

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
OFFICE OF ADJUDICATIONS**

IN THE MATTER OF : **APPLICATION NO. 201807092**
CWPM, LLC. : **November 21, 2023**

AMENDED PROPOSED FINAL DECISION

**I.
SUMMARY**

CWPM, LLC (“Applicant” or “CWPM”) has filed an application with the Department of Energy and Environmental Protection (“DEEP” or “Department”) seeking a renewal permit to construct and operate a solid waste volume reduction facility. *See* General Statutes §§ 22a-6, 22a-6g, 22a-208, and Regs., of Conn. State Agencies (“RCSA”) §§ 22a-209-1 *et seq.*, 22a-3a-5. The Department determined that the application was complete and following its sufficiency and technical review, determined that the application complies with the relevant statutes and regulations. A Notice of Tentative Determination to approve the application was published with the draft renewal permit on January 19, 2023. The Town of Deep River filed a petition for a hearing on February 13, 2023.

The parties in this matter are the Applicant, Eastern Transfer Station, LLC (“ETS”), and DEEP Staff. ETS filed a motion for party status on March 17, 2023, and the motion was subsequently granted.¹ CWPM joined ETS in its case at the evidentiary hearing. Testimony of K. Shea (September 12, 2023 at 19:45)². Following the evidentiary hearing held on September 12, 2023, the parties jointly filed the attached

¹ ETS is the current operator of the facility. An application to transfer the permit to ETS from CWPM has been submitted to DEEP, and the request to transfer is pending based on the outcome of this hearing.

² All citations to testimony provided at the evidentiary hearing refer to the Zoom recording of the hearing, a copy of which remains on file with the Office of Adjudications.

Agreed Draft Decision on October 13, 2023 (“ADD” or “Joint Submission”) (attached hereto as Attachment I).

I have reviewed the entire administrative record in this proceeding, including the documents and testimony entered into the record as evidence. The parties’ ADD has been evaluated in light of the relevant statutes and regulations. I have considered the public comments and questions received throughout this hearing process and the parties’ responses to the public input.

The factual findings and conclusions of the law set out in the ADD are comprehensive and are supported by substantial evidence in the record. The ADD demonstrates that the proposed activities regarding the solid waste volume reduction facility set forth in the application, as conditioned by the draft permit (attached hereto as Attachment II), comply with relevant statutes and regulations. Therefore, I adopt the ADD in full as my proposed final decision. Additionally, I make the following supplemental findings of fact and conclusions of law.

II. FINDINGS OF FACT

1. The Town of Deep River submitted a request for a hearing on this matter. It raised concerns related to the authority of local zoning officials to address issues related to this facility. (Ex. DEEP-31).³
2. CWPM submitted Application No. 201807092 to obtain a renewal of its Volume Reduction Plant (“VRP”) Permit to Construct and Operate No. 03601128-MPCO issued on August 28, 2015, with an expiration date of September 27, 2018. A permit renewal application was received on May 15, 2018. Permit No. 03601128-MPCO was continued and remained in effect during the processing of Application No. 201807092. The draft permit is a renewal authorization. (Exs. DEEP-1, 27, 30).

³ Documents not listed as an exhibit in these findings are part of the docket file for this proceeding, which is part of the administrative record of this matter.

