carpets, mattresses, and rugs.

“Professional Engineer” or “P.E.” means an engineer licensed to practice in the state of Connecticut.

“Processed Wood” means Recycled Wood or Treated Wood or any combination thereof, which has been Processed at a facility, authorized to Process or generate such materials.

“Processing” or “Process(ed)” means the practice by which either the physical characteristics or the volume of solid waste accepted at the Facility is being altered

through separating, sorting, baling, shredding, crushing, grinding, chipping, compacting, consolidation, transfer or reworking as part of recycling and/or volume reduction operations.

“Recovered Materials” means Processed solid wastes that are ultimately delivered to a market or other permitted recycling or reclamation facility.

“Recyclable Items” are materials which are designated for recycling pursuant to Section 22a-241b of the CGS or Sections 22a-241b-1 to 22a-241b-4 of the RCSA or which may be recovered from the solid waste stream and for which there is a demonstrated market for reuse or that may be beneficially used in the production of other products.

“Recycled Wood” means any wood or wood fuel which is derived from such products or processes as pallets, skids, spools, packaging materials, bulky wood waste or scraps from newly built wood products, provided such wood is not Treated Wood.

“Residue” means all solid waste that remains after the Recovered Materials have been extracted from the solid waste authorized for Processing at the Facility

“Spent Mixed Batteries” means alkaline, magnesium and zinc-carbon cylindrical batteries, silver oxide, alkaline, and zinc-air button cell batteries and nickel-cadmium, small sealed lead-acid and nickel-metal hydride batteries.

“Treated Wood” as defined in Section 22a-209a(a)(2) of the CGS means wood which contains an adhesive, paint, stain, fire retardant, pesticide or preservative.

“Universal Waste” as defined in Section 22a-449(c)-113 of the RCSA incorporating 40 CFR 273 means the following hazardous wastes:

- a. Spent Mixed Batteries, including but not limited to, nickel-cadmium and small sealed lead-acid batteries;
- b. Mercury-Containing Equipment;
- c. Mercury-Containing Lamps that contain mercury in any amount; and
- d. Used Electronics.

“Used Electronics” incorporates the definition of Used Electronics as defined in Section 22a-449(c)-100(c)(34) of the RCSA, means a device or component thereof that contains one or more circuit boards or cathode ray tubes that is used primarily for data transfer or storage, communication, or entertainment purposes, including but not limited to, desk top and lap top computers, computer peripherals, monitors, copying machines, scanners, printers, radios, televisions, camcorders, video cassette recorders (“VCRs”), compact disk players, MP3 players, telephones, including cellular and portable phones and stereos. This includes any electronic device that is not included in the definition of a Covered Electronic Device.

3. The Permittee shall comply with all terms and conditions of this Permit. This Permit consists of the conditions contained herein and the specifications contained in the application documents, except where such specifications are superseded by the more stringent conditions contained herein. Violation of any provision of this Permit may be

subject to enforcement action pursuant, but not limited, to Sections 22a-6, 22a-208, 22a-225 and 22a-226 of the CGS.

4. The Permittee shall make no changes to the specifications and requirements of this Permit, except in accordance with law.
5. To the extent that any term or condition of this Permit is deemed to be inconsistent or in conflict, with any term or condition of any Permit previously issued for this Facility, including any modifications thereto, or with any data or information contained in the application, or any other documents incorporated by reference in this Permit, the term or condition of this Permit shall control and remain enforceable against the Permittee.
6. Provided a permit modification is not required pursuant to Sections 22a-208a(d)(1) or 22a-208a(e) of the CGS, the Permittee shall submit for the Commissioner's review and written approval all necessary documentation supporting any proposed physical and/or operational upgrades, improvements and/or minor changes in the Facility design, practices or equipment. The Commissioner may issue a written approval only if, in the Commissioner's judgment, the proposed physical and/or operational upgrades, improvements and/or minor changes: (a) are deemed necessary for a better and more efficient operation of the Facility; (b) do not significantly change the nature of the Facility, or its impact on the environment; and (c) do not warrant the issuance of a permit or authorization pursuant to Section 22a-208 et seq. of the CGS.

B. AUTHORIZATION TO CONSTRUCT AND MAINTAIN

1. The existing Facility operating under the General Permit No. 15101223-CGP-F consists of the following: One site access gate; an office and scale house building; one truck scale; a 38,000 square foot volume reduction building area that includes: tipping areas for storage and processing activities; indoor areas dedicated for storage and processing; an elevated pick-line with storage bunkers for processing Recyclable Items; one baler; and outdoor staging areas for loaded and/or empty containers and trailers.
2. The Permittee is authorized to construct the following in accordance with all applicable law, including this Permit: addition of a (Harris HRB-8) sorting conveyor for the fiber processing line and an (Harris HRB-8) inclined feed conveyor for baling MSW.
3. The Permittee is authorized to maintain the Facility as described in Condition Nos. B.1. and B.2. of this Permit.
4. The Permittee shall control dust, odors, water discharges and noise resulting from the construction and maintenance of the Facility at all times to assure compliance with applicable requirements of the RCSA, and any other applicable laws, including OSHA.
5. The Permittee shall, within thirty (30) Days from the completion of the construction, as described in Condition No. B.2. of this Permit or any maintenance undertaken pursuant to Condition No. B.3., of this Permit, submit a written notification for the Commissioner's review and written approval. Such notification shall include at a minimum:
 - a. P.E. certified statement that the construction of the Facility improvements has been completed as approved;

- b. P.E. certified as-built drawings; and
- c. A request for written authorization from the Commissioner to operate in accordance with Condition No. C.3. of this Permit.

