



**Hazardous Waste Management  
RCRA Permit NEVHW0033  
DATE 2025 – Revision 1**



**21<sup>st</sup> Century Environmental Management  
of Nevada, LLC (21EMN) Fernley Facility  
Fernley, Nevada**

**EPA ID# NVD980895338**

**State of Nevada  
Department of Conservation and Natural Resources  
Division of Environmental Protection  
Bureau of Sustainable Materials Management**

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**RCRA PERMIT  
FOR A HAZARDOUS WASTE MANAGEMENT FACILITY**

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Permittee:	<b>21<sup>st</sup> Century EMN, LLC</b>	REVISION 1
	<b>Fernley, Nevada 89408</b>	DATE 2025
Facility EPA ID#:	<b>NVD980895338</b>	
Permit Number:	<b>NEVHW0033</b>	

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This Permit is issued by the Nevada Division of Environmental Protection (NDEP) under the authority of Section 3006 of Resource Conservation and Recovery Act (RCRA) (40 CFR Part 271), Nevada Revised Statutes (NRS) 459.520 and Nevada Administrative Code (NAC) 444.842 through 444.8746 and 444.960. The State of Nevada has adopted 40 CFR Subpart A of Part 2, Subparts A and B of Part 124, and Parts 260 through 270 inclusive, by reference in the NAC at 444.8632 with exceptions listed at 444.86325 and as revised at 444.8633 and 444.8634. This Permit is issued to 21<sup>st</sup> Century Environmental Management of Nevada, LLC (hereafter called the Permittee), to operate a hazardous waste management facility located at 2095 Newlands Drive East, in Fernley, Nevada, at a latitude of 39° 36' 34" North, longitude of 119° 12' 10" West, and summarily described as follows:

The facility is located on a 10-acre site, which is owned and operated by CleanEarth, Inc under the name 21<sup>st</sup> Century Environmental Management of Nevada, LLC (21EMN)<sup>1</sup>. The facility consists of:

- Six (6) Container Storage Units;
- One (1) Oxidizer Waste Locker Storage Unit;
- Six (6) Alkaline/Cyanide Storage Tanks;
- Two (2) Alkaline Storage Tanks;
- Eleven (11) Acid Storage Tanks;
- Seven (7) Chemical Treatment Tanks;
- Seven (7) Post Treatment (Storage) Tanks;
- One (1) Evaporator;
- Three (3) Filter Presses;
- Two (2) Trailer Storage Areas;
- Lab Pack and Loose Pack Consolidation Operations; and
- One (1) Aerosol Processing Unit
- One (1) container storage area for the Aerosol Processing Unit
- One (1) 600-gallon storage tank for the Aerosol Processing Unit

There are no land disposal units at the site and the entire facility is expected to be clean-closed. Due to prior releases at the site, the Permittee is required to conduct groundwater monitoring on a quarterly basis as described in Sections 10 (Groundwater Detection Monitoring) and 11 (Groundwater Compliance Monitoring) of this permit. The facility has conducted a RCRA Facility Investigation (RFI), as described in Section 12A (Corrective Action Conditions for Regulated Units) of this permit, in response to elevated levels of chromium and cyanide observed in selected groundwater monitoring wells. The Permittee completed a Corrective Measures Study (CMS) and a Corrective Measures Implementation (CMI) Work Plan and Design Report, as described in Permit Section 12B; and an active remediation system (Pump & Treat) is operational at the site.

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<sup>1</sup> The facility's permitted legal entity is 21st Century Environmental Management of Nevada, LLC (21 EMN), whose parent company is CleanEarth, Inc.

The Permittee must comply with all terms and conditions of this Permit. This Permit consists of the conditions contained herein, the Permit Application (Parts A and B), and the applicable regulations contained in *40 CFR Parts 124, 260 through 266, and 270*, and *Sections 206, 212, and 224 of HSWA*, which require corrective action for all releases of hazardous wastes or constituents from any solid waste management unit (SWMU) at a treatment, storage, or disposal unit seeking a Permit, regardless of the time at which waste was placed in such unit, as specified in the Permit. If there are conflicts between this Permit and the Permit Application, the Permit shall prevail. Applicable regulations are those that are in effect on the date of issuance of the Permit, in accordance with *40 CFR 270.32(c)* and *NAC 444.8632*.

This Permit is based on the assumption that the information submitted in the Part A (dated May 3, 2018) and Part B (dated May 3, 2018) Permit Applications and subsequent amendments<sup>II</sup> (last one dated July 13, 2023) is accurate, and that the facility will be operated and closed as specified in the Permit Application and this Permit.

Any inaccuracies found in the submitted information may be grounds for the termination, revocation and reissuance, or modification of this Permit in accordance with *40 CFR 270.41, 270.42, 270.43*, and *NAC 444.8632*, and for enforcement action. The Permittee must inform the Director of any deviation from or changes in the information in the application, which would affect the Permittee's ability to comply with applicable regulations or permit conditions. Failure to comply with any term or condition set forth in this Permit in the time or manner specified herein will subject the Permittee to possible enforcement action and penalties pursuant to *NRS 459.565, 459.570, 459.585, and 459.595*.

This Permit is effective as of **DATE 2025** and shall remain in effect until **December 19, 2024** unless revoked and reissued under *40 CFR 270.41* and *NAC 444.8632*, terminated under *40 CFR 270.43* and *NAC 444.8632*, or continued in accordance with *40 CFR 270.51(a)* and *NAC 444.8632*.

As provided in *NRS 459.520 (4)* this Permit shall be subject to review by the Director at least every five (5) years from issuance. Pursuant to *40 CFR 270.51(d)*, the permit conditions shall remain in effect until such time that the permit is reissued.

Signature on file

Daren Winkelman  
Chief, Bureau of Sustainable Materials Management  
Nevada Division of Environmental Protection

originally issued on December 19, 2019

Date

\*Revisions:

Revision 1: Class 2 Modification: **DATE, 2025**

<sup>II</sup> Hereafter referred to as the Permit Application.

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**1. SUMMARY**

The Permittee is a commercial hazardous waste treatment, storage and recycling facility. The Permittee may accept, store and treat the waste identified in the Part A Application and managed as described in the Part B Permit Application, both of which are adopted by reference and listed as attachments to this permit. Wastes managed include acids, alkaline, metal bearing aqueous liquids and sludges, cyanides, batteries, and aerosols. The facility may receive, store, and process bulk or containerized wastes. Wastes greater than 500 ppmw VOC content are to be accepted only in containers for storage and/or repacking of lab packs under the organic scrubber in the Lab Pack Room. The facility is currently required to conduct groundwater monitoring and, presuming clean final groundwater and soil sampling results, will be clean-closed at the time of cessation of any permitted hazardous waste activity.

Storage of waste is described in Sections 3 (Container Management Conditions) and 4 (Tank Storage Conditions), tank treatment is described in Section 5 (Tank Treatment Conditions), and the miscellaneous, Subpart X, units are described in Section 6 (Subpart X Unit Conditions – Filter Presses, Evaporator, & Aerosol Processing Unit). Storage of containers of waste subject to 40 CFR 264 Subpart CC is permitted, as described in Section 9 (Organic Air Emission Conditions). The groundwater monitoring required, at the time this permit was issued, is described in Section 11 (Groundwater Compliance Monitoring). The requirements for waste minimization, corrective action and financial assurance are described in Sections 8 (Waste Minimization Conditions), 12A (Corrective Action Conditions for Regulated Units), 12B (Corrective Action Conditions for SWMU & AOC) and 14 (Financial Assurance Conditions), respectively. All regulations cited in this Permit refer to regulations in effect on the date of issuance of this Permit. The Permittee is to maintain compliance with the conditions contained in this Permit and any self-implementing regulations promulgated after issuance.

**1.1 EFFECT OF PERMIT**

The Permittee is allowed to accept, treat and/or store hazardous waste in accordance with the conditions of this Permit and its attachments. Any acceptance, treatment or storage of hazardous waste not authorized in this Permit is prohibited. Subject to 40 CFR 270.4, compliance with this Permit during its term constitutes compliance, for purposes of enforcement, with Subtitle C of the Resource Conservation and Recovery Act (RCRA), Nevada Revised Statutes (NRS) 459.400 through 459.600, Nevada Administrative Code (NAC) 444.842 through 444.8746, NAC 444.960, and the Hazardous & Solid Waste Amendments of 1984 (HSWA). Issuance of this Permit does not convey any property rights of any sort, nor any exclusive privilege; nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations. Compliance with the terms of this Permit does not constitute a defense to any order issued or any action brought under Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; Sections 106(a), 104 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986, NRS 459.400 through 459.600, or any other law providing for protection of public health or the environment. Compliance with the terms of this Permit shall not relieve the Permittee of its obligation to comply with any other applicable local, state, or federal laws and regulations.

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*[40 CFR 270.4 and 270.30(g), and NAC 444.8632]*

The State of Nevada has adopted 40 CFR Subpart A of Part 2, portions of Subparts A and B of Part 124, Parts 260 through 270, inclusive, by reference in NAC 444.8632 with exceptions listed at NAC 444.86325 and as revised at NAC 444.8633 and NAC 444.8634. Therefore, all references to 40 CFR in this Permit are as they are adopted in NAC 444.8632 through 444.8634.

## **1.2 PERMIT ACTIONS**

### **1.2.1 Permit Modification, Revocation and Re-Issuance, and Termination**

This Permit may be modified, revoked and reissued, or terminated for cause, as specified in 40 CFR 270.41, 270.42, and 270.43. The filing of a request for a permit modification, revocation and reissuance, or termination, or the notification of planned changes or anticipated noncompliance on the part of the Permittee, does not stay the applicability or enforceability of any Permit Condition.

*[40 CFR 124.5(c), 270.4(a) and 270.30(f)]*

Modifications and/or updates to information provided in the Part A and B Permit Applications may require the Permittee to file a request for a permit modification. As such, the Permittee must provide information on any modifications and/or updates to the Director. Any changes in hazardous waste operating procedures require approval prior to implementation.

### **1.2.2 Permit Renewal**

This Permit may be renewed as specified in 40 CFR 270.30(b) and Permit Condition 1.5.3. Review of any application for a Permit renewal shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations.

*[40 CFR 270.30(b), HSWA Sec. 212]*

## **1.3 SEVERABILITY**

The provisions of this Permit are severable, and, if any provision of this Permit, or the application of any provision of this Permit, to any circumstance, is held invalid, then the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

*[40 CFR 124.16(a)]*

## **1.4 DEFINITIONS**

For purposes of this Permit, terms used herein shall have the same meaning as those in NAC 444.842 through 444.8746, and 40 CFR Parts 124, 260, 261, 264, 266, 268, and 270, unless this Permit specifically provides otherwise. Where terms are not defined in the regulations or the Permit, the meaning associated with such terms shall be defined by a standard dictionary reference or the generally accepted scientific or industrial meaning of the term. For purposes of this Permit, the definitions listed below apply.