3. ETS applied to transfer the permit from the current licensee on October 8, 2019. The formal decision on the license transfer is pending following the final decision on the renewal permit. (Ex. DEEP-27). Upon issuing the renewal permit and transfer to ETS, the permit will not require revisions. Testimony of B. McWade (September 12, 2023 at 1:01).
4. The draft renewal permit to construct and operate a solid waste volume reduction facility incorporates the current permit to construct and operate. (Exs. DEEP-1, 30); Testimony of B. McWade (September 12, 2023 at 1:03). The changes to the existing permit are nominal and administrative in nature. (Exs. DEEP-27, p. 5-6; DEEP-31); Testimony of B. McWade (September 12, 2023 at 1:05). The administrative changes to the renewal permit are in relation to the wording of certain permit conditions to align with current DEEP policy and to adequately protect human health and the environment. (Exs. DEEP-1, 30); Testimony of B. McWade (September 12, 2023 at 1:04-1:06).
5. The current permit includes a condition regarding local municipal authority, stating “nothing in this Permit shall relieve the Permittee of obligations under applicable federal, state and local laws.” (Exs. DEEP-1, 30).
6. No design or construction changes to the site are associated with the draft permit renewal. Testimony of B. McWade (September 12, 2023 at 1:04).
7. There are no wetlands onsite at the facility that the draft permit will impact. (Ex. DEEP-32); Testimony of B. McWade (September 12, 2023 at 1:03); Testimony of B. Madho (September 12, 2023 at 1:08).
8. The facility has a pest control protocol in place, which includes a capture device that runs twenty-four hours a day, seven days a week. (Ex. ETS-15); Testimony of Zessin (September 12, 2023 at 30:50).

9. The ADD refers to the “formal record,” which closed on September 12, 2023. All references to a formal record shall be understood to mean the administrative record in this proceeding, and all references to “formal comments” shall be understood to mean the public comments received in this proceeding.

III. CONCLUSIONS OF LAW

1. SUMMARY

The ADD demonstrates how the application to construct and operate a solid waste volume reduction facility complies with the applicable requirements of General Statutes §§ 22a-208, 22a-6, 22a-6g, and the relevant implementing regulations. *See* RCSA §§ 22a-209-1 *et seq.*, 22a-3A-5. The application went through several stages of review within the Department. Prior to the draft permit being released, it underwent a sufficiency review of the submitted documents required for the Department to review the application. After all the required information was submitted, the Department conducted a technical review, including but not limited to an environmental compliance review of operations at the site. At the conclusion of the sufficiency and technical review, DEEP staff developed the draft permit and issued a notice of tentative determination. (Exs. DEEP-1, 5-5J, 7 through 28).

The ADD further demonstrates that any potential environmental impacts from the proposed project have been sufficiently minimized, such that the project is consistent with applicable policies governing the draft permit and the applicant has satisfied its burden in this matter. The draft renewal permit incorporates the current permit, which identifies several conditions regarding the implementation of this permit. (Exs. DEEP-1, 30). These include conditions regarding notification requirements, operator requirements,

compliance audits, storage specifications for the materials on site, and monitoring for airborne asbestos and lead. (Exs. DEEP-1, 30).

Three expert witnesses and one fact witness offered testimony during the evidentiary hearing. (Exs. DEEP-33, 34; ETS-18). The expert witnesses' testimony was credible and persuasive. Reliance on DEEP staff is appropriate when determining the information and studies required through the permit process, and the Department may rely on its own expertise. *See Cannata v. Department of Environmental Protection*, 215 Conn. 616, 627, 577 A.2d 1017 (1990) (reliance on agency expertise warranted in situations that require technical, case-by-case reviews). The case at hand requires significant technical and site specific review, and the experts put forth by the Department demonstrated a great depth of understanding of the regulatory and statutory requirements in this matter, with each expert agreeing that the application met the applicable statutory and regulatory requirements.

2. PUBLIC COMMENT

Public comment was received throughout the hearing process, and the public's participation and concerns were noted. The concerns raised by the public were primarily centered around the nexus between local zoning authority and the overall regulation and oversight of the facility. After hearing the public comment, the parties addressed the relevant concerns during the evidentiary hearing. The administrative process considered and addressed the concerns of the public.

The Town of Deep River submitted a public comment seeking assurance that the draft permit does not negate local zoning authority. (Public Comment, Town of Deep River, September 6, 2023). Notably, the draft renewal permit incorporates the current permit that is in place, which includes Condition 23, which states, "nothing in this Permit shall relieve the Permittee of obligations under applicable federal, state and

local laws.” (Exs. DEEP-1, 30). Additionally, DEEP staff testified the draft permit does not restrict the rights of the local town or zoning board. Testimony of B. Madho (September 12, 2023 at 1:11). Therefore, the draft permit appropriately includes language regarding local enforcement authority. Further, the Town of Deep River asserted that the application does not comply with General Statutes § 22a-208b. This facility operates, and the applicant is seeking a permit as a volume-reduction facility, not a disposal facility; therefore, local zoning authority and, more specifically, the requirements of General Statutes §22a-208b(a) are not a condition and not applicable to this type of DEEP permit. *See* General Statutes §§ 22a-208b, 22a-207; Testimony of B. Madho (September 12, 2023 at 1:09-1:10).⁴