C. AUTHORIZATION TO OPERATE

1. The Permittee is authorized to operate any or all of the components specified in Condition No. B.3. of this Permit upon written approval granted by the Commissioner. Such written approval shall be issued after the Permittee is deemed in full compliance with, but not limited to, the requirements of Condition No. B.5. of this Permit.
2. The Permittee shall not exceed the Processing and storage limits established by this Permit. Solid waste, other than those listed herein, shall not be accepted, Processed, treated, stored, transported or disposed on-site, or otherwise managed at the Facility without prior written approval of the Commissioner.
3. The Permittee is authorized to operate the Facility in accordance with all applicable law, including this Permit. Unless otherwise approved in writing by the Commissioner or limited by local authorities, the Permittee is authorized to operate as follows: Monday - Friday 5:00 a.m. - 6:00 p.m. and Saturday 5:00 a.m. - 12:00 p.m.
4. The Permittee is authorized to receive for Processing at the Facility a total of seven hundred (700) tons/day (TPD) of solid wastes comprising of:
 - i) No more than a total of five hundred (500) TPD of the following: (a) Non-putrescible Municipal Solid Waste (MSW) including Oversized MSW, putrescible and non-putrescible MSW; (b) Putrescible MSW ; (c) Construction and Demolition Wastes (C&D) which may contain Clean Wood, scrap tires, scrap metal including appliances containing CFC liquid and propane tanks without valves; and
 - ii) No more than two hundred (200) TPD of the following: (d) Commingled Recyclable Items; and (e) Mixed Paper.
5. The Permittee shall store and manage solid waste at the Facility only in the designated areas as identified in the drawings referenced in Condition No.A.1.a of this Permit and in accordance with the specifications and table below. Fully loaded containers of solid waste shall be transferred from the Facility within two (2) business Days.

Storage Table

<i>Solid Waste Material</i>	<i>Maximum Storage Amounts</i>	<i>Storage Area as Identified on "Building Layout" & Site Plan</i>	<i>Storage Specifications</i>
C&D waste or Non-putrescible MSW (Processed or Unprocessed); or putrescible MSW	174 cubic yards ("CY")	5	Indoors in piles ¹
	125 CY	7	Indoors in piles ¹
	481 CY	8	Indoors in piles ¹
	481 CY	9	Indoors in piles ¹
	2,200 CY	15	Outdoors in trailers staged for offsite shipment. MSW in Area 15 shall not be stored overnight. ²
C&D waste or Non-putrescible MSW (Processed), putrescible MSW or Single Stream Recyclables	100 CY	1	Indoor in 100-CY trailer
Single Stream Recyclables (Unprocessed)	492 CY	6	Indoor in piles
Commingled Containers	50 CY	3	Indoor in roll-off container
	444 CY	12	Indoor in piles
Recyclable Items	400 CY	16	Outdoors in covered trailers/and or containers
	1,200 CY	17	
Cardboard and/or Plastics (Baled)	884 CY	11	Indoor in bales. Total aggregate storage not to exceed 884 CY
Mixed Paper and Cardboard (Unprocessed)	214 CY	10	Indoor in piles
	1,977 CY	13	Indoor in piles on tipping floor
Cardboard (Loose)	50 CY	2	Indoor in roll-off container
Scrap Tires	30 CY	17	Outdoors in covered containers
Clean Wood	50 CY	14	Indoors in piles and/or containers
	300 CY	15	Outdoors in piles, trailers and/or containers
Scrap Metal containing CFCs	60 Units	19	Outdoors, upright on impervious surface
Scrap Metal	50 CY	4	Indoors in roll-off container
Propane Tanks with valves	10 Units	18	Outdoors, upright, in secured fenced area
Total	9,702 CY		

¹ Areas 5,7,8,9,15, and 1 are used interchangeably for storing C&D waste and Non-putrescible MSW (Processed or Unprocessed); or MSW based on the Permittee's needs.

² MSW stored in trailers outdoors shall be staged for off-site shipment and shall not be stored overnight.