### **1.4.1 Action Levels**

Health- and environmental-based levels determined by EPA or NDEP to be indicators for protection of human health and/or the environment. Contamination exceeding action levels

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indicates a potential threat to human health and/or the environment, which may require further study. Action levels are also used as reference points for developing final cleanup standards.

1.4.2 Administrator

The Administrator of the Nevada Division of Environmental Protection (NDEP), a designee, or an authorized representative.

1.4.3 Ancillary Equipment

Any device including, but not limited to, piping, fittings, flanges, valves and pumps, that is used to distribute, meter, or control the flow of hazardous waste to a storage or treatment unit or tank, between hazardous waste storage and treatment units or tanks, or to a point of shipment for disposal off-site.

1.4.4 Area of Concern (AOC)

Any area having a probable release of a hazardous waste or hazardous constituent, regardless of whether or not the release originated from a Solid Waste Management Unit (SWMU), and is determined by the Division to pose a current or potential threat to human health or the environment.

1.4.5 Certified Laboratory

A laboratory that has been approved by the Director to perform specific analyses referenced in NRS 459.500.

1.4.6 Closure Plan

The plan for closure prepared in accordance with the requirements of 40 CFR 264.112.

1.4.7 Compliance Period

The number of years equal to the active life of the unit prior to the Director's approval of certification of closure and subsequent post-closure period, if applicable.

1.4.8 Contamination

The presence of any hazardous constituent in a concentration which exceeds the naturally occurring concentration of that constituent in areas which should not be affected by the operations of the facility.

1.4.9 Corrective Action

May include all corrective actions necessary to protect human health and the environment for all releases of hazardous waste or hazardous constituents at the facility, regardless of the time at which waste was placed in the unit, as required under 40 CFR 264.101. Corrective action may address releases to air, soils, surface water sediment, groundwater, or subsurface gas.

1.4.10 Current Closure Cost Estimate

The most recent of the estimates prepared in accordance with 40 CFR 264.142(a), (b) and (c).

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#### 1.4.11 Days

Calendar days, unless otherwise specified.

#### 1.4.12 Director

The Director of the Nevada Department of Conservation and Natural Resources (DCNR), a designee, or an authorized representative.

#### 1.4.13 Discover, Discovery and Discovered

The date on which the Permittee or a Division representative either:

- (1) Visually observes evidence of a new SWMU or AOC,
- (2) Visually observes evidence of a previously unidentified release of hazardous constituents to the environment, or
- (3) Receives information which suggests the presence of a new release of hazardous waste or hazardous constituents to the environment.

#### 1.4.14 Division

The Nevada Division of Environmental Protection (NDEP), including personnel thereof authorized by the Director to act on behalf of the Division.

#### 1.4.15 Extent of Contamination

The horizontal and vertical area in which the concentrations of hazardous constituents in the environmental media being investigated are above the naturally occurring concentration of that constituent in areas not affected by the operations of the facility.

#### 1.4.16 Facility

All contiguous land, structures, and other appurtenances and improvements on the land used for the treatment or storage of hazardous waste. For the purpose of implementing corrective action under 40 CFR 264.100 and 264.101, "facility" includes all contiguous property under the control of the owner or operator seeking a Permit under Subtitle C of RCRA.

#### 1.4.17 Hazardous Constituents

Those substances listed in Appendix VIII of 40 CFR 261 and/or Appendix IX of 40 CFR 264, or any pollutant as defined in the NRS 445A.400.

#### 1.4.18 Hazardous Waste Management Unit (HWMU)

A contiguous area of land on or in which hazardous waste is managed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include surface impoundments, waste piles, land treatment areas, landfill cells, incinerators, tanks and their associated piping and underlying containment system, and container storage areas. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are managed.



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#### 1.4.19 Interim Measures

Actions necessary to minimize or prevent the further migration of contaminants and limit actual or potential human and environmental exposure to contaminants while long-term corrective action remedies are evaluated and, if necessary, implemented.

#### 1.4.20 Permittee

The entity (person(s) or corporation) to whom this Permit is issued.

#### 1.4.21 Qualified Professional Engineer

A person who by reason of his/her professional education and practical experience is granted a license by the Nevada State Board of Professional Engineers and Land Surveyors to practice professional engineering.

#### 1.4.22 Release

Any spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of hazardous wastes (including hazardous constituents) into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing hazardous wastes or hazardous constituents).

#### 1.4.23 Remediation Waste

All solid and hazardous wastes, and all media (including groundwater, surface water, soils and sediments) and debris, which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic, that are managed for the purpose of implementing corrective action requirements under 40 CFR 264.100, 264.101 and RCRA Section 3008(h). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing RCRA Sections 3004(v) or 3008(h) for releases beyond the facility boundary.

#### 1.4.24 Schedule of Compliance

A schedule of remedial measures included in this Permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Resource Conservation and Recovery Act and/or the State of Nevada Hazardous Waste Management Regulations.

#### 1.4.25 Solid Waste

Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

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#### 1.4.26 Solid Waste Management Unit (SWMU)

Any unit which has been used for the treatment, storage, or disposal of solid waste at any time, irrespective of whether the unit is or ever was intended for the management of solid waste. RCRA hazardous waste management units are also solid waste management units. SWMUs include areas that have been contaminated by routine and systematic releases of hazardous waste or hazardous constituents, excluding one-time accidental spills that are immediately remediated and cannot be linked to solid waste management activities (e.g. product or process spills).

#### 1.4.27 Temporary Unit (TU)

Any temporary tanks and/or container storage areas used solely for treatment or storage of hazardous remediation wastes during remedial activities required under 40 CFR 264.101 or RCRA Section 3008(h). Temporary Units must be designated by the Director, and must conform to the standards specified in 40 CFR 264.553.

#### 1.4.28 Unit

Includes, but is not limited to, any landfill, surface impoundment, waste pile, land treatment unit, incinerator, injection well, tank, container storage area, wastewater treatment unit, elementary neutralization unit, or recycling unit.

### **1.5 DUTIES AND REQUIREMENTS**

#### 1.5.1 Duty to Comply

The Permittee shall comply with all conditions of this Permit, except that the Permittee need not comply with the conditions of this Permit to the extent and for the duration such noncompliance is authorized by an Emergency Permit (see 40 CFR 270.61). Any Permit noncompliance, except under the terms of an Emergency Permit, constitutes a violation of the appropriate Act and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a Permit renewal application. *[40 CFR 270.30(a)]*

#### 1.5.2 Compliance Schedule

Any schedule of compliance established subsequent to the issuance of this Permit; it shall be adopted by reference as a condition of Permit compliance, as if fully set forth herein.

#### 1.5.3 Duty to Reapply

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least 180 days prior to this Permit's expiration. *[40 CFR 270.10(h) and 270.30(b)]*

#### 1.5.4 Permit Expiration

Pursuant to NRS 459.520(4), this Permit shall be effective for a fixed term not to exceed five (5) years. As long as the NDEP is the Permit-issuing authority, this Permit and all conditions herein shall remain effective beyond the expiration date, if the Permittee has submitted a timely, complete application (40 CFR 270.10, 270.13 through 270.29) and, through no fault of the Permittee, the Director has not issued a new Permit, as set forth in 40 CFR 270.51.

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1.5.5 Need to Halt or Reduce Activity not a Defense

It shall not be a defense for the Permittee, in an enforcement action, that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Permit. *[40 CFR 270.30(c)]*

1.5.6 Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures, as are reasonable, to prevent significant adverse impacts on human health or the environment. *[40 CFR 270.30(d)]*

1.5.7 Proper Operation and Maintenance

The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this Permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the Permit. *[40 CFR 270.30(e)]*

1.5.8 Permit Actions

This Permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any Permit condition. *[40 CFR 270.30(f)]*

1.5.9 Property Rights

This Permit does not convey any property rights of any sort, nor any exclusive privilege. *[40 CFR 270.30(g)]*

1.5.10 Duty to Provide Information

The Permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Director, upon request, copies of records required to be kept by this Permit. *[40 CFR 264.74(a) and 270.30(h)]*

1.5.11 Inspection and Entry

The Permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents, as may be required by law, to: *[40 CFR 270.30(i)]*

1. Enter at reasonable times upon the Permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Permit;

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2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Permit;
3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Permit; and
4. Sample or monitor, at reasonable times, for the purposes of assuring Permit compliance or as otherwise authorized by RCRA, any substances or parameters at any location.

### 1.5.12 Monitoring and Records

1.5.12.1 Samples and measurements taken for monitoring shall be representative of the monitored activity. The method used to obtain a representative sample of the waste to be analyzed must be the appropriate method from Appendix I of 40 CFR Part 261 or an equivalent method approved by the Director. Laboratory methods must be those specified in the current edition (and its current update) of EPA manual SW-846: Test Methods for Evaluating Solid Waste, Physical/Chemical Methods – Standard Methods of Wastewater Analysis or an equivalent method. *[40 CFR 270.30(j)(1)]*

1.5.12.1.1 Both groundwater and soil samples for regulatory monitoring and remedial efforts must be sent to a Nevada-certified laboratory for analyses. As a permitted hazardous waste management facility, the on-site laboratory is not required to be state-certified if the laboratory is solely utilized for the purposes of on-site management of wastes. *[NRS 445A.425 and 445A.427]*

1.5.12.2 The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Permit, the certification required by 40 CFR 264.73(b)(9), and records of all data used to complete the application for this Permit, for a period of at least 3 years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Director at any time and is automatically extended during the course of any unresolved enforcement action regarding the facility. The Permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility. *[40 CFR 264.74(b) and 270.30(j)(2)]*

1.5.12.3 Records for monitoring information shall include: *[40 CFR 270.30(j)(3)]*

1. The date(s), exact place(s), and time(s) of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

### 1.5.13 Signatory Requirements

All applications, reports, or information submitted to or requested by the Director, a designee, or

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authorized representative, shall be signed and certified in accordance with 40 CFR 270.11.

*[40 CFR 270.30(k)]*

#### 1.5.14 Reporting Requirements

##### 1.5.14.1 Reporting Planned Changes

The Permittee shall give notice to the Director, as soon as possible, of any planned physical alterations or additions to the permitted facility.

*[40 CFR 270.30(l)(1)]*

##### 1.5.14.2 Reporting Anticipated Noncompliance

The Permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity, which may result in noncompliance with Permit requirements.

*[40 CFR 270.30(l)(2)]*

##### 1.5.14.3 Certification of Construction or Modification

The Permittee may not commence treatment or storage of hazardous waste in any modified portion of the facility until:

1. The Permittee has submitted to the Director, by certified mail or hand delivery, a letter signed by the Permittee and a qualified Professional Engineer stating that the facility has been constructed or modified in compliance with the Permit; and

*[40 CFR 270.30(l)(2)(i)]*

2. (A) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the Permit; or

*[40 CFR 270.30(l)(2)(ii)(A)]*

- (B) Within fifteen (15) calendar days of the date of submission of the letter in Permit Section 1.5.14.3.1 of this Permit, if the Permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the Permittee may commence treatment, storage, or disposal of hazardous waste.