Additionally, public comment was submitted regarding wetlands and pest control concerns. (Public Comments, Steeves and Deep River Land Trust, September 8, 2023). This renewal permit does not have wetland impacts. Testimony of B. McWade and B. Madho (September 12, 2023 at 1:03 and 1:08). Further, ETS contracts with a pest control company that addresses pest concerns on-site, including using a device that can capture pests continuously. (Ex. ETS-15).

Ultimately, the parties addressed the public’s concerns through the evidentiary hearing and demonstrated through extensive evidence and testimony that the subject application complies with the relevant statutes and regulations.

IV. CONCLUSION AND RECOMMENDATIONS

If conducted as proposed and in accord with the terms and conditions of the draft permit, the proposed activity to be regulated will be consistent with all relevant statutes and regulations. I therefore recommend that the Commissioner finalize and issue the requested permit.

⁴ The parties submitted a request to amend the Proposed Final Decision on November 21, 2023, which was granted, clarifying the reference to General Statutes §22a-208b(a). No other changes were made to the Proposed Final Decision issued November 8, 2023.



Connecticut
Department of Energy &
Environmental Protection

Kathleen W. Reiser

Kathleen W. Reiser, Esq.
Hearing Officer

Dated: November 21, 2023

cc: Service List

IN THE MATTER OF	:	APPLICATION NO.
	:	201807092 TO CONSTRUCT
	:	AND OPERATE A SOLID WASTE
	:	FACILITY
CWPM, LLC	:	

PARTIES' JOINT PROPOSED FINAL DECISION

Together with CWPM, LLC (the “Applicant”) and Eastern Transfer Station LLC (“ETS”), staff of the Department of Energy and Environmental Protection Bureau of Materials Management and Compliance Assurance (the “Department”) provides the following:

I. BACKGROUND

On May 15, 2018, CWPM, LLC submitted application No. 201807092 to renew permit no. 03601128-MPCO pursuant to Connecticut General Statutes 22a-208 (the “Application”). The Application was submitted to continue the authorization under Permit No. 03601128-MPCO. Permit No. 03601128-MPCO was issued on August 28, 2015 (the “Permit”).

Reviews for both the sufficiency and the technical merits of the Application were conducted by the Department in accordance with all applicable standard procedures and the parties engaged in an iterative process for the clarification of information submitted as part of that Application, as well as additional information which was requested by the Department as part of those reviews. Subsequent to the submission and evaluation of information provided by the Applicant, the Department drafted a permit based on the Application, as amended by the Applicant’s subsequent submissions. The draft permit authorizes the activities sought by the

Applicant for the wastes itemized in the Application, tempered by those limitations and restrictions the Department deems necessary to protect human health and the environment.

On January 19, 2023, the Department, in accordance with C.G.S. Section 22a-6h, public noticed the tentative determination to approve the Application and issue a permit for the activities sought, which triggered the thirty (30) day public comment period. On February 13, 2023, the Town of Deep River submitted a petition regarding the draft permit thereby triggering a public hearing.

On August 30, 2023, a public hearing was held. The public hearing was conducted by the Department's Office of Adjudications and present at the public hearing were staff of the Department's Bureau of Materials Management and Compliance Assurance, the Applicant, ETS and various members of the public. On September 12, 2023, an evidentiary hearing was held (the "Evidentiary Hearing"). The Evidentiary Hearing was conducted by the Department's Office of Adjudications and present was staff of the Department's Bureau of Materials Management and Compliance Assurance, the Applicant, ETS, and two interested individuals who entered the hearing room mid-way through the proceedings. The Applicant joined with ETS, who provided written testimony in advance and supplemented the record at the Evidentiary Hearing. In addition, Department staff provided written testimony in advance and supplemented the record at the Evidentiary Hearing. The formal record was closed on September 12, 2023, and no additional formal comments were received beyond those which had already been submitted both orally on August 30, 2023, and subsequently in writing.