- a. **Storage and Management of putrescible MSW** shall be in containers or confined to the compactors hopper and/or container systems and shall not exceed one thousand three hundred sixty one (1,361) cubic yards, shall be stored indoors, and shall be limited to no more than forty-eight (48) hours, from when such putrescible MSW entered the Facility, with the exception of legal holiday weekends. MSW stored indoors shall be covered with tarps at the end of each operating day. Outdoor storage of MSW shall be confined to covered trailers during the day, shall not exceed two thousand two hundred (2,200) cubic yards and shall not be stored outdoors overnight.
- b. **Storage and Processing of Construction and Demolition (C&D) Waste:** Processing shall be conducted only on the tipping floor within the Facility building, and Processed on a first in/first out basis. The VRP shall be equipped with adequate ventilation, fire protection systems and an impervious floor. Storage within the VRP shall not exceed one thousand three hundred and sixty one (1,361) cubic yards for processed and unprocessed C&D waste. Out of doors storage of Processed and unprocessed C&D waste shall be in containers, which shall be watertight and covered at all times except when material is being actively placed in or removed from the container and shall not be stored on-site for greater than thirty (30) Days from when the waste first entered the Facility.
- c. **Storage of Recyclable Items** Processing of Recyclable Items shall be conducted only on the tipping floor within the VRP, and Processed on a first in/first out basis. Storage within the VRP shall not exceed one thousand eight hundred and seventy (1,870) cubic yards and shall be confined to the tipping floor and containers. Outdoor storage of Recyclable Items shall not exceed one thousand six hundred (1,600) cubic yards and shall be confined to containers. The storage containers shall be kept covered at all times except when material is being actively placed in or removed from the container.
- d. **Storage and Processing of cardboard and paper:** Processing of cardboard and paper shall be conducted only on the tipping floor within the VRP, and Processed on a first in/first out basis. Storage within the VRP shall not exceed two thousand two hundred and forty-one (2,241) cubic yards and shall be confined to the tipping floor and containers.
- e. **Storage of scrap tires** shall be: limited to thirty (30) cubic yards; placed in container(s) or trailer at the end of each operational day; and removed from the Facility within two (2) business days once the container or trailer is full. Container(s) of scrap tires shall be kept dry by being covered at all times except when the container is being filled or emptied.
- f. **Storage of Clean Wood (brush; Land Clearing Debris, pallets)** shall take place in either trailers, container(s) or in piles located on the ground. No chipping of wood shall take place at the Facility.

Piles of unprocessed Clean Wood shall: have a minimum of a twenty-five (25) foot emergency access maintained around them; not contain Treated Wood; be Processed and transferred on a first-in/first-out basis; not exceed three hundred and fifty (350) cubic yards; and have a maximum height of twenty-five (25) feet.

- g. **Storage of scrap metal containing chlorofluorocarbon (CFC) liquid.** Storage of appliances containing CFCs shall be limited to no more than sixty (60) units stored upright, on a surface sufficiently impervious to prevent or minimize infiltration. Only a contractor certified in accordance with 40 CFR 82.150 through 166 shall remove the CFC liquid. Appliances in which the CFCs have been removed shall be consolidated with the scrap metal.
- h. **Storage of scrap metal** (including appliances which have had chlorofluorocarbon ("CFC") liquid removed and propane tanks without valves) shall: not exceed fifty (50) cubic yards; be placed in containers at the end of each operational day. Any scrap metal that contains used oil shall be managed in accordance with the applicable used oil regulations as specified in Section 22a-449(c)-119 of the RCSA, until the used oil is drained or otherwise removed from the scrap metal. At a minimum, such removed used oil shall be managed in accordance with the above regulation, and Condition No. C.5.j. of this Permit if placed in an on-site tank or collection container.
- i. **Storage of propane tanks with valves** shall not exceed ten (10) units. The tanks shall be: stored upright on a surface sufficiently impervious to prevent or minimize infiltration; segregated from public access; provided with a non-combustible peripheral fence and a secured gate; and have open ventilation and proper signage in accordance with National Fire Protection Association ("NFPA") 58-1995 "Standard for the Storage and Handling of Liquefied Petroleum Gases" and Section 29-331-5 of the RCSA. The Permittee shall hire a licensed contractor to extract the existing propane liquid, dismantle the valves and/or transport intact propane tanks off-site. Any leaking propane tank shall immediately be removed for safe and proper handling. Empty propane tanks without valves shall be consolidated with the scrap metal.
- j. **Storage of (inadvertently received) used oil and waste antifreeze** shall take place only in above ground tanks or collection drums and/or containers and shall not exceed fifty-five (55) gallons of used oil. Used oil and waste Antifreeze shall: not be received if previously mixed; not be mixed at the Facility; and be poured into the appropriate storage tanks by the end of each operational day only by the Facility's Certified Operator, or by an employee under the supervision of the Facility's Certified Operator.

The storage tanks or collection containers shall be: (i) intact, structurally sound (i.e., not leaking or corroding); (ii) physically and chemically compatible with the wastes being stored therein; (iii) marked or labeled with the words "Used Oil" and "Waste Antifreeze", as appropriate, and with the hazard class as defined in 49 CFR 172 Subparts D and E; (iv) kept closed at all times, except when being filled or drained; (v) elevated to prevent contact with any standing liquids in the containment area; (vi) installed and maintained in such a manner as to prevent corrosion and degradation; (vii) located within an enclosed storage area provided with a minimum of three walls, a roof, an impervious base treated with a sealant that is chemically compatible with the waste to be stored therein, and a berm

system to prevent run-on; (viii) either a double-walled tank or provided with a spill containment system that is capable of containing one hundred percent (100%) by volume of the contents of the single largest tank or ten percent (10%) of the total volume of used oil and waste antifreeze stored in the enclosed storage area, whichever is greater; (ix) periodically inspected and maintained along with the roof, enclosure, impervious base and containment system; and (x) locked at the end of each operational day to prevent access when the Facility is closed.

Collection, storage and transfer operations shall be conducted in a manner which prevents spills and leaks. All received collection containers which are not immediately emptied, or that were already emptied into the tank, shall be stored in a manner which will contain accidental spills/leaks. Any spills and leaks shall be immediately contained, cleaned up, and any residues containerized and managed in compliance with Section 22a-449(c)-119 of the RCSA. Spill control, clean-up materials and equipment shall be readily available on-site at all times. The Facility shall comply with the requirements in Section 22a-449(c)-119 of the RCSA with respect to its management of used oil.