*[40 CFR 270.30(l)(2)(ii)(B)]*

##### 1.5.14.4 Transfer of Permits

This Permit is not transferable to any person, except after notice to the Director. The Director may require modification or revocation and reissuance of the Permit to change the name of the Permittee and incorporate such other requirements as may be necessary under RCRA. Before transferring ownership or operation of the facility during its operating life (or during its post-closure period, if applicable), the Permittee shall notify the new owner or operator, in writing, of the requirements of 40 CFR 264 and 270, NAC 444.842 through 444.8746, NAC 444.960, and this Permit.

*[40 CFR 270.30(l)(3), 40 CFR 270.40 and 40 CFR 264.12(c)]*

##### 1.5.14.5 Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this Permit, or as required by a compliance schedule issued pursuant to Permit Condition 1.5.2.

*[40 CFR 270.30(l)(4)]*

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#### 1.5.14.6 Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Permit or issued as an enforcement action, shall be submitted no later than fourteen (14) calendar days following each schedule date. *[40 CFR 270.30(l)(5)]*

#### 1.5.14.7 Twenty-Four Hour Reporting

1.5.14.7.1 The Permittee shall report to the Director any noncompliance which may endanger human health or the environment. Any such information shall be reported orally within twenty-four (24) hours from the time the Permittee becomes aware of the circumstances. This includes any fire, explosion, incident resulting in a fatality or personnel injuries requiring offsite medical treatment, or spillage of hazardous waste in quantities greater than 55-gallons at or near a permitted unit or other hazardous waste management area, even if there is no apparent threat to human health or the environment. The report shall include the following:

1. Information concerning a release of any hazardous waste that may cause an endangerment to public drinking water supplies;
2. Any information of a release or discharge of hazardous waste, or of a fire or explosion from the hazardous waste management facility, which could threaten the environment or human health. *[40 CFR 270.30(l)(6)(i)]*
3. Incidents and releases which may endanger human health or the environment, and spills in excess of Reportable Quantities, shall be reported directly to the NDEP Reporting Hotline at (888) 331-6337 or (775) 687-9485 or online at <https://nevadaenvironmentalactivities.ndep.nv.gov/Spill/ReportForm.aspx>.

1.5.14.7.2 The description of the occurrence and its cause shall include:

1. Name, address, and telephone number of the owner or operator;
2. Name, address, and telephone number of the facility;
3. Date, time, and type of incident;
4. Name and quantity of material(s) involved;
5. The extent of injuries, if any;
6. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
7. Estimated quantity and disposition of recovered material that resulted from the incident. *[40 CFR 270.30(l)(6)(ii)]*

1.5.14.7.3 A written submission shall also be provided within five days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period(s) of noncompliance (including exact dates and times); and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five-day written notice requirement in favor of a written report within fifteen (15) days. *[40 CFR 270.30(l)(6)(iii)]*

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- 1.5.14.7.4 In the event of a release to the environment, the Permittee shall submit a report to the Director within thirty (30) days of the detection of the release. Releases of one (1) pound or less that are immediately contained and cleaned up need not be reported. The report shall contain the following information: *[40 CFR 264.196(d)(3)]*
1. Likely route of migration of the release;
  2. Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);
  3. Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, these data must be submitted to the Director as soon as they become available;
  4. Proximity to downgradient drinking water, surface water, and populated areas; and
  5. Descriptions of response actions taken or planned.
- 1.5.14.8 **Manifest Discrepancy Report**  
If a significant discrepancy in a manifest is discovered, the Permittee must attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the Permittee must submit a letter report, including a copy of the manifest, to the Director. (See 40 CFR 264.72) *[40 CFR 270.30(l)(7)]*
- 1.5.14.9 **Unmanifested Waste Report**  
This report must be submitted to the Director within fifteen (15) calendar days of receipt of unmanifested waste. (See 40 CFR 264.76) *[40 CFR 270.30(l)(8)]*
- 1.5.14.10 **Biennial Report**  
A Biennial Report must be submitted by March 1<sup>st</sup> of each even numbered year, covering facility activities during the previous calendar year and the information in 40 CFR 264.75. *[40 CFR 270.30(l)(9)]*
- 1.5.14.11 **Other Noncompliance**  
The Permittee shall report all instances of noncompliance not otherwise required to be reported above. Any such information shall be reported orally within 24-hours from the time the Permittee becomes aware of the circumstances. A written report shall be submitted within fifteen (15) days and shall contain the information listed in Permit Condition 1.5.14.7. *[40 CFR 270.30(l)(10)]*
- 1.5.14.12 **Other Information**  
Whenever the Permittee becomes aware that they failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the Permittee shall promptly submit such facts or information. *[40 CFR 270.30(l)(11)]*
- 1.5.15 **Information Repository**  
The Permittee shall maintain the information repository created in support of all Permit applications, renewals and modifications pursuant to 40 CFR 124.33(c) through (f) for the life of

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the facility.

[40 CFR 270.30(m)]

**1.6 REPORTS, NOTIFICATIONS, AND SUBMISSIONS TO THE DIRECTOR**

All reports, notifications, or other submissions required by this Permit must be sent to the addressee shown below and must be **received by** the specified due date:

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RCRA Permitting Branch Supervisor  
 Bureau of Sustainable Materials Management  
 Nevada Division of Environmental Protection  
 901 S. Stewart Street, Suite 4001  
 Carson City, NV 89701-5249

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Submittals which are not received within ten (10) days after the specified due date will be considered an instance of noncompliance with applicable conditions of this Permit, unless the Permittee can demonstrate (e.g., certified mail receipt, etc.) that the submittal was sent in a timely manner and that failure of deliverables to arrive on schedule was beyond control of the Permittee.

**1.7 CONFIDENTIAL INFORMATION**

In accordance with 40 CFR 270.12, the Permittee may claim confidential, any information required to be submitted by this Permit.

**1.8 DOCUMENTS TO BE MAINTAINED AT THE FACILITY**

The Permittee shall maintain at the facility, until closure is completed and certified by an independent qualified Professional Engineer, the following documents and all amendments, revisions and modifications to these documents:

1. Waste Analysis Plan, as required by 40 CFR 264.13 and this Permit;
2. Inspection Schedules, as required by 40 CFR 264.15(b)(2) and this Permit;
3. Personnel Training Documents and Records, as required by 40 CFR 264.16(d) and this Permit;
4. Contingency Plan, as required by 40 CFR 264.53(a) and this Permit;
5. Operating Record, as required by 40 CFR 264.73 and this Permit;
6. Closure Plan, as required by 40 CFR 264.112(a) and this Permit;
7. Annually-adjusted cost estimate for facility closure, as required by 40 CFR 264.142(d) and this Permit;
8. Information Repository, as required by 40 CFR 270.30(m) and this Permit;
9. All Groundwater Monitoring Records, inclusive of installation details for all wells, as required by this Permit or otherwise;
10. Corrective Action Plans and Reports;
11. All instances of implementation of the Contingency Plan;
12. All correspondence between the Division and the facility related to changes or modifications to this Permit or notifications of noncompliance and all inspection reports; and
13. Unusual Occurrence Reports (examples: all manifest discrepancies, deficiencies found as



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a result of an inspection, all releases whether contained by secondary containment or not, all injuries to personnel, all activations of the alarm system, any noncompliance with this Permit, etc.).

**1.9 PERMIT COMPLIANCE SCHEDULES**

Refer to specific sections of this Permit for any compliance schedules established by the Director.

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**2. SUMMARY**

The Permittee is required to operate the facility consistent with the accepted practices detailed in this and other sections of this Permit and the corresponding Permit Application in order to minimize the possibility of releases to the environment or harm to either employees or the public at large.

**2.1 DESIGN AND OPERATION OF FACILITY**

The Permittee shall construct, maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned, sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, as required by 40 CFR 264.31 and in accordance with the management practices and procedures specified in the permit application.

The staging of inbound and outbound trucks containing hazardous waste must always be within the designated paved or concrete areas shown in Figure D1-2d of the Permit Application. No trailers containing hazardous waste are to be staged on the dirt or non-paved areas. Incoming trailers may be staged on the designated pad for up to twelve (12) days.

**2.2 REQUIRED NOTICES**

**2.2.1 Hazardous Waste Imports**

The Permittee shall notify the Director in writing at least four (4) weeks in advance of the date the Permittee expects to receive hazardous waste from a foreign source, as required by 40 CFR 264.12(a). Notice of subsequent shipments of the same waste from the same foreign source is not required. *[40 CFR 264.12(a)]*

**2.2.2 Hazardous Waste from Off-Site Sources**

When the Permittee is to receive hazardous waste from an off-site source (except where the Permittee is also the generator), the Permittee must inform the generator in writing that they have the appropriate Permit(s) for, and will accept, the waste the generator is shipping. The Permittee must keep a copy of this written notice as part of the operating record. *[40 CFR 264.12(b)]*

**2.3 GENERAL WASTE ANALYSIS**

The Permittee shall comply with the waste analysis requirements of 40 CFR 264.13, follow the Waste Analysis Plan procedures of Permit Application Section C2.0 and the Quality Assurance Plan procedures of Permit Application Appendix C-2, and the conditions listed below:

**2.3.1** The Permittee shall verify the analysis of each waste stream annually as part of its quality assurance program, in accordance with Test Methods for Evaluating Solid Waste: Physical/Chemical Methods, EPA Publication SW-846 or an equivalent method, as specified in the Waste Analysis Plan and approved by the Director. At a minimum, the Permittee shall maintain proper functional instruments, use approved sampling and analytical methods, verify the validity of sampling and analytical procedures, and perform correct calculations. If the Permittee uses a contract laboratory

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to perform analyses, then the Permittee shall inform the laboratory in writing that it must use analytical methods and operate under the waste analysis conditions set forth in this Permit.

#### **2.4 SECURITY**

The Permittee shall comply with the security provisions of 40 CFR 264.14 and the Security Procedures in Permit Application Section F 1.0 (Security Procedures and Equipment).

#### **2.5 GENERAL INSPECTION REQUIREMENTS**

The Permittee shall comply with the Inspection Plan requirements of 40 CFR 264.15 and follow the Inspection Plan procedures in Permit Application Section F 2.0 (Inspection Plan). The Permittee shall remedy any deterioration or malfunction discovered by an inspection, as required by 40 CFR 264.15(c). Records of all inspections shall be kept, as required by 40 CFR 264.15(d).

#### **2.6 PERSONNEL TRAINING**

The Permittee shall conduct personnel training, as required by 40 CFR 264.16. This training program shall follow the outline in Permit Application Section H (Training Matrix Table H4-1), and maintain training documents and records, as required by 40 CFR 264.16(d) and (e).