II. FINDINGS OF FACT

1. On May 15, 2018, the Applicant submitted application No. 201807092 a C.G.S. Section 22a-208 Waste Facility Permit for a permit to construct and operate a solid waste volume reduction facility.
2. Application No. 201807092 (DEEP-5) was submitted to the Department to renew permit no. 03601128-MPCO (DEEP-1) authorizing solid waste activities at 400 Commercial Drive, Deep River, Connecticut.
3. The location for which the application was submitted has operated as a solid waste facility since July 13, 2006. (DEEP-35).
4. On May 17, 2018, the Applicant arranged for a Public Notice to be published in the New Haven Register, providing notice of the filing of its permit application. The Applicant also provided written notice, pursuant to C.G.S. Section 22a-6g, of the permit application to Angus L. McDonald, Jr., First Selectman, Town of Deep River, Connecticut. (DEEP-5A).
5. The Application contains details of all the information required by applicable statutes and regulations, including the following issues:
 - The name and address of the owner/operator of the proposed facility (DEEP-5C);
 - The names and addresses of all parent and subsidiary entities (DEEP-5I);
 - The names and addresses of all partners, corporate officers and directors (DEEP-5G);
 - A list of all solid waste facilities which each of the above persons are or have been associated with and their positions and responsibilities (DEEP-5G);
 - The proposed facility location (DEEP-5C, 5F);
 - A description of the facility and the proposed activities (DEEP-5D);
 - Information as to the Applicant's financial stability (DEEP-5I);

-A copy of the lease for use of the proposed facility (DEEP-5I);

-Detail regarding the Applicant's compliance history (DEEP-5E);

6. On July 13, 2018, the Department issued a Notice of Sufficiency with respect to the Application. (DEEP-7; McWade testimony p. 1).
7. On January 29, 2021, the Department sent the Applicant its initial Request for Additional Information ("RFAI"), seeking clarifications and additional information with respect to the Application. (DEEP-16; McWade p. 4).
8. Between March 5, 2021, and March 21, 2022, the Department and Applicant engaged in an exchange of information and requests for clarifications and additional information in response to the Department's initial RFAI and in response to further questions and requests for information from the Department. (DEEP-17 through 17I; and DEEP 22-24, McWade p. 5 and 8).
9. Upon completion of its review of Applicant's initial permit application and supplemental information, the Department issued a Permit Review Summary Sheet, summarizing the proposed activity and concluding that the Department had no environmentally related concerns. (DEEP-27; McWade P. 9).
10. The Notice of Tentative Determination, along with associated cover letters to the Applicant and the Town of Deep River, was issued on January 18, 2023. (DEEP-28-29; McWade p. 9).
11. Public Notice of DEEP's Notice of Tentative Determination was published on January 19, 2023, in the New Haven Register, referencing the proposed draft permit. (DEEP-28; McWade p. 9).

III. CONCLUSIONS OF LAW

A. THE DRAFT PERMIT COMPLIES WITH THE RELEVANT STATUTORY STANDARDS, NAMELY CONNECTICUT GENERAL STATUTES (CGS) SECTIONS 22A-6, 22A-6G, 22A-208, AS WELL AS REGULATIONS OF CONNECTICUT STATE AGENCIES (RCSA) SECTIONS 22A-209-1 ET SEQ, 22A-3A-5.

Ms. Bethany McWade of the Department conducted a review of Application No. 201807092 to evaluate the technical merits of that application. She determined that certain information that had been presented in the application package required clarification or correction.

Specifically, Ms. McWade evaluated the content of the application form (DEEP -5 through 5J inclusive) for accuracy, consistency and completeness. That evaluation incorporated a comparison of the information submitted to published databases and established reference materials (DEEP 8 through DEEP 14), as well as the information submitted in the form of documents in support of the Application.