6. The Permittee shall:
- a. Store solid waste on-site in conformance with proper fire control measures. Routine maintenance and inspections of all fire control equipment shall be conducted in accordance with manufacturer's specifications;
 - b. Ensure that all solid waste accepted at the Facility is properly managed on-site, Processed, stored and transported to markets or other solid waste Processing or disposal facilities authorized to accept such solid waste;
 - c. Ensure that any unauthorized solid waste inadvertently received, or solid waste which is unsuitable for Processing at the Facility is: (i) immediately sorted, separated, isolated and temporarily stored in a safe manner prior to off-site transport; (ii) recorded and reported in the quarterly report required by Condition No. C.11 of this Permit; and (iii) disposed at a facility authorized to accept such solid waste. No more than ten (10) cubic yards of unacceptable solid waste shall be stored on-site unless authorized in writing by the Commissioner. A spare container may be made available for any storage emergency at the Facility;
 - d. Ensure that contingent storage of incidental mixed batteries, Mercury-Containing Lamps, Used Electronics, Mercury-Containing Equipment classified as Universal Wastes that is inadvertently delivered to the Facility as part of a load is conducted in accordance with the requirements of the Universal Waste Management Regulations (Sections 22a-449(c)-113 and 22a-209-17 of the RCSA). The storage container(s) shall be located in an area of the Facility that will not interfere with other permitted activities;
 - e. Provide expeditious notification regarding any emergency incident (explosion, accident, fire, release, or other significant disruptive occurrence) which: (i) significantly damaged equipment or structures; (ii) interrupts the operation of the Facility for greater than twenty-four (24) hours; (iii) results in an unscheduled Facility shutdown or forced diversion of solid waste to other solid waste

facilities; (iv) could reasonably create a source of pollution to the waters of the state; or (v) otherwise threatens public health.

Such notification shall be: (i) immediately provided to the Commissioner using the 24-hour emergency response number (860) 424-3338 or the alternate number (860) 424-3333 and in no event later than twenty-four (24) hours after the emergency incident provided to the Solid Waste Program in the Waste Engineering and Enforcement Division of the Bureau of Materials Management and Compliance Assurance by phone at (860) 424-3366, or at another current publicly published number for the Solid Waste Program, or by facsimile at (860) 424-4059; (ii) followed by a written report no later than the fifth business day after the emergency incident detailing the cause and effect of the incident, remedial steps taken and emergency backup used or proposed to be implemented; and (iii) recorded in a log of emergency incidents. In addition to the notification requirements above, the Permittee shall comply with all other applicable reporting or notification requirements regarding the emergency incident including but not limited to, reporting required by Section 22a-450 of the CGS;

- f. Prevent the spillage of solid waste from transfer containers during on-site management, storage and off-site transfer. Each loaded container shall be covered before transfer off-site and the haulers shall be instructed to keep the containers covered during off-site transportation;
- g. Operate the Facility in a safe manner so as to control fire, odor, noise, spills, vectors, litter and dust emission levels in continuous compliance with all applicable requirements, including OSHA. The Facility's premises shall be maintained and any litter shall be removed on a daily basis;
- h.
 - i. Maintain an active nuisance odor monitoring program to ensure that odors are not detected beyond the facility's property line. Such active monitoring shall be conducted at least twice per week at the nearest occupied residential buildings based on the prevailing wind direction as determined by an on-site windsock. Upon detection of any nuisance odors, the Permittee shall immediately implement remedial measures. The Permittee shall maintain a log detailing all nuisance odor monitoring activities, all nuisance odors detected as a result of such monitoring and a description of any actions taken to abate detected nuisance odors. The Permittee shall maintain records of the monitoring program for the duration of this Permit, and three (3) years thereafter.
 - ii. Determine whether incoming loads of solid waste presents the potential to create nuisance odors at the facility that may be detected beyond the facility's property line. Loads of solid waste which present a potential to create nuisance odors shall be diverted from the facility.
- i. Ensure that all doors of the Volume Reduction building remains closed except when trucks are entering or exiting the Operations Building;
- j. Maintain the odor management system to ensure its operation is in conformance with the manufacturer's specifications. All components of the odor management

system shall be monitored quarterly and included as part of the compliance audit report required by paragraph C.16 of this Permit

- k. Ensure that the manufacturer's operation and maintenance manuals for each major piece of fixed or mobile Processing equipment, (which may include, but not be limited to, balers; conveyors; compactors; and storage tanks) installed or used at the Facility are available for review by the Commissioner;
- l.
 - i. Determine through observation that incoming loads of solid waste, other than loads of source separated Recyclable Items, do not contain greater than ten percent (10%) by volume ("threshold contaminant percentages") of Designated Recyclable Items. For any loads identified that exceed the threshold criteria for load contamination specified in this condition the Permittee shall document each load in the daily log and report those to the Department in the quarterly reports required by this Permit. The Permittee shall also provide notice to the hauler in accordance with Condition No. C.6.n.v. of this Permit;
 - ii. Determine through observation that incoming loads of source separated Recyclable Items do not contain greater than two percent (2%) by volume ("threshold contaminant percentages") of non-recyclable wastes. For any loads identified that exceed the threshold criteria for load contamination specified in this condition the Permittee shall document each load in the daily log and report those to the Department in the quarterly reports required by this Permit. The Permittee shall also provide notice to the hauler in accordance with Condition No. C.6.n.v. of this Permit; and
- m. Manage solid wastes in such a manner that all Recyclable Items are segregated so that no other solid waste may cause contamination or degradation of the recyclable product, or result in any negative impact on the recyclability of such material;
- n. Conduct periodic unannounced inspections of truck loads delivered to the Facility, pursuant to Section 22a-220c(b) of the CGS. The inspections shall be performed for a minimum of five percent (5%) of the monthly truck loads received that are representative of the waste types authorized for receipt at the Facility. Records of such inspections shall be maintained at the Facility for the life of the Permit or such other timeframe specified in writing by the Commissioner. The inspections and supporting documentation shall consist of at a minimum:
 - i. Photographs of each load other than loads of source separated Recyclable Items, inspected that exceeds the threshold contaminant percentages as specified in Condition No. C.6.l. of this Permit and each load of source separated Recyclable Items that exceeds two percent (2%) by volume of non-recyclable wastes;
 - ii. Origin of each load (municipality; regional facility and whether commercial or residential);
 - iii. Waste transporter company name;
 - iv. Estimated percentage of contaminant(s) present in each load and identification of each type; and