##### 2.6.1 Training Program

##### 2.6.1.1 Facility Personnel

Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Permit. The Permittee must ensure that this program includes all the elements described in the document required under 40 CFR 264.16(d)(3).

*[40 CFR 264.16(a)(1)]*

##### 2.6.1.2 Instructor Qualifications

The training program must be directed by a person trained in hazardous waste management procedures.

*[40 CFR 264.16(a)(2)]*

##### 2.6.1.3 Training Content

The training program must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

*[40 CFR 264.16(a)(2)]*

##### 2.6.1.4 Emergency Response

2.6.1.4.1 At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, where applicable:

*[40 CFR 264.16(a)(3)]*

1. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

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2. Key parameters for automatic waste feed cut-off systems;
3. Communications or alarm systems;
4. Response to fires or explosions;
5. Response to groundwater contamination incidents; and
6. Shutdown of operations.

2.6.1.4.2 For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this Permit Section, provided that the overall facility training meets all the requirements of this Permit. *[40 CFR 264.16(a)(4)]*

#### 2.6.2 Training Schedule

Facility personnel must successfully complete the program required in Permit Condition 2.6.1 within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Newly hired employees must not work in unsupervised positions until they have successfully completed the training requirements in Permit Conditions 2.6.1.1 through 2.6.1.4, above. *[40 CFR 264.16(b)]*

#### 2.6.3 Annual Review

Facility personnel must take part in an annual review of the initial training required in Permit Condition 2.6.1, above. *[40 CFR 264.16(c)]*

#### 2.6.4 Documentation

The Permittee must maintain the following documents and records at the facility:

*[40 CFR 264.16(d)]*

1. The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;
2. A written job description for each position listed under (1), above. This description may be consistent in its degree of specificity with descriptions of other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;
3. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under (1), above; and
4. Records that document that the training or job experience required under Permit Conditions 2.6.1, 2.6.2 and 2.6.3, above, has been given to, and completed by, facility personnel.

#### 2.6.5 Recordkeeping

Training records on current personnel must be kept until closure of the facility; training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company. *[40 CFR 264.16(e)]*

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## **2.7 SPECIAL PROVISIONS**

### 2.7.1 Special Provisions for Ignitable, Reactive, or Incompatible Waste

The Permittee shall comply with the requirements of 40 CFR 264.17 and follow the procedures for handling ignitable, reactive, and incompatible wastes set forth in Permit Application Section F 5.0. *[40 CFR 264.17]*

### 2.7.2 Special Provisions for State-Hazardous Waste

2.7.2.1 The Permittee shall manage all waste that is designated as hazardous waste in the state of its origin (e.g., California) [See NAC 444.843.2(c)] as hazardous waste. This shall be done in accordance with the terms of this permit, upon acceptance, when brought to the facility and during storage and/or treatment while at the facility.

2.7.2.2 Waste originally designated as hazardous waste in its state of origin shall be manifested as hazardous waste when shipped offsite, unless it has been treated at the facility and is demonstrated to be non-hazardous through subsequent waste determination.

## **2.8 RESTRICTED WASTES**

The Permittee is not authorized to receive, treat, store, dispose of, or otherwise manage the following:

1. Waste that is not identified in:
  - (a) Permit Section 3.3;
  - (b) Permit Section 4.1;
  - (c) Permit Section 5.1; or
  - (d) Permit Section 6.2;
2. Any radioactive material that is not exempt from regulation and licensing or is not expressly authorized for storage or treatment under this Permit, or any radioactive or nuclear waste material which requires specific licensing or permitting under any other rules of state or federal authorities for disposal or transshipment;
3. Class 1, Division 1.1 or 1.2, or forbidden explosives (49 CFR 173.50), or any explosive material, as defined by USDOT under 49 CFR 173;
4. Chemical Munitions, Biological Agents, Etiological Agents or infectious wastes;
5. Any material with PCBs greater than 50 ppm;
6. Any material with pH >14; or
7. The hazardous waste prohibitions as described in:
  - (a) Permit Section 3.3;
  - (b) Permit Section 4.1.2;
  - (c) Permit Sections 5.1.2; or
  - (d) Permit Section 6.2.

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## **2.9 PREPAREDNESS AND PREVENTION**

### **2.9.1 Required Equipment**

At a minimum, the Permittee shall maintain at the facility the equipment required by 40 CFR 264.32 and set forth in the Contingency Plan (Permit Application Section G) and Equipment Requirements (Permit Application Section F3.1).

### **2.9.2 Testing and Maintenance of Equipment**

The Permittee shall test and maintain the equipment specified in Permit Condition 2.9.1, as necessary, to assure its proper operation in time of emergency (see inspection schedules in Tables F2-1 through F2-6 of the Permit Application), as required by 40 CFR 264.33.

### **2.9.3 Access to Communications or Alarm System**

2.9.3.1 Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee. *[40 CFR 264.34(a)]*

2.9.3.2 If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance. *[40 CFR 264.34(b)]*

### **2.9.4 Required Aisle Space**

The Permittee shall maintain a minimum aisle space of at least three (3) feet between rows of waste containers, as described in Section F3.2 of the Permit Application, to facilitate inspections and the movement of emergency equipment and personnel. *[40 CFR 264.35]*

### **2.9.5 Arrangements with Local Authorities**

The Permittee shall maintain, as required by 40 CFR 264.37, the arrangements with State and local authorities described in Permit Application Section G7.0 (Coordination Agreements). If any State or local officials refuse to enter into such arrangements, the Permittee must document the refusal in the Operating Record. *[40 CFR 264.37]*

## **2.10 CONTINGENCY PLAN**

The Permittee must have a Contingency Plan for the facility which is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste. *[40 CFR 264.51(a)]*

### **2.10.1 Implementation of Plan**

The Permittee shall immediately carry out the provisions of the RCRA Contingency Plan, Permit Application Section G, whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents, which could threaten human health or the environment. *[40 CFR 264.51(b)]*

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### 2.10.2 Copies of Plan

A copy of the Contingency Plan and all revisions to the plan must be: *[40 CFR 264.53]*

1. Maintained at the facility; and
2. Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

### 2.10.3 Amendments to Plan

*[40 CFR 264.54]*

The Contingency Plan must be reviewed, and immediately amended, if necessary, whenever:

1. The facility Permit is revised;
2. The plan fails in an emergency;
3. The facility changes – in its design, construction, operation, maintenance, or other circumstances – in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents;
4. Changes the response necessary in an emergency;
5. The list of emergency coordinators changes; or
6. The list of emergency equipment changes.

### 2.10.4 Emergency Coordinator

2.10.4.1 A qualified emergency coordinator shall be available at all times in case of an emergency, as required by 40 CFR 264.55. *[40 CFR 264.55]*

2.10.4.2 The Emergency Coordinator shall comply with the emergency procedures described in 40 CFR 264.56 and Section G2.0 (Emergency Coordinator Responsibilities) of the Permit Application. *[40 CFR 264.56]*

## 2.11 **MANIFEST SYSTEM**

The Permittee shall comply with the manifest requirements of 40 CFR 264.71, 264.72, 264.76, and NAC 444.8666(1)<sup>i</sup>, and follow the procedures in Permit Application Section B8.0 (Manifest System), consistent with: *[40 CFR 264.71(a)(2) and 264.72]*

1. Signing and dating each copy of the manifest to certify that the hazardous waste covered by the manifest was received<sup>ii</sup>;
2. Noting any significant discrepancies in the manifest, as defined below, on each copy of the manifest:
  - (a) Waste Types - Manifest discrepancies between the type of hazardous waste designated on the manifest or shipping paper and the type of hazardous waste the facility actually receives; or obvious differences which can be discovered by inspection or waste

<sup>i</sup> Compliance with EPA's new Hazardous Waste Electronic Manifest (e-Manifest) System and User Fee Final Rule [\[https://www.gpo.gov/fdsys/pkg/FR-2018-01-03/pdf/2017-27788.pdf\]](https://www.gpo.gov/fdsys/pkg/FR-2018-01-03/pdf/2017-27788.pdf) is required.

<sup>ii</sup> [Comment: The Division does not intend that the Permittee (who performs procedures under 40 CFR 264.13(c)) perform that analysis before signing the manifest and returning it to the transporter. 40 CFR 264.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.]

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analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper; or

- (b) Waste Quantities - For bulk waste, variations greater than ten (10) percent in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload.
- 3. Immediately giving the transporter at least one copy of the signed manifest;
- 4. Within thirty (30) days after the delivery, sending a copy of the manifest to the generator;
- 5. Retaining at the facility a copy of each manifest for at least three years from the date of delivery; and
- 6. Complying with the manifest discrepancies requirements of 40 CFR 264.72 by reconciling the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within fifteen (15) days after receiving the waste, the Permittee must immediately submit to the Director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper.

## **2.12 RECORDKEEPING AND REPORTING**

In addition to recordkeeping, reporting, and fee requirements specified elsewhere in this Permit, the Permittee shall do the following:

### 2.12.1 Operating Record

2.12.1.1 The Permittee shall maintain a written operating record at the facility in accordance with Permit Application Section C2.8 (Recordkeeping and Waste Tracking) and as required by 40 CFR 264.73. *[40 CFR 264.73]*

2.12.1.2 The Permittee shall maintain at the facility copies of waste minimization documents required in Permit Section 8 and shall make them available to any authorized representative of the Division or USEPA conducting an inspection. *[40 CFR 264.74]*

### 2.12.2 Quarterly Volume Reports and Fees

The Permittee shall submit to the Director a detailed quarterly volume fee breakdown report along with the quarterly fees due and the e-payment receipt within thirty (30) days after the end of each calendar quarter. *[NAC 444.8452]*

### 2.12.3 Annual Operating Fee

The Permittee shall, on or before March 1<sup>st</sup> of each year, pay to the Division the annual operating fee. *[NAC 444.845]*

### 2.12.4 Annual Report

In addition to complying with the biennial reporting requirements of 40 CFR 264.75, the Permittee shall prepare and submit an Annual Report to the Director by March 1<sup>st</sup> of each year with the following information:

- 1. The facility's EPA identification number, name and address;
- 2. The calendar year covered by the report;
- 3. For each waste stream received by the Permittee during the previous calendar year:



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- a. The EPA identification number of each generator from which a waste stream was received;
- b. A description and quantity (in tons and cubic feet); and
- c. The methods of treatment and storage;
4. The most recent closure cost estimate (including summary of cost for each unit);
5. A description of the waste minimization efforts undertaken during the previous year to reduce the volume and toxicity of wastes generated by the Permittee, including a description of the changes in volume and toxicity of waste actually achieved during the year, in comparison to previous years;
6. Unusual occurrence reports covering all rejected shipments during the year;
7. The results of tank integrity assessments and certifications completed during the year; and
8. A certification statement signed by the facility manager or an authorized representative.
9. Reports, as applicable, required under:
  - a. 40 CFR 264.1036 pertaining to all process vents subject to Subpart AA standards;
  - b. 40 CFR 264.1065 pertaining to all equipment subject to Subpart BB standards;
  - c. 40 CFR 264.1090 pertaining to all tanks, surface impoundments and containers subject to Subpart CC standards.