Following her initial evaluation of the application package (DEEP -5 through 5J), Ms. McWade developed questions that required answers and identified clarifications necessary to allow the application process to continue (DEEP-16). Ms. McWade continued to evaluate the information that was submitted by Applicant (DEEP-17 through DEEP 17I) in response to DEEP-16 within the context of the application package. The process of requesting additional information by the Department and receiving responses from the Applicant was repeated two additional times over the course of processing the subject application (DEEP-19, DEEP-20, DEEP 22 through DEEP-24). Based on her review of the subject application and multiple discussions with the Applicant, Ms. McWade developed a renewal draft permit to construct and operate (DEEP-30) that continued to authorize the activities regulated under Permit No. 03601128-MPCO (DEEP-1) while updating administrative language for management of wastes

at the facility. The renewal draft permit to construct and operate (DEEP-30) updated appropriate limitations and restrictions to Permit No. 03601128-MPCO to adequately protect human health and the environment. The draft permit (DEEP-30) that is the subject of the public notice regarding the Commissioner's tentative determination to approve Application No. 201807092 was finalized and subsequently public noticed on January 19, 2023. During the public comment period no public comments were received by the Department, however, a petition for hearing was requested by the Town of Deep River (DEEP-31).

Ms. McWade's review of the application package complied with the requirements set forth in the Regulations of Connecticut State Agencies Sec. 22a-209-1 et seq., as well as Section 22a-3a-5. Ms. McWade's development of the draft permit was consistent with those same regulations and with Department policy as has been applied to similar facilities established within the State of Connecticut which are regulated by the Department. Ms. McWade's development of the draft permit included oversight and review by duly authorized Department supervisory and managerial staff. As such, the draft permit complies with relevant statutory and regulatory requirements.

B. ANY POTENTIAL ENVIRONMENTAL IMPACTS FROM THE PROPOSED PROJECT HAVE BEEN SUFFICIENTLY MINIMIZED SUCH THAT THE PROJECT IS CONSISTENT WITH APPLICABLE POLICIES GOVERNING THE DRAFT PERMIT AND THE APPLICANT HAS SATISFIED ITS BURDEN IN THIS MATTER.

A detailed operations and management plan (DEEP17I) for the Facility was developed by the applicant and included as part of application No. 201807092. The plan was developed to address environmental impacts including: Onsite traffic flow (DEEP17I pg.2); dust control (DEEP17I pg.2); fire protection (DEEP17I pg. 6-7); dust, litter & debris control; vector and odor control; noise control (DEEP17I pg. 15); and spill containment & clean-ups (DEEP17I pg. 15).

The operations and management plan were prepared by a professional engineer licensed in the State of Connecticut. DEEP staff reviewed the operations and management plan to ensure that potential environmental impacts from the site were minimized. This review entailed a robust review of the operations and management plan to ensure the facility operations did not lead to environmental impacts (DEEP34 pg. 4-8).

While the operations and management plan included plans to ensure that the potential for environmental impacts were addressed, DEEP's permit included numerous conditions to ensure the facility is operated in a manner which would not lead to environmental impacts. The Permit (DEEP-1) which is being renewed contains numerous provisions that address potential environmental impacts relating to the operation of this facility as a transfer station:

C. AUTHORIZATION TO OPERATE

5.b. Storage and Management of putrescible MSW shall be in containers, stored in a tractor trailer, on the tipping floor, or confined container systems and shall not exceed two hundred (200) cy for both phases. Storage 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. Storage container(s) shall be kept covered at all times except when the container(s) are being filled. All putrescible MSW shall be containerized at the end of each operating day. No outdoor storage of putrescible MSW is authorized by this permit.

Condition C.5.b limits the amount of time, amount of putrescible municipal solid which can be stored at the facility at any one time as well as specifying the manner in which such waste is to stored.

6. The Permittee Shall:

g. Operate the Facility in such a manner 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.

Condition C.6.g requires the management of the facility to limit the environmental impacts including fire, odors, noise, spills, vectors, litter and dust emissions.

10. 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 Permit No. 03601128-2023RMPCO) 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.