- v. Immediate written notifications to the hauler, municipality in which the solid waste was generated and/or regional facility for each load that exceeds the threshold contaminant percentages specified in Condition No. C.6.I. of this Permit;

- o. Process loads of C&D waste and non-putrescible MSW that are not source separated loads of Recyclable Items. The Processing authorized through this Permit at the Facility shall consist of sorting and segregating for transfer from the Facility to recycling markets, Recyclable Items received (including inadvertently received Designated Recyclable Items) in loads of C&D and non-putrescible MSW. The Permittee shall achieve at least a ten percent (10%) rate of recovery of Recyclable Items not designated pursuant to Section 22a-241 of CGS (“non-Designated Recyclable Items”), during the first year. For each year the specific recovery rates shall be as follows:

Recovery rate for Non-Designated Recyclable Items (by weight)

<u>Year of the Permit</u>	<u>Percent of total waste received</u>
First year	10%
Second year	20%
Third year	30%
Fourth year	35%
Fifth year	40%

As part of the quarterly reports required to be submitted by Condition No. C.11 of this Permit the Permittee shall document the percent recovery rate by weight of non-Designated Recyclable Items and of Designated Recyclable Items achieved during the reporting period. Each year on or before sixty (60) Days after the anniversary date of this Permit the Permittee shall submit to the Commissioner a report providing the percent recovery rate, by weight achieved during the previous year (year-end report).

In the event the percent recovery rate of non-Designated Recyclable Items achieved is below that which is required, the Permittee shall document in the quarterly report and the year-end report the circumstances which resulted in the Permittee’s inability to achieve the specific recovery rates listed in this condition. The year-end report shall also identify the measures the Permittee shall take and the actions the Permittee shall institute to achieve the specified recovery rates.

- 7. The Permittee shall monitor and control airborne lead and asbestos within the enclosed Processing area(s) of the Facility in accordance with the following:
 - a. **Sampling:** During the first (1st) and second (2nd) year of operation under this Permit, the Permittee shall conduct quarterly air sampling. Unless otherwise determined and notified in writing by the Commissioner, air sampling shall be performed during the second quarter on an annual basis thereafter for the remainder of this Permit. Sampling shall begin no later than thirty (30) Days after the date of issuance of this Permit and the analysis of all samples shall be conducted by a laboratory certified by the State of Connecticut Department of Public Health (“CT DPH”) to perform such analyses.

All samples for asbestos shall be:

- i. Collected by a person licensed by the CT DPH as an Asbestos Consultant-Project Monitor;
- ii. Collected indoors at any enclosed Processing area(s) and analyzed using the method specified in 29 CFR 1910.1001 Appendix A or equivalent method approved in writing by the Commissioner. The Permittee shall ensure that the time-weighted average permissible exposure limit of 0.1 fibers per cubic centimeter is not exceeded.

All samples for lead shall be:

- iii. Collected by a person licensed by the CT DPH as a Lead Inspector;
- iv. Collected indoors at any enclosed Processing area(s) and analyzed using a method of monitoring or analysis which has an accuracy (to a confidence level of ninety five percent (95%)) of not less than twenty percent (20%) for airborne concentrations equal to or greater than thirty (30) micrograms per cubic meter.

- b. **Exceedances:** If the analysis determines that the limits for airborne asbestos set forth in 29 CFR 1910.1001(e) or the action level for airborne lead as defined in 29 CFR 1910.1025(b) were exceeded, the Permittee shall, no later than thirty (30) Days after becoming aware of such exceedance, submit for the Commissioner's review and written approval, a plan to address exceedances. The Permittee shall ensure that any such plan is developed by a P.E. for the design and installation of a ventilation, filtration, or capture system or implementation of additional operational procedures to control airborne asbestos and lead. At a minimum, such plan shall include:
 - i. The results of all previous quarterly or annual sampling;
 - ii. Plans and specifications of any proposed system or new operational procedures;
 - iii. A layout drawing for the installation of any such system;
 - iv. An operating and preventative maintenance schedule of any such system;
 - v. An engineering evaluation demonstrating the effectiveness of the proposed system or proposed operational procedure; and
 - vi. A schedule for the design, installation and operation of the system or the implementation of new operating procedures.

The Permittee shall implement the plan as approved by the Commissioner. In approving any such plan, the Commissioner may approve the plan with such conditions or modifications, as the Commissioner deems necessary.