#### 2.12.5 Biennial Reports

The Permittee shall comply with the reporting requirements of 40 CFR 264.75 by submitting a report to the Division by March 1<sup>st</sup> of each even numbered year for the previous operating year.

### 2.13 **GENERAL CLOSURE REQUIREMENTS**

#### 2.13.1 Performance Standard

The Permittee shall close the facility, as required by 40 CFR 264.111 and in accordance with the approved Closure Plan in the Permit Application Section I (Closure Plan and Cost Estimates).

#### 2.13.2 Amendment to Closure Plan

The Permittee shall submit a written request for a permit modification, as described in 40 CFR 264.112(c), for any changes in the approved closure plan. *[40 CFR 264.112(c)]*

#### 2.13.3 Notification of Closure

The Permittee shall notify the Director in writing at least sixty (60) days prior to the date on which the facility expects to begin partial or final closure of the facility and must fulfill the requirements of 40 CFR 264.112(d).

#### 2.13.4 Time Allowed for Closure

After receiving the final volume of hazardous waste in any or all of the regulated units, the Permittee shall treat and remove from the unit or facility, all hazardous wastes and shall complete closure activities, in accordance with 40 CFR 264.113 and the schedules specified in Permit Application Section I, as determined by the Director.

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**2.13.5 Disposal or Decontamination of Equipment, Structures, and Soils**

The Permittee shall decontaminate or ship offsite all contaminated equipment, structures, and soils, as required by 40 CFR 264.114 and the approved Closure Plan in Permit Application Section I. In the event that not all structures, soil and equipment can be decontaminated or shipped offsite, the Permittee shall provide post-closure care in accord with 40 CFR 264 Subpart G.

**2.13.6 Certification of Closure**

The Permittee shall certify that a portion or all of the facility has been closed in accordance with the specifications in the approved Closure Plan (Permit Application Section I) and as required by 40 CFR 264.115.

**2.14 FINANCIAL REQUIREMENTS FOR FACILITY CLOSURE**

The Permittee shall comply with the conditions in Permit Section 14 for financial assurance requirements and cost estimates.

**2.15 LIABILITY REQUIREMENTS**

The Permittee shall demonstrate continuous compliance with the requirements of 40 CFR 264.147(a) and (b), and with Permit Section 14.

**2.16 INCAPACITY OF OWNERS OR OPERATORS, GUARANTORS, OR FINANCIAL INSTITUTIONS**

The Permittee shall comply with 40 CFR 264.148, whenever necessary.

**2.17 COMPLIANCE SCHEDULE**

	<b>Task</b>	<b>Date Due</b>
1	<i>Update Figure DI-2d of the Permit Application to include the Aerosol Processing Unit (APU).</i>	TBD 30 Days from issuance of permit revision
2	<i>Update Section C Waste Analysis Plan for current operations and proposed APU per 40 CFR 264.13.</i>	TBD 30 Days from issuance of permit revision

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**3. SUMMARY**

The Permittee is allowed to store waste in containers subject to the terms and conditions of this Permit, as described in this Section. Containers of hazardous waste are managed in the permitted areas noted in Section D1.0 (Containers) of the Permit Application. Containerized wastes, both liquids and solids, are accepted and stored while awaiting treatment and/or shipment off-site to other permitted facilities. Consolidation of compatible wastes into larger containers is allowable in the Lab Pack and Solids Receiving Rooms. No treatment of waste in containers is permitted. The storage areas and specific management requirements of each area are specified below, and in the respective sections of the Permit Application.

**3.1 CONTAINER STORAGE**

The container storage areas are identified in Section D1.3 (Container Storage Units) of the Permit Application and summarized in Table 3.3. The actual locations of these container storage areas can be seen in Figure D1-2 of the Permit Application. The maximum amount and type of wastes that may be handled are discussed below, in Permit Condition 3.3.

The Permittee shall not place or store containers holding liquids of any type in a storage area that does not meet the secondary containment requirements of 40 CFR 264.175(b). Additionally, the Permittee shall not store hazardous waste in containers of any type that are not impervious to weather exposure (i.e. cardboard boxes), unless such containers are placed within a permitted storage area which is enclosed or otherwise appropriately sheltered from exposure to wind, sun and meteoric precipitation. For any storage area which lacks a protective cover, the Permittee shall not place or store hazardous waste in impervious containers (i.e. cardboard boxes) other than roll-off bins. Upon receipt, all oxidizers shall be sent directly into treatment tanks at the facility to the extent possible. When necessary (e.g., for unexpected or discrepant waste), solid-phase oxidizers may be temporarily stored in the oxidizer locker located at the East Container Storage Area while waiting for appropriate treatment and/or disposal. Storage of liquid oxidizers is only permitted within the Truck Bay and the West Pad storage area.

The Permittee shall maintain compliance with all local, county, regional or other code and/or permit requirements related to the permitted facility, including those issued by the North Lyon County Fire Protection District.

**3.2 CONTAINER-SPECIFIC INFORMATION TO BE MAINTAINED AT THE FACILITY**

The Permittee shall maintain at the facility the following container-specific documents and information, including all amendments, revisions and modifications to these documents and information. These documents shall be maintained until closure is completed for all container storage areas, and certified by a qualified Professional Engineer.

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3.2.1 A description of the containment systems showing the following:

1. Basic design parameters, dimensions, and materials of construction;
2. How the design promotes drainage, or how containers are kept from contact with standing liquids in the containment system;
3. Capacity of the containment system, relative to the number and volume of containers to be stored;
4. Provisions for preventing or managing run-on; and
5. How accumulated liquids can be analyzed and removed to prevent overflow.

3.2.2 For container storage areas holding wastes that do not contain free liquids, the Permittee shall maintain the following documentation onsite:

1. Test procedures and results, or other documentation or information, to show that the wastes do not contain free liquids;
2. A description of how the storage area is designed or operated to drain and remove liquids, or how containers are kept from contact with standing liquids;
3. Sketches, drawings, or data demonstrating compliance with 40 CFR 264.176 (location of buffer zone (15m or 50ft)) and containers holding ignitable or reactive wastes and 40 CFR 264.177(c) (location of incompatible wastes in relation to each other), where applicable; and
4. Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 40 CFR 264.177(a) and (b), and 264.17.

### **3.3 PERMITTED AND PROHIBITED WASTE IDENTIFICATION**

3.3.1 The Permittee shall only accept the hazardous wastes identified in Part A of the Permit Application, and as detailed in Permit Application Sections D1.2, D1.3 and D1.4, for the purposes of container storage at the facility, subject to the terms and limitations of this Permit.

*[See also NAC 444.843]*

3.3.2 The Permittee may accept hazardous waste for storage in the container storage areas, as shown in Table 3.3, below, and Figures D1-2, D1-2a, D1-2b, D1-2c, and D1-3, and Table D1-1 of the Permit Application. Additionally, the Permittee may accept hazardous waste for storage in the container storage areas as shown in Table 3-1 2023 Permit Revision Applications.

3.3.2.1 The Permittee is prohibited from treating waste in containers. Treatment is defined as "...any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume". Treatment does not include the addition of absorbent for incidental liquids. *[40 CFR 260.10]*

**Table 3.3**

Container Storage Area	Container Storage Units	Maximum Volume	Maximum Number of Containers	Waste Codes	Summary Restrictions
1	Truck Bay Container Storage Area	58,850 gallons	1,070 55-gallon drums	Table D1-1 <sup>i</sup>	500ppmVOC &/or 10,000ppm TOC
	Acids	45,980 gallons <b>Western half and Northwestern portion of the Truck Bay</b>	836 55-gallon drums		
	Cyanide/Alkaline	12,870 gallons <b>Southeastern portion of the Truck Bay</b>	234 55-gallon drums		
2	West Pad Container Storage Area <sup>ii</sup>	86,460 gallons	1,572 55-gallon drums	Table D1-1	Fire code segregation
	Cell A	12,100 gallons	220 55-gallon drums		
	Cell B	12,100 gallons	220 55-gallon drums		
	Cell C	12,100 gallons	220 55-gallon drums		
	Cell D/E	27,060 gallons	492 55-gallon drums		
	Check-in	23,100 gallons	420 55-gallon drums		

<sup>i</sup> Table in Part B Permit Application.

<sup>ii</sup> Cells are defined on Page 8 of the Secondary Containment Calculations for West Pad Container Storage Area in Appendix D-3 in the Part B Permit Application. Hazardous waste cannot be stored outside of the cells. Hazardous waste containers that are being actively loaded and/or unloaded for same-day shipment or check-in may be temporarily staged outside of the cells (only on paved areas) as long as they are in the presence of personnel working with the containers.

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Container Storage Area	Container Storage Units	Maximum Volume	Maximum Number of Containers	Waste Codes	Summary Restrictions
3	East Container Storage Area <sup>iii</sup>	180,950 gallons	3,290 55-gallon drums or 17 50 yd <sup>3</sup> roll off bins	Table D1-1	Solids only [F020, F021, F022, F023, F026 or F027 waste will not be stored in this area]
4	East Pad Container Storage Area	126,720 gallons	2,304 55-gallon drums	Table D1-1	Fire code segregation; oxidizers in Oxidizer Locker
5	Lab Pack Room and Solids Receiving Area <sup>iv</sup>			Table D1-1	F020, F021, F022, F023, F026 or F027 waste must be placed on secondary containment pallets
	Lab Pack Room	4,180 gallons	40 55-gallon drums (Lab/Loose Packs)  And  36 55-gallon drums (consolidated wastes)		Solids only  [Except for lab packs and/or liquid containers placed on secondary containment pallets]
	Solids Receiving Area	2,200 gallons	40 55-gallon drums  or  12 1-yd <sup>3</sup> boxes		Solids only  [Except for non-hazardous waste]

<sup>iii</sup> Organic waste being stored in the East Container Storage Area can only be stored in the area defined in Figure D1-2b of the Part B Permit Application.

<sup>iv</sup> Containers in the Lab Pack Room must be sorted and stored in the areas defined by Figure D1-2c of the Part B Permit Application. Compatibility of Lab Pack wastes must be verified prior to consolidation.