Condition No. C.10 was administratively updated to reflect the renewal permit No. (DEEP 30) and provides an avenue for the public to lodge complaints with the facility in order for the concerns to be addressed as well as a documenting such complaints.

11. 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.

Condition No. C.11 requires that the facility is operated to ensure that there is limited off-site impacts related to traffic due to the facility operations.

Condition C.17. (DEEP30) requires the performance of quarterly compliance audits related to the facility operations. These audits must be performed by a third party with no financial interest in the facility or its operations. The selected auditor must be approved by DEEP prior to conducting such audits. The scope of the audit must include an evaluation of the facility's compliance with the permit and applicable statutes and regulations. The audits findings must be submitted to DEEP for evaluation on a quarterly basis (DEEP 30 pg. 6-8)

The foregoing safeguards were drafted by the Department to reflect its policies relating to minimizing the environmental impact of such a facility on the surrounding area. No evidence has been introduced to demonstrate that the Applicant or ETS has violated these provisions (or any other provisions) of the Permit. In fact, in connection with the renewal of the Permit, the Department reviewed the Applicant's operations extensively, and performed a Compliance History Check that determined that the Applicant has been in compliance with the terms of the Permit and, on that basis, the renewal could continue. Moreover, upon completion of its review of Applicant's initial permit application and supplemental information, the Department issued a Permit Review Summary Sheet, summarizing the proposed activity and concluding that, in particular, the Department had no environmentally related concerns. (DEEP-27; McWade P. 9). At the Evidentiary Hearing, ETS introduced evidence to demonstrate that it has been working to minimize environmental impacts on the surrounding area (ETS-15; ETS-16). There has been no evidence introduced by any party to demonstrate that the efforts undertaken by the Applicant and ETS were not adequate to minimize the environmental impact of the facility on the surrounding community. In this regard, the Applicant has met its burden.

C. CONCLUSION

The Application, which is the subject of this matter (Application No. 201807092), was developed and submitted in accordance with CGS Sections 22a-6, 22a-6g, 22a-208 as well as Regulations of Connecticut State Agencies (RCSA) Sections 22a-209-1 et seq, 22a-3a-5. Additionally, the Application was evaluated for sufficiency and technical merit in accordance with those same Statutes and Regulations by the Department's technical staff.

The proposed permit identified as exhibit DEEP-30 has been drafted in accordance with RCSA Sections 22a-209-1 et seq. and 22a-3a-5.

In light of the testimony and exhibits provided, as well as the comments received and the responses to those comments, it is concluded that the proposed permit, presented as Exhibit DEEP-30, meets all applicable statutory and regulatory requirements of the Department and should be issued.

Respectfully submitted by:

/S/ Kenneth J. Shea
Attorney for the Applicant
Kenneth J. Shea
Anderson, Reynolds & Lynch, P.C.
KenShea@arllawyers.com

/S/ Brenton J. Elliott
Attorney for Eastern Transfer Station
Brenton J. Elliott, Esq.
Zangari, Cohn, Cuthbertson & Grello P.C.
BElliott@zcclawfirm.com

/S/ Brent Madho
Representative for the Department Energy and Environmental Protection
Brent Madho, Assistant Director
Waste Engineering and Enforcement Division
Brent.Madho@ct.gov

CERTIFICATION

I hereby certify that a copy of the foregoing **Agreed Draft Decision** was delivered via electronic mail, this 13th day of October, 2023 to:

Hearing Officer Kathleen Reiser Esq.
Office of Adjudications
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127
Kathleen.Reiser@ct.gov

DEEP

Bethany McWade
Bureau of Materials Management and Compliance Assurance
CT Dept. of Energy and Environmental
bethany.mcwade@ct.gov

Attorney for the Applicant

Kenneth J. Shea
Anderson, Reynolds & Lynch, P.C.
KenShea@arllawyers.com

Attorney for Eastern Transfer Station
Brenton J. Elliot, Esq.
Zangari, Cohn, Cuthbertson & Grello P.C.
BElliot@zcclawfirm.com

Courtesy Copy to:
Town of Deep River(Petitioner)
Angus McDonald, First Selectman
amcdonald@deeriverct.us