8. The Permittee shall have an operator, certified pursuant to Section 22a-209-6 of the RCSA, present at all times during Facility operation. All individuals under the supervision of such Certified Operator shall have sufficient training to identify solid waste received at the Facility which is not permitted to be received, or is unsuitable for Processing, and shall take proper action in managing such solid waste.

9. The Permittee shall prominently post and maintain a sign at the Facility entrance pursuant to 22a-209-10(3) of the RCSA that includes the Facility's name and the Department Permit number (Permit to Construct and Operate No. 1510-----PCO.) issuance date and expiration date. Such sign shall also include a phone number that provides the general public the ability to register questions or complaints twenty-four (24) hours per day. The Permittee shall maintain a log of all calls received and how such calls were addressed or resolved. The Permittee shall also post a sign in accordance with Section 22a-636 of the CGS.
10. The Permittee shall: (a) control all traffic related to the operation of the Facility in such a way as to mitigate queuing of vehicles off-site and any excessive or unsafe traffic impact in the area where the Facility is located; (b) unless otherwise exempted, ensure that vehicles are not left idling for more than three (3) consecutive minutes pursuant to Section 22a-174-18(b)(3) of the RCSA; (c) prominently post and maintain signs limiting such vehicle idling time within the Facility.
11. The Permittee shall maintain daily records as required by Section 22a-209-10(13) of the RCSA. The Permittee shall also comply with all applicable recordkeeping requirements of Sections 22a-208e and 22a-220 of CGS. All daily logs (including documentation related to the unannounced inspections of truck loads) shall be maintained for the life of this Permit or such other timeframe specified in writing by the Commissioner. Based on such records, the Permittee shall prepare monthly summaries including, but not limited to, the following information as it pertains to solid waste:
 - a. Type and quantity of solid waste received, including all Recyclable Items, unauthorized solid waste and/or Universal Waste;
 - b. Origin of waste load (municipality name; regional facility name) and waste hauler name; and
 - c. Destination to which solid wastes, including all Recyclable Items, unauthorized solid waste and/or Universal Waste from the Facility were delivered for disposal or recycling, including quantities delivered to each destination.

The monthly summaries required pursuant this condition shall be submitted quarterly no later than January 31, April 30, July 31, October 31, of each year on up-to-date forms prescribed by the Commissioner directly to the Solid Waste Program, Waste Engineering and Enforcement Division, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127.

12. The Permittee shall ensure that all Clean Wood received at the Facility is inspected for signs of the presence of the Asian Longhorn Beetle and the Emerald Ash Borer. Signs indicating possible Asian Longhorn Beetle infestation can be found at the CT DEEP webpage: <http://www.ct.gov/deep/alb>
Signs indicating possible Emerald Ash Borer infestation can be found at the CT DEEP webpage: <http://www.ct.gov/deep/eab>
 - a. The Permittee shall ensure each load of Clean Wood is visually assessed for possible pest infestation as part of the on-site routine inspections.

- b. Any Clean Wood suspected of being infested by either the Asian Longhorn Beetle or the Emerald Ash Borer should be identified at the source of generation and managed in accordance with existing quarantine agreements.
 - c. If signs of infestation are observed:
Digital photos and careful identification notes must be provided to the Connecticut Agricultural Experiment Station (Deputy State Entomologist direct phone line: 203-974-8474; and e-mail CAES.StateEntomologist@ct.gov).
 - i. The infested Clean Wood shall be: segregated from other Clean Wood; marked as segregated; securely stored and kept reasonably intact.
 - ii. Any handling activities (e.g. chipping and moving) shall be postponed until an investigator from, or designated by, the Connecticut Agricultural Experiment Station, has examined the potentially infested Clean Wood.
 - iii. Any truck load tickets and other documentation of deliveries shall note whether a pest infestation assessment has been conducted.
13. Nothing herein authorizes any person, municipality or authority to hinder municipal or regional solid waste recycling efforts. All activities conducted by the Permittee at the Facility shall be in accordance with this Permit, consistent with the state-wide Solid Waste Management Plan and with Sections 22a-228 and 229 of the CGS.
The Permittee shall:
- a. Conduct ongoing outreach in an effort to promote pay-as-you-throw ("PAYT" or unit based pricing) for waste disposal programs;
 - b. Establish a process (that shall include a frequency) by which the Permittee or his Certified Operator will determine if sufficient capacity exists at any waste to energy facility(ies) (aka Resource Recovery Facility(ies), or RRFs) the Permittee identifies as suitably located, whether such facility is located in-state or out-of-state;
 - c. Record in the daily log and maintain as part of the operating records for the Facility each time the Permittee or his Certified Operator selects a Landfill as the destination facility for the disposal of solid waste, the criteria that were used for the selection; and
 - d. Document the selected destination facility and the volume of solid waste transferred to the destination facility, per shipment.
- The Permittee shall also for the life of this Permit maintain such records and shall, upon request, make the records available for review by the Commissioner.
14. The Permittee shall, no later than sixty (60) Days after the issuance date of the written authorization to operate pursuant to Condition No. B.6 of this Permit, establish for the Commissioner's benefit an acceptable financial assurance instrument and post the financial assurance with the Department in the amount of one hundred and ninety four thousand, one hundred and sixty dollars (\$194,160), as required by Section 22a-6(a)(7) of the CGS.
15. The Permittee acknowledges and shall ensure that it complies with the following:
- a. The purpose of the financial assurance is to cover the third party costs for handling, removing, transporting and disposing the maximum permitted amount of unprocessed and Processed solid waste at the Facility, and any additional