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Container Storage Area	Container Storage Units	Maximum Volume	Maximum Number of Containers	Waste Codes	Summary Restrictions
6	DEA Storage Area (in Crystallizer Room)	2,640 gallons	48 55-gallon drums	Table D1-1	
7	APU Building Container Storage Area	1,000 gallons	18 55-gallon drums or Totes not to exceed 1,000 gallons collectively	Table D1-1 and 2023 Revision Application Table 3-1	

- 3.3.3 The Permittee may store hazardous waste for up to one (1) year in the container storage units, as listed in Table 3.3, above. *[40 CFR 264.50]*
- 3.3.4 Aisle space shall be maintained, as noted in Permit Application Sections D1.2.3 (Container Storage Operations) and F3.2 (Aisle Space Requirements). Rows of containers shall be separated by a minimum aisle space of three (3) feet. Also, containers larger than or equal to five (5) gallons shall be stacked no more than two (2) high and containers less than five (5) gallons shall be stacked no more than three (3) high. *[40 CFR 264.35]*
- 3.3.5 The Permittee shall ensure that all wastes stored on the East Container Storage Areas will be visually inspected to ensure that there are no free liquids within containers unless the container is stored on a secondary containment pallet.
- 3.3.6 The Permittee shall not store any hazardous waste (whether accepted from off site or generated onsite) which contains free liquids, as determined by the Paint Filter Test (EPA method 9095 in SW 846), in an area that does not have RCRA secondary containment. *[40 CFR 264.175(c)]*
- 3.3.7 Any container of liquid hazardous waste shall be stored completely within the secondary containment area or within the secondary containment pallet, where permitted. *[40 CFR 264.175(c)]*
- 3.3.8 The Permittee shall not store any containers holding F020, F021, F022, F023, F026 or F027 in an area that does not have RCRA secondary containment. *[40 CFR 264.175(d)]*

**3.4 CONDITION OF CONTAINERS**

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent

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structural defects) or if it begins to leak, the Permittee shall transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of this Permit. *[40 CFR 264.171]*

**3.5 COMPATIBILITY OF WASTE WITH CONTAINERS**

The Permittee shall use a container made of or lined with materials which will not react with and are otherwise compatible with the hazardous waste to be stored. The hazardous waste will be stored so that the ability of the container to contain the waste is not impaired, in accordance with Table C2-5 (Sample/Container Compatibility) in the Permit Application. *[40 CFR 264.172]*

**3.6 MANAGEMENT OF CONTAINERS**

The Permittee shall keep all containers closed during storage, except when it is necessary to add or remove waste; and shall not open, handle, or store containers in a manner which may rupture the container or cause it to leak. The Permittee shall follow the container management practices described in Permit Application Section D1.2 (Container Management Practices). *[40 CFR 264.173]*

**3.7 INSPECTION SCHEDULES AND PROCEDURES**

The Permittee shall inspect all container areas in accordance with the Inspection Schedule described in Permit Application Section F2.0 (Inspection Plan), to detect leaking containers, improperly labeled containers, deterioration of containers and/or the containment system caused by corrosion and other factors. *[40 CFR 264.174]*

3.7.1 For containers subject to 40 CFR 264 Subpart CC, the Permittee shall comply with the inspection requirements in Permit Section 9.4.

**3.8 CONTAINMENT SYSTEMS**

The Permittee shall maintain the secondary containment systems for the Container Management Areas, as required by 40 CFR 264.175 and as detailed in the Permit Application Section D1.3.

**3.9 RECORDKEEPING**

3.9.1 The Permittee shall place the results of all waste analyses and inspections in the operating record. *[40 CFR 264.73(b)(3) and (5)]*

3.9.2 The Permittee must document compliance with 40 CFR 264.17(a) and (b), 264.176 and 264.177 in the facility operating record, as required by Permit Condition 2.12.1. *[40 CFR 264.17(c)]*

3.9.3 For containers subject to 40 CFR 264 Subpart CC, the Permittee shall comply with the recordkeeping requirements in Permit Section 9.5.



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### **3.10 SPECIAL CONTAINER PROVISIONS FOR IGNITABLE OR REACTIVE WASTE**

- 3.10.1 The Permittee shall not locate containers holding ignitable or reactive waste within fifty (50) feet (15 meters) of the facility's property line, as required by 40 CFR 264.176.
- 3.10.2 The Permittee shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste as required by 40 CFR 264.17 and 264.176, and follow the procedures specified in the Container Management Plan in Permit Application Section D1 (Containers).

### **3.11 SPECIAL CONTAINER PROVISIONS FOR INCOMPATIBLE WASTE**

- 3.11.1 The Permittee shall not place incompatible wastes or incompatible wastes and materials in the same container unless 40 CFR 264.17(b) is complied with. *[40 CFR 264.177(a)]*
- 3.11.2 The Permittee shall not place hazardous waste in an unwashed container that previously held an incompatible waste or material. *[40 CFR 264.177(b)]*
- 3.11.3 The Permittee shall completely segregate and separate containers of incompatible wastes or materials with a berm, fire wall or other acceptable means, and ensure separate secondary containment. The waste segregation shall comply with fire code requirements. The facility shall follow the procedures specified in Permit Application Section D1.4 (Ignitable, Reactive, and Incompatible Wastes in Containers). *[40 CFR 264.177(c)]*

### **3.12 CONTAINER LABELING REQUIREMENTS**

- 3.12.1 The Permittee must label all containers of hazardous waste placed into storage with the date the waste is accepted by the facility and the facility-tracking label within seventy-two (72) hours of acceptance, as described in Permit Application Section C2.0 (Waste Analysis Plan).
- 3.12.1.1 “Acceptance” is defined as the date and time the shipment arrives at the facility. The Permittee shall sign the manifest immediately upon arrival unless a discrepancy is noted, as defined in Permit Condition 2.11.
- 3.12.2 The Permittee must clearly label all containers of hazardous waste with: the words “Hazardous Waste;” the date the waste was placed into storage; the 40 CFR Part 261 EPA hazardous waste number assigned to the waste; and any State hazardous waste codes, for the state in which it was generated. *[40 CFR 262.30-262.32 and NAC 444.8671]*
- 3.12.3 All container hazardous waste labels must be legible and visible for inspection.

### **3.13 CLOSURE CARE**

Upon closure of any of container storage areas, the Permittee shall remove all hazardous waste and hazardous waste residues from the containment system and/or area as required by 40 CFR 264.178 and in accordance with the closure procedures in the Closure Plan (Permit Application Section I). *[40 CFR 264.178]*

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**3.14 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

<b>Task</b>		<b>Date Due</b>
1	<i>Reserved</i>	

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**4. SUMMARY**

The tank storage portion of the facility includes eleven (11) Acid Storage Tanks, six (6) Alkaline/Cyanide Storage Tanks, and two (2) Alkaline Storage Tanks, all located within the Tank Storage Bay; and seven (7) Post Treatment (storage and clarification of effluent) Tanks located in the Dewatering Room. The maximum amount and type of wastes that may be managed in each tank are discussed in Permit Condition 4.1. Each tank shall be equipped with an automatic safety cut-off valve, high-level alarm, and secondary containment. Details of the tank construction and controls are provided in Section D2 of the Permit Application. The tank layout can be seen in Figure D2-1 of the Permit Application. No waste with a concentration greater than 500 ppmw volatile organic compounds (VOCs) may be stored in tanks at this facility; thus, the storage tanks are not subject to 264 Subpart CC regulations.

*[NOTE: Other multiple tanks, designated as “treatment” tanks, are discussed in Permit Section 5.]*

**4.1 PERMITTED AND PROHIBITED WASTE IDENTIFICATION**

4.1.1 The Permittee may store in tanks any hazardous waste identified in Part A of the Permit Application in the tanks listed in Table 4.1 within the parameters outlined in Permit Application Section D2 (Tank Systems) and subject to the terms of this permit.

4.1.2 The Permittee is prohibited from storing in tanks any hazardous waste not identified in Permit Condition 4.1.1 and the following:

1. Any hazardous waste with codes not listed in Permit Application Table D2-1 and Table 4.1.
2. Hazardous waste containing 10 percent (100,000 ppmw) or more of Total Organic Carbon (TOC), as described in the Waste Analysis Plan, Permit Application Section C2.0.  
*[40 CFR 264.1050(b)]*
3. Hazardous waste containing 500 ppmw or more of VOCs at the point of waste origination.  
*[Permit Application Section F6.3.1, 40 CFR 264.1082(c)(1)]*

4.1.3 The Permittee may store a total volume of 185,300 gallons of hazardous waste in the tanks listed below, as identified in Table D2-3 of the Permit Application, subject to the terms of this Permit, and as follows:

**Table 4.1 – Storage Tanks**

<b>Tank ID Number</b>	<b>Waste Type</b>	<b>Secondary Containment Required</b>	<b>Permitted Volume [Gals]</b>
101	Acid	Yes	6,000
102	Acid	Yes	6,000
103	Acid	Yes	6,000
104	Acid	Yes	6,000
105	Acid	Yes	6,000

4.1.4

Tank ID Number	Waste Type	Secondary Containment Required	Permitted Volume [Gals]
106	Acid	Yes	6,000
107	Acid	Yes	6,000
108	Acid	Yes	6,000
109	Acid	Yes	6,000
110	Acid	Yes	6,000
111	Acid	Yes	6,000
201	Alkaline/Cyanide	Yes	6,000
202	Alkaline/Cyanide	Yes	6,000
203	Alkaline/Cyanide	Yes	6,000
204	Alkaline/Cyanide	Yes	6,000
205	Alkaline/Cyanide	Yes	6,000
206	Alkaline/Cyanide	Yes	6,000
207	Alkaline	Yes	6,000
208	Alkaline	Yes	6,000
301	Effluent <sup>i</sup>	Yes	7,400
302	Effluent	Yes	7,400
303	Effluent	Yes	12,500
304	Effluent	Yes	12,500
305	Effluent	Yes	12,500
306	Effluent	Yes	12,500
APU Tank	Liquid Waste from Aerosol Cans	Yes	660
<b>Total Volume =</b>			<b>179,460</b>

The Permittee may store hazardous wastes for up to one (1) year in any of the storage tanks listed in Table 4.1. *[40 CFR 268.50(b)]*

**4.2 SECONDARY CONTAINMENT AND INTEGRITY ASSESSMENTS**

4.2.1 The Permittee shall ensure that all ancillary equipment is supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction. *[40 CFR 264.192(e)]*

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<sup>i</sup> Post Treatment effluent from Tanks T-1 through T-5, the Evaporator and the Filter Press in the Dewatering Room.

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4.2.2 The Permittee shall design, construct and operate the secondary containment system(s) in accordance with the detailed descriptions contained in Permit Application Section D2.5 (Containment and Detection of Releases). *[40 CFR 264.193(a)-(f)]*

4.2.3 The Permittee shall submit the integrity assessments required under 40 CFR 264.192 to the Director prior to operation of any new tank system and whenever the tanks are re-evaluated.

### **4.3 OPERATING REQUIREMENTS**

4.3.1 The Permittee shall not place hazardous wastes in the tank system if they could cause the tank, its ancillary equipment, or a containment system to rupture, leak, corrode, or otherwise fail. *[40 CFR 264.194(a)]*

4.3.2 The Permittee shall prevent spills and overflows from the tank or containment systems using the methods described in Permit Application Section D2.2.3 (Waste Feed Systems and Safety Cutoffs). *[40 CFR 264.194(b)]*

4.3.3 The Permittee shall comply with Permit Application Sections D2.2 (Tank Operations and Management Practices) through D2.7 (Control Systems for Air Emissions from Tank Systems).