John Guskowski
zoning@deeriverct.us

Attorney for Petitioner:
Kenneth R. Slater, Jr., Esq.
Halloran & Sage
Slater@halloransage.com

_/s/ Brent Madho
Brent Madho
Assistant Director
Waste Engineering and Enforcement Division
Bureau of Materials Management and
Compliance Assurance



RENEWAL AUTHORIZATION
for
PERMIT TO CONSTRUCT AND OPERATE 03601128-MPCO

PERMITTEE: CWPM, LLC
FACILITY ADDRESS: 400 Commercial Drive, Deep River, Connecticut
PERMIT No. 03601128-2023RMPCO

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 REISSUED by the Commissioner of Energy and Environmental Protection (“Commissioner”) to CWPM, LLC (“Permittee”) to construct and operate a solid waste Volume Reduction Facility located at 400 Commercial Drive, Deep River, Connecticut (“Facility”). All letter approvals amending the existing permit as follows: May 9, 2019 authorizing air monitoring for lead and asbestos during either the second, third or fourth quarter of the calendar year; December 4, 2020 authorizing the replacement of the existing Selco 2-ram baler with a new HARB-ANF-100 2-ram high density baler, are incorporated herein and the letter approvals are no longer in effect. The Permittee shall comply with all conditions of Permit No. 03601128-MPCO as amended by this Renewal Authorization (“Renewal Authorization” or “Permit” and the following amendments:

A. GENERAL TERMS AND CONDITIONS

1. **Condition No. A.1. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**
 - a. The Permit and this Renewal Authorization are based on and incorporate by reference pertinent and appropriate sections of documents and specifications submitted as part of Application No. 201807092 to renew the Permit to Construct and Operate, including:
 - i. Application form received on May 15, 2018 updated March 5, 2021 and April 29, 2021;
 - a. Attachment B: Compliance Information updated April 29, 2021;
 - b. Attachment H: Background Information updated March 5, 2021;
 - c. Attachment I: Statement of Consistency updated April 29, 2021;
 - d. Attachment J: Business Information updated March 5, 2021.
 - ii. Operation and Management Plan (O&MP) dated June 2014 and updated March 2021;
 - iii. A Site Plan prepared by Anchor Engineering Services, LLC dated October 2, 2012 updated March 25, 2013 and October 22, 2013;
 - 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. 201807092 and any document submitted in support of said application, as well as other application(s) on which the Permit No. 03601128-MPCO was based, 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 accurately describe the Facility and its operations.

c. The Permittee shall for the life of this Renewal Authorization, provide to the Department notification within thirty (30) Days of any changes in the information provided as part of 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. **Condition No. A.2. of Permit No. 03601128-MPCO is amended to add or revise the following definitions:**

“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. For the purposes of this Permit, clean wood may also include land clearing debris.

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

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

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

“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.

3. **Condition No. A.6. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**

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 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. **Condition No. B.3. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**

The existing Facility consists of the following: (a) site access gate; (b) a paved access road; (c) a truck scale (above ground platform 70’); (d) a processing building (a volume reduction plant) with a tipping area and three (3) loading bays; (e) three (3) outdoor storage areas for managing

scrap metal, processed clean wood, appliances containing chlorofluorocarbon (“CFC”), used electronics, leaves and yard waste, propane tanks, scrap tires, lead-acid batteries, processed C&D waste and oversized MSW, and (f) four (4) indoor areas for managing paper, corrugated cardboard, putrescible MSW, construction and demolition (C&D) waste, oversized municipal solid waste (MSW) items, and commingled recyclables; (g) HARB-ANF-100 2-ram baler; and (h) a defined storage area for propane tanks.

2. Condition No. B.4. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

The Permittee continues to be authorized to construct the Facility in accordance with all applicable law, including this Permit. The Permittee is authorized to construct the following:

- a. A shed to house Spent Lead acid batteries and a 275-gallon tank for the collection of used oil; and
- b. The installation of a 5,000 gallon water storage tank with a fire department connection in lieu of sprinklers.