- cost(s) to ensure the proper closure of storage areas including, but not limited to, equipment rental, site clean-up, the decontamination and disposal of all equipment and Processing and storage areas, and a fifteen percent (15%) contingency to cover unforeseen events or activities that may increase the overall cost to close the Facility.
- b. The financial assurance instrument used by the Permittee to comply with Condition No. C.14. of this Permit shall comply with the requirements of Section 22a-209-4(i) of the RCSA, and 40 CFR 264.141 to 264.143 inclusive and 40 CFR 264.151, as referenced therein. The Permittee shall ensure that the financial assurance instrument is established in a format specified by the Commissioner for closure or post-closure maintenance and care, as appropriate.
 - c. The Department accepts five (5) types of financial assurance instruments, they are: (a) Trust Fund; (b) Irrevocable Standby Letter of Credit; (c) Financial Guarantee "Payment" Bond; (d) Performance Bond; and (e) Certificate of Insurance. The following documents are also required to be submitted:
 - i. A cover letter signed by the Permittee shall be submitted along with the Irrevocable Standby Letter of Credit; in accordance with Section 40 CFR 264.143(d)(4).
 - ii. A "Standby Trust Agreement" shall be submitted along with either a Irrevocable Standby Letter of Credit; Financial Guarantee "Payment" Bond; or Performance Bond; and
 - iii. A "Certification of Acknowledgement" shall be submitted along with the Trust Fund instrument.
 - d. The financial assurance shall:
 - i. Be valid for and appropriately maintained during the term of this Permit;
 - ii. Specify the Permittee's name, the Facility's address, the number and issuance date of this Permit; and
 - iii. Be established in one or more of, the instrument formats found on the Department's website [www.ct.gov/DEEP/financialassurance].
 - e. The financial assurance instrument shall be adjusted annually for inflation within the sixty (60) Days prior to the anniversary date of the establishment of the financial assurance instrument, and whenever there is a change in operations that affects the cost of closing the Facility in accordance with 40 CFR 264.142(b) as incorporated in the Section 22a-449(c)-104 of the RCSA.
16. The Permittee shall, no later than sixty (60) Days from the issuance date of this Permit perform quarterly compliance audits for the life of this Permit.
- a. The compliance audits required by this condition shall consist of a thorough and complete assessment of the Permittee's compliance with Sections 22a-209-1 through 22a-209-17 of the RCSA and with the terms and conditions of this Permit.
 - b. Compliance Auditor
The compliance audits required by this condition shall be performed by an engineer licensed to practice in Connecticut ("P.E") or consultant. Such P.E. or

consultant shall be approved in writing by the Commissioner and will be required to prepare and submit to the Commissioner quarterly compliance audit reports.

The Permittee shall, prior to the Commissioner's approval of the P.E. or consultant ("compliance auditor"): (a) submit for the Commissioner's evaluation a detailed description of the P.E. or consultant's credentials (education; experience; training) which are relevant to the work required under this condition; and (b) certify to the Commissioner that such P.E. or consultant:

- i. Is not a subsidiary of or affiliated corporation to the Permittee or Permitted Facility;
- ii. Does not own stock in the Permittee or any parent, subsidiary, or affiliated corporation;
- iii. Has no other direct financial stake in the outcome of the compliance audit(s) outlined in this Permit; and
- iv. Has expertise and competence in environmental auditing and the regulatory programs being addressed through this Permit, including evaluation of compliance with requirements specified in Sections 22a-209-1 through 22a-209-17 of the RCSA and with the terms and conditions of this Permit;

Within ten (10) Days after retaining any ("compliance auditor") other than the one approved by the Commissioner pursuant to this condition, the Permittee shall notify the Commissioner in writing of the identity of such other P.E. or consultant by submitting the information and documentation specified in this condition. Nothing in this condition shall preclude the Commissioner from finding a previously acceptable P.E. or consultant unacceptable.

c. Scope of Compliance Audits

Compliance audits shall:

- i. Detail the Permittee's compliance with the requirements of this Permit and all applicable provisions of Sections 22a-209-1 through 22a-209-17 of the RCSA.
- ii. Evaluate odor control systems and plans.
- iii. Describe any outreach efforts conducted by the Permittee to initiate pay-as-you-throw ("PAYT") programs also known as unit based pricing or variable-rate pricing and shall include names of waste haulers and municipalities that are participating in such programs.
- iv. Describe the Compliance Auditor's participation in and the results of inspections conducted at the Facility on the loads of solid waste received at the Facility during the compliance audit. The purpose of such inspections is to determine whether such loads are being received that contain greater than ten percent (10%) by volume Designated Recyclable Items; whether loads of source separated Recyclable Items contain greater than two percent (2%) by volume of non-recyclable wastes; and to detect patterns associated with such loads. Unless otherwise approved by the Commissioner, the compliance auditor shall inspect solid wastes unloaded from a minimum of ten (10) trucks received during the day of the compliance audit. The Compliance Auditor shall document the actual number of truck loads inspected and the findings of such inspections.

d. Compliance Audit Report

The results of each compliance audit shall be summarized in a Compliance Audit report. At a minimum such report shall include:

- i. The names of those individuals who conducted the compliance audit;
- ii. The areas of the Facility inspected;
- iii. The records reviewed to determine compliance;
- iv. An evaluation and detailed description of the Permittee's compliance with this Permit and applicable regulations;
- v. A detailed summary of the Permittee's actions pursuant to Condition No. C.13.b. of this Permit, that provides the dates on which the Permittee reached out to RRFs to determine capacity at those facilities, the identity of all facilities that were contacted and their capacity status;
- vi. A detailed summary, pursuant to Condition No. C.13.c. of this Permit, regarding each time the Permittee transferred solid waste from the Facility to landfill(s), in lieu of RRFs, and the rationale, waste type and volume for each such transfer;
- vii. The identification of all violations of this Permit and applicable regulations;
- viii. A detailed description of the actions taken by the Permittee to correct patterns of loads received that exceed the threshold contaminant percentages specified in Condition No. C.6.l. of this Permit for loads that are representative of the waste types authorized for receipt at the Facility;
- ix. The findings of the compliance auditor regarding the inspections; conducted in accordance with Condition No. C.16. of this Permit during the day of the compliance audit;
- x. A detailed description of all actions taken by the Permittee to correct the violation(s) identified in each compliance audit; and
- xi. The Permittee's certification of compliance with the regulations and documentation demonstrating such compliance pursuant to this Permit. In cases where multiple counts of the same violation are discovered, the report shall include a listing of each count.

e. Permittee's Responses to Compliance Audit

The Permittee shall comply with the following:

- i. The auditing frequency shall be quarterly for the remaining life of the Permit;
- ii. All violations shall immediately be brought to the attention of the Permittee by the compliance auditor. The Permittee shall notify the Department within five (5) Days of the compliance audit of all violations noted during the compliance audit;
- iii. The Permittee shall correct all violations immediately. Should the Permittee be unable to immediately correct the violation, the Permittee within seven (7) Days of the notification date under Condition No. C.16. of this Permit, the Permittee shall submit for the review and written approval of the Commissioner, a detailed plan to correct all violations noted. Such plan shall also include a schedule for implementation of the corrective actions required or recommended; and
- iv. The Permittee shall ensure that no later than fifteen (15) Days after a compliance audit, a compliance audit report that meets the requirements

of Condition No. C.16. of this Permit, is submitted to the Commissioner. A copy of the compliance audit report, shall be maintained at the Facility for the life of the Permit or for such other timeframe specified by the Commissioner.

- f. In addition to any other sanction authorized by law, the Permittee shall cease accepting solid waste at the Facility in the event that the Permittee fails to submit in a timely manner the plan and schedule required by Condition No. C.16.e. of this Permit or fails to correct the violations noted by the compliance audit(s) in accordance with the approved plan and schedule. The Commissioner may seek similar sanction for any violation of this Permit.

g. **Documentation Submittal Deadlines**

The documents required to be submitted pursuant to this condition shall be submitted quarterly no later than January 31, April 30, July 31, October 31, directly to the Solid Waste Enforcement Program, Waste Engineering and Enforcement Division, Bureau of Materials Management and Compliance Assurance, Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127.

17. Unless otherwise specified in writing by the Commissioner, any documents required to be submitted under this Permit shall be directed to:

Solid Waste Program
Waste Engineering and Enforcement Division
Bureau of Materials Management and Compliance Assurance
Department of Energy and Environmental Protection
79 Elm Street, Hartford, CT 06106-5127
Or via email to DEEP.Solid&HazWasteReports@ct.gov

18. Any document, including, but not limited to any notice, which is required to be submitted to the Commissioner under this Permit shall be signed by a duly authorized representative of the Permittee, as defined in Section 22a-430-3(b)(2) of the RCSA, and by the individual or individuals responsible for actually preparing such documents, each of whom shall certify in writing as follows:

“I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement in the submitted information may be punishable as a criminal offense.”

Any false statement in any document submitted pursuant to this Permit may be punishable as a criminal offense in accordance with Section 22a-6 of the CGS, pursuant to Section 53a-157 of the CGS, and in accordance with any other applicable statute.

19. The date of submission to the Commissioner of any document required by this Permit shall be the date such document is received by the Commissioner. The date of any notice

by the Commissioner under this Permit, including but not limited to, notice of approval or disapproval of any document or other action shall be the date such notice is personally delivered or the date three (3) Days after it is mailed by the Commissioner, whichever is earlier. Any document which is due or required on a weekend or a legal state or federal holiday shall be submitted by the next business day thereafter.

20. This Permit is subject to and in no way derogates from any present or future property rights or other rights or powers of the State of Connecticut and conveys no property rights in real estate or material nor any exclusive privileges, and is further subject to, any and all public and private rights and to any federal, state or local laws or regulations pertinent to the Facility or activity affected thereby.
21. Nothing in this Permit shall affect the Commissioner's authority to institute any proceeding or to take any actions to prevent violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law.
22. Nothing in this Permit shall relieve the Permittee of other obligations under applicable federal, state and local laws.
23. The General Permit Registration No.15101223-CGP-F, issued on June 1, 2016, will no longer be effect and will be replaced by this Permit upon the authorization to operate, granted by the Commissioner, under Condition B.5 of this Permit.
24. This Permit shall expire five (5) years from the date of issuance and may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws.

Issued on this _____ day of _____, 2017.

By _____

Robert E. Kaliszewski
Deputy Commissioner

Application No. 201608469
Permit to Construct and Operate No.
Permittee - e-Certified
City/Town Clerk - e-Certified