### **4.4 INSPECTION SCHEDULES AND PROCEDURES**

4.4.1 The Permittee shall inspect the tank systems in accordance with the Inspection Plan in Section F2.0 (Inspection Plan) and the Inspection Schedule in Table F2-5 of the Permit Application, shall complete the forms in Appendices F-1 and F-2 of the Permit Application, and complete the items in Permit Conditions 4.4.2 and 4.4.3 as part of those inspections. All completed inspections forms shall be maintained at the facility for at least three (3) years.

4.4.2 The Permittee shall inspect the overfill controls, in accordance with the schedule in Table F2-5 of the Permit Application. *[40 CFR 264.195(a)]*

4.4.3 The Permittee shall inspect the following components of the tank system at least once each day: *[40 CFR 264.195(b), (c) and (f)]*

1. Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges) to ensure that the tank system is being operated according to its design;
2. Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;
3. Construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous waste (e.g., wet spots); and
4. Ancillary equipment that is not provided with secondary containment, as described in 40 CFR 264.193(f)(1) through (4) to detect corrosion or releases of waste.

4.4.4 The Permittee shall document compliance with Permit Conditions 4.4.1 through 4.4.3 and place this documentation in the operating record for the facility. *[40 CFR 264.195(h)]*

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#### **4.5 RESPONSE TO LEAKS OR SPILLS**

4.5.1 In the event of a leak or a spill from the tank system or a secondary containment system, or if any portion of the system becomes unfit for continued use, the Permittee shall comply with Permit Application Section G3.0 (Implementation of the Contingency Plan), remove the system from service immediately, and complete the following actions: *[40 CFR 264.196]*

1. Immediately stop the flow of hazardous waste into the tank or secondary containment system and inspect the system to determine the cause of the release. *[40 CFR 264.196(a)]*
2. If the release is from the tank system, the Permittee must, within twenty-four (24) hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed. If the Permittee finds that it will not be possible to meet this time period, the Permittee shall notify the Director and demonstrate that a longer period is required. *[40 CFR 264.196(b)]*

If the release is to a secondary containment system, all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

3. Immediately contain releases to the environment, conduct a visual inspection of the release and, based upon that inspection, the Permittee shall: *[40 CFR 264.196(c)]*
  - (a) Prevent further migration of the leak or spill to soils or surface water; and
  - (b) Remove and properly dispose of any visible contamination of the soil or surface water.
4. If the collected material is a RCRA hazardous waste, the waste shall be managed in accordance with all applicable requirements of 40 CFR Parts 262-264. The Permittee shall note that if the collected material is discharged through a point source to waters of the U.S. or to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting, under 40 CFR Part 302.
5. Unless the Permittee satisfies the requirements of Permit Conditions 4.5.1 5(a) and 4.5.1 5(b), below, the tank system must be closed in accordance with Permit Condition 4.9. *[40 CFR 264.196(e)(1)]*
  - (a) For a release caused by a spill that has not damaged the integrity of the system, the Permittee may return the system to service as soon as the released waste is removed and repairs, if necessary, are made. *[40 CFR 264.196(e)(2)]*
  - (b) For a release caused by a leak from the primary tank system into the secondary containment system, the Permittee shall repair the system prior to returning the tank system to service. *[40 CFR 264.196(e)(3)]*
    - (1) If a component of the tank system is replaced to eliminate the leak, the new component must satisfy the requirements for new tank systems or components in 40 CFR 264.192 and 264.193.

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4.5.2 For all major repairs of a tank system, the Permittee must obtain a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This must be obtained before the system is returned to service. Examples of major repairs are: installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment system. The certification must be placed in the operating records, maintained until closure of the facility, and a copy submitted to the Director. *[40 CFR 264.196(f)]*

**4.6 RECORDKEEPING AND REPORTING**

4.6.1 The Permittee shall report to the Director, within twenty-four (24) hours of detection, when a leak or spill occurs from the tank system or secondary containment system to the environment. (A leak or spill of one pound or less of hazardous waste, that is immediately contained and cleaned-up, need not be reported.) If the Permittee has reported the release pursuant to 40 CFR Part 302, that report satisfies the requirements of this Permit Condition. *[40 CFR 264.196(d)(1) and (2)]*

4.6.2 Within thirty (30) days of detecting a release to the environment from the tank system or secondary containment system, the Permittee shall report the following information to the Director: *[40 CFR 264.196(d)(3)]*

1. Likely route of migration of the release;
2. Characteristics of the surrounding soil (including soil composition, geology, hydrogeology, and climate);
3. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, the Permittee should provide the Director with a schedule of when the results will be available. This schedule must be provided before the required 30-day submittal period expires;
4. Proximity of down-gradient drinking water, surface water, and populated areas; and
5. Description of response actions taken or planned.

4.6.3 The Permittee shall submit to the Director all certifications of major repairs to correct leaks within seven days from returning the tank system to use. *[40 CFR 264.196(f)]*

4.6.4 The Permittee shall maintain at the facility a record of the results of leak tests and integrity tests conducted in accordance with 40 CFR 264.192(a) and (d).

4.6.5 The Permittee shall obtain and keep on file at the facility the written statements by those persons (e.g. qualified Professional Engineer) required to certify the design and installation of the tank system. *[40 CFR 264.192(g)]*

**4.7 SPECIAL TANK PROVISIONS FOR IGNITABLE OR REACTIVE WASTES**

4.7.1 The Permittee shall not place ignitable or reactive waste in the tank system or in the secondary containment system, unless the procedures specified in Permit Application Sections D2.3

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(Ignitable, Reactive, and Incompatible Wastes in Tanks) and F5.0 (Prevention of Reaction of Ignitable, Reactive, and Incompatible Wastes) are followed.

*[40 CFR 264.198(a)]*

4.7.2 The Permittee shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981).

*[40 CFR 264.198(b)]*

**4.8 SPECIAL TANK PROVISIONS FOR INCOMPATIBLE WASTES**

4.8.1 The Permittee shall not place incompatible wastes, or incompatible wastes and materials, in the same tank system or the same secondary containment system, unless the procedures specified in Permit Application Sections D2.3 and F5.0 are followed and 40 CFR 264.17(b) is complied with.

*[40 CFR 264.199(a)]*

4.8.2 The Permittee shall not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material.

*[40 CFR 264.199(b)]*

**4.9 CLOSURE CARE**

4.9.1 At closure of the tank system(s), the Permittee shall follow the procedures in the Closure Plan, Permit Application Section I, for the tanks identified in Table 4.1, above. *[40 CFR 264.197(a)]*

4.9.2 If the Permittee demonstrates that not all contaminated portions of the tank system, residuals, soil and/or groundwater can be practicably removed or decontaminated in accordance with the Closure Plan, then the Permittee shall close the tank system and perform post-closure care in accordance with 40 CFR 264.197(b).

**4.10 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>A tank integrity assessment must be completed on the new Tank 303 and APU Tank. No waste may be placed into the tanks until the NDEP-BSMM approves the tank integrity assessment.</i>	<b>TBD</b> 30 Days from issuance of permit revision



**5. SUMMARY**

The Permittee may treat hazardous waste in tanks, as described in this section. Treatment consists of pH adjustment, clarification, precipitation, chemical-oxidation/reduction, chlorination, and cyanide destruction. Each tank shall be equipped with an automatic safety cut-off valve, high-level alarm, and secondary containment. The treatment tanks are located in the Detoxification Room. The maximum amount and type of wastes that may be treated are discussed in Permit Condition 5.1. Details of the tank construction and controls are provided in Section D2 of the Permit Application. The tank layout can be seen in Figure D2-1 of the Permit Application. No waste with a concentration greater than 500 ppmw volatile organic compounds (VOCs) may be treated in tanks at this facility; thus, the treatment tanks are not subject to 264 Subpart CC regulations.

**5.1 PERMITTED AND PROHIBITED WASTE IDENTIFICATION**

5.1.1 The Permittee may treat in tanks any hazardous waste identified in Part A of the Permit Application in the tanks listed in Table 5.1 within the parameters outlined in Permit Application Section D2 (Tank Systems).

5.1.2 The Permittee is prohibited from treating in tanks any hazardous waste not identified in Permit Condition 5.1.1 and the following:

1. Any hazardous waste with codes not listed in Permit Application Table D2-1.
2. Hazardous waste containing 10 percent (100,000 ppmw) or more of Total Organic Carbon (TOC)<sup>i</sup>, as described in the Waste Analysis Plan, Permit Application Section C2.0.  
*[40 CFR 264.1050(b)]*
3. Hazardous waste containing 500 ppmw or more of VOCs at the point of waste origination.  
*[Permit Application Section F6.3.1, 40 CFR 264.1082(c)(1)]*

5.1.3 The Permittee may treat a total volume of 25,000 gallons of hazardous waste per day in seven (7) tanks, subject to the terms of this Permit, as identified in Tables D2-1 and D2-3 of the Permit Application, and as follows:

**Table 5.1 – Treatment Tanks**

Tank ID Number	Description	Secondary Containment Required	Capacity [Gallons]	Permitted Throughput [Gallons/Day]
T-1	Chemical Treatment	Yes	6,125	25,000
T-2	Chemical Treatment	Yes	6,125	
T-3	Chemical Treatment	Yes	6,125	
T-4	Chemical Treatment	Yes	3,750	
T-5	Chemical Treatment	Yes	3,750	
T-6	Chemical Treatment	Yes	7,580	
T-7	Chemical Treatment	Yes	7,580	
<b>Total =</b>			<b>41,035</b>	<b>25,000</b>

<sup>i</sup> With the exception of trichloroisocyanuric and dichloroisocyanuric acid in Tanks T-4 through T-7.

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## **5.2 SECONDARY CONTAINMENT AND INTEGRITY ASSESSMENTS**

- 5.2.1 The Permittee shall ensure that all ancillary equipment is supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction.  
*[40 CFR 264.192(e)]*
- 5.2.2 The permittee shall operate the secondary containment system(s), in accordance with the detailed descriptions contained in Permit Application Section D2.5 (Containment and Detection of Releases).  
*[40 CFR 264.193(a)-(f)]*
- 5.2.3 The Permittee shall submit the integrity assessments required under 40 CFR 264.192 to the Director prior to operation of any new tank system and whenever the tanks are re-evaluated.

## **5.3 OPERATING REQUIREMENTS**

- 5.3.1 The Permittee shall not place hazardous wastes or treatment reagents in the tank or tank system if they could cause the tank, its ancillary equipment, or a containment system to rupture, leak, corrode, or otherwise fail.  
*[40 CFR 264.194(a)]*
- 5.3.2 The Permittee shall prevent spills and overflows from the tank or containment systems using the methods described in Permit Application Section D2.2.3 (Waste Feed Systems and Safety Cutoffs).  
*[40 CFR 264.194(b)]*
- 5.3.3 The Permittee shall comply with Permit Application Sections D2.2 (Tank Operations and Management Practices) through D2.7 (Control Systems for Air Emissions from Tank Systems).