3. Condition No. B.5. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

The Permittee is authorized to maintain the Facility as described in Conditions No. B.1. and B.2. of this Renewal Authorization.

4. Condition No. B.7. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

The Permittee shall, within thirty (30) Days from the completion of any construction or maintenance undertaken pursuant to Condition No B.2. and B.3. of this Renewal Authorization, 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 Section C of this Renewal Authorization using Phase 2 limits for receipt, storage, and management of solid waste.

C. AUTHORIZATION TO OPERATE

1. Condition No. C.1. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

The Permittee is authorized to operate the Facility as described in Condition No. B.1. of this Permit. The Permittee is authorized to operate any or all of the components described in Condition No. B.2. and Section C. at Phase 2 specifications 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.4. of this Permit.

2. Condition No. C.2. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

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 by the Commissioner.

3. Condition No. C.6.e. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

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 DEEP.WEEDNotification@ct.gov; (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.

4. Condition No. C.7. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

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, at a minimum, maintain a forty percent (40%) rate of recovery of non-designated recyclable items. The Permittee shall make continuing efforts to increase the non-designated recycling rate during the term of this Permit.

As part of the quarterly reports required to be submitted by Condition No. C.17.g. 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.

5. **Condition No. C.10. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**

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 Permit No. 03601128-2023RMPCO) 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.

6. **Condition No. C.12. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**

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 quarterly 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 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 in accordance with Condition No. C.10. of this Permit.

7. **Condition No. C.13. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:**

The Permittee shall ensure that all Clean Wood received at the Facility is inspected for signs of the presence of the Asian Longhorn Beetle or Spotted Lanternfly (SLF). Signs indicating possible Asian Longhorn Beetle infestation can be found at the Department's webpage: <http://www.ct.gov/deep/alb>. Connecticut has a state-wide quarantine for SLF with regulated areas defined as towns with established populations as updated at <https://portal.ct.gov/CAES/CAPS/CAPS/Spotted-Lanternfly---SLF>.

- 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 the Asian Longhorn Beetle or Spotted Lanternfly should be identified at the source of generation and managed in accordance with existing quarantine agreements that may exist, i.e., wood from the State of Massachusetts that enters Connecticut for receipt and processing.
- 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 or for SLF ReportSLF@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.

8. Condition No. C.14. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

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, a.k.a. Connecticut's 2016 *Comprehensive Materials Management Strategy* 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.

9. Condition No. C. 17. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

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: (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 P.E. or consultant other than the one approved by the Commissioner ("compliance auditor") pursuant to this condition, the Permittee shall submit to the Commissioner for his review and written approval, the information and documentation specified in this condition regarding such other P.E. or consultant. 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. 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.
- iii. 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. The identification of all violations of this Permit and applicable regulations;
- vi. A 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.j. of this Permit for loads that are representative of the waste types authorized for receipt at the Facility;
- vii. The findings of the compliance auditor regarding the audits conducted in accordance with Condition No. C.17. of this Permit during the day of the compliance audit;
- viii. A detailed description of all actions taken by the Permittee to correct the violation(s) identified in each compliance audit; and
- ix. 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, within seven (7) Days of the date the Permittee became aware of the violation(s), 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.17. 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.17.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, in accordance with Condition No. C.17. of this Permit.

10. Condition No. C.18. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

Unless otherwise specified in writing by the Commissioner, any reports 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 e-mail to DEEP.Solid&HazWasteReports@ct.gov.

11. Condition No. C.25. of Permit No. 03601128-MPCO is no longer in effect and is replaced by the following:

Permit No.03601128-MPCO, as amended herein, shall expire five (5) years from the issuance date of this Renewal Authorization and may be revoked, suspended, modified, renewed, or transferred in accordance with applicable laws.

Issued on this _____ day of _____, 2023.

Jennifer L. Perry, P.E., Chief
Bureau of Materials Management and Compliance Assurance
Department of Energy and Environmental Protection

Application No. 201807092
Permit to Construct and Operate No. 03601128-2023RMPCO
Permittee - e-Certified
City/Town Clerk - e-Certified