## **5.4 INSPECTION SCHEDULES AND PROCEDURES**

- 5.4.1 The Permittee shall inspect the tank systems in accordance with the Inspection Plan in Section F2.0 (Inspection Plan) and the Inspection Schedule in Table F2-5 of the Permit Application, shall complete the forms in Appendices F-1 and F-2 of the Permit Application, and complete the items in Permit Conditions 5.4.2 and 5.4.3 as part of those inspections. All completed inspections forms shall be maintained at the facility for at least three (3) years.
- 5.4.2 The Permittee shall inspect the overflow controls, in accordance with the schedule in Table F2-5 of the Permit Application.  
*[40 CFR 264.195(a)]*
- 5.4.3 The Permittee shall inspect the following components of the tank system at least once each day:  
*[40 CFR 264.195(b), (c) and (f)]*
1. Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges) to ensure that the tank system is being operated according to its design;
  2. Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;
  3. Construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system, to detect erosion or signs of releases of hazardous waste (e.g., wet spots); and

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4. Ancillary equipment that is not provided with secondary containment, as described in 40 CFR 264.193(f)(1) through (4).

5.4.4 The Permittee shall document compliance with Permit Conditions 5.4.1 through 5.4.3 and place this documentation in the operating record for the facility. *[40 CFR 264.195(h)]*

## **5.5 RESPONSE TO LEAKS OR SPILLS**

5.5.1 In the event of a leak or a spill from the tank system, from a secondary containment system, or if any portion of the system becomes unfit for continued use, the Permittee shall comply with Permit Application Section G3.0 (Implementation of the Contingency Plan), remove the system from service immediately, and complete the following actions: *[40 CFR 264.196]*

1. Immediately stop the flow of hazardous waste into the tank or secondary containment system and inspect the system to determine the cause of the release. *[40 CFR 264.196(a)]*
2. If the release is from the tank system, the Permittee must, within twenty-four (24) hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed. If the Permittee finds that it will not be possible to meet this time period, the Permittee shall notify the Director and demonstrate that a longer period is required. *[40 CFR 264.196(b)]*

If the release is to a secondary containment system, all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

3. Immediately conduct a visual inspection of the release and, based upon that inspection, the Permittee shall:
  - (a) Prevent further migration of the leak or spill to soils or surface water; and
  - (b) Remove and properly dispose of any visible contamination of the soil or surface water.
4. As the collected material is a RCRA hazardous waste, the waste shall be managed in accordance with all applicable requirements of 40 CFR Parts 262-264. The Permittee shall note that if the collected material is discharged through a point source to waters of the U.S. or to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting, under 40 CFR Part 302.
5. Unless the Permittee satisfies the requirements of Permit Conditions 5.5.1 5(a) and 5.5.1 5(b), below, the tank system must be closed in accordance with Permit Condition 5.9. *[40 CFR 264.196(e)(1)]*
  - (a) For a release caused by a spill that has not damaged the integrity of the system, the Permittee may return the system to service as soon as the released waste is removed and repairs, if necessary, are made. *[40 CFR 264.196(e)(2)]*
  - (b) For a release caused by a leak from the primary tank system into the secondary containment system, the Permittee shall repair the system prior to returning the tank system to service. *[40 CFR 264.196(e)(3)]*

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(1) If a component of the tank system is replaced to eliminate the leak, the new component must satisfy the requirements for new tank systems or components in 40 CFR 264.192 and 264.193.

5.5.2 For all major repairs of a tank system, the Permittee must obtain a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This must be obtained before the system is returned to service. Examples of major repairs are: installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment system. The certification must be placed in the operating records, maintained until closure of the facility; and a copy submitted to the Director.  
*[40 CFR 264.196(f)]*

## **5.6 RECORDKEEPING AND REPORTING**

5.6.1 The Permittee shall report to the Director, within twenty-four (24) hours of detection, when a leak or spill occurs from the tank system or secondary containment system to the environment. (A leak or spill of one pound or less of hazardous waste, that is immediately contained and cleaned-up, need not be reported.) If the Permittee has reported the release pursuant to 40 CFR Part 302, that report satisfies the requirements of this Permit Condition. *[40 CFR 264.196(d)(1) and (2)]*

5.6.2 Within thirty (30) days of detecting a release to the environment from the tank system or secondary containment system, the Permittee shall report the following information to the Director:  
*[40 CFR 264.196(d)(3)]*

1. Likely route of migration of the release;
2. Characteristics of the surrounding soil (including soil composition, geology, hydrogeology, and climate);
3. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, the Permittee should provide the Director with a schedule of when the results will be available. This schedule must be provided before the required 30-day submittal period expires;
4. Proximity of down-gradient drinking water, surface water, and populated areas; and
5. Description of response actions taken or planned.

5.6.3 The Permittee shall submit to the Director all certifications of major repairs to correct leaks within seven (7) days from returning the tank system to use. *[40 CFR 264.196(f)]*

5.6.4 The Permittee shall maintain at the facility a record of the results of leak tests and integrity tests conducted in accordance with 40 CFR 264.192(a) and (d).

5.6.5 The Permittee shall obtain and keep on file at the facility the written statements by those persons (e.g. qualified Professional Engineer) required to certify the design and installation of the tank system.  
*[40 CFR 264.192(g)]*

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**5.7 SPECIAL TANK PROVISIONS FOR IGNITABLE OR REACTIVE WASTES**

5.7.1 The Permittee shall not place ignitable or reactive waste in the tank system or in the secondary containment system, unless the procedures specified in Permit Application Sections D2.3 (Ignitable, Reactive, and Incompatible Wastes in Tanks) and F5.0 (Prevention of Reaction of Ignitable, Reactive, and Incompatible Wastes) are followed.

*[40 CFR 264.198(a)]*

5.7.2 The Permittee shall comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon, as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981).

*[40 CFR 264.198(b)]*

**5.8 SPECIAL TANK PROVISIONS FOR INCOMPATIBLE WASTES**

5.8.1 The Permittee shall not place incompatible wastes, or incompatible wastes and materials, in the same tank system or the same secondary containment system, unless the procedures specified in Permit Application Sections D2.3 and F5.0 are followed and 40 CFR 264.17(b) is complied with.

*[40 CFR 264.199(a)]*

5.8.2 The Permittee shall not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material.

*[40 CFR 264.199(b)]*

**5.9 CLOSURE CARE**

5.9.1 At closure of the tank system(s), the Permittee shall follow the procedures in the Closure Plan, Permit Application Section I, for the tanks identified in Table 5.1, above. *[40 CFR 264.197(a)]*

5.9.2 If the Permittee demonstrates that not all contaminated portions of the tank system, residuals, soil and/or groundwater can be practicably removed or decontaminated in accordance with the Closure Plan, then the Permittee shall close the tanks system and perform post-closure care in accordance with 40 CFR 264.197(b).

**5.10 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	Task	Date Due
1	<i>Reserved</i>	

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## 6. SUMMARY

The Permittee operates five (5) Subpart X (i.e. Miscellaneous) Units. The Subpart X Units are used to treat waste streams resulting from prior treatment operations at the facility. The Subpart X Units are: (1) one Evaporator, (2) three Filter Presses, and (3) one Aerosol Processing Unit. The filter presses are located in the Dewatering Room and the evaporator unit is located in the Crystallizer Room. The Aerosol Processing Unit will be located in the new APU Building on the east side of the facility.

These units are permitted under the Subpart X requirements of 40 CFR 264 (40 CFR 264.600-264.603) and may include additional requirements pursuant to 40 CFR 270.32(b)(2), as described by the Division, for further protective measures for both human health and environment.

### 6.1 MISCELLANEOUS UNIT DESCRIPTION

The Miscellaneous Units and their surrounding areas are not permitted for the storage of hazardous waste.

#### 6.1.1 Evaporator

The Evaporator, also referred to as the Crystallizer, is located in its own room at the south end of the building. This Subpart X Unit is comprised of a large heat exchanger with forced-air exchange used to evaporate approximately 25,000 gallons of treated solution a day from the Dewatering Area of the facility. The Permittee may operate the Evaporator as described in Permit Application Section D3.1 (Crystallizer) and in conformance to the facility's Air Pollution Control Permit.

#### 6.1.2 Filter Presses

The three Filter Presses are located in the Dewatering Room. The plate and frame presses are used to dewater sludges and slurries, separating solids from liquids by using special cloth membranes. The Permittee may operate the Filter Presses as described in Permit Application Section D3.2 (Filter Presses).

#### 6.1.3 Aerosol Processing Unit

The Aerosol Processing Unit (APU) is located inside the Aerosol Processing Unit building on the northeast corner of the facility property. The APU separates aerosol cans into four streams: shredded metal, debris/caps, liquid aerosol content, and aerosol propellant. Propellant – The propellant contained in the aerosol cans is evacuated from the APU unit upon fragmentation and captured by the vapor collection system and routed to the regenerative thermal oxidizer (RTO) for thermal destruction. Liquid – The liquid is transferred into a 600-gallon steel tank located below the APU. Once the tank is full, the liquid is pumped to a tote. Filled totes are transferred off-site for energy recovery. A vapor balance system captures gases from tote filling and sends them back to the tank. Solids – Shredded material is conveyed to a magnetic separator, which detains the ferrous components of the processed stream. The ferrous material is conveyed to a rolloff container staged outside the APU building. The non-ferrous material (metals and plastics) is conveyed to separate roll-off containers. As needed, ferrous and non-ferrous metals are shipped off-site for recycling, and plastics are shipped off-site for disposal. The Permittee may operate the APU as

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described in the 2023 Permit Modification Application.

**6.2 PERMITTED AND PROHIBITED WASTE IDENTIFICATION AND PERMITTED CAPACITY – TREATMENT**

- 6.2.1 The Permittee may treat at the Evaporator/Crystallizer, Filter Presses, and Aerosol Processing Unit, the hazardous waste identified in Table 6.2, within the parameters outlined in Permit Application Sections D3.1 (Crystallizer), D3.2 (Filter Presses), and 2023 Permit Modification Application (Aerosol Processing Unit).
- 6.2.2 The Permittee is prohibited from treating in the Evaporator/Crystallizer, Filter Presses, and Aerosol Processing Unit, any hazardous waste not identified in Table 6.2 and the following:
1. Radioactive wastes;
  2. Explosives;
  3. Infectious wastes;
  4. Waste with greater than 10% TOC;
  5. Waste with greater than 500 ppm VOC; and
  6. Waste with the following EPA hazardous waste codes:
    - (a) F021,
    - (b) F022,
    - (c) F023,
    - (d) F026, and
    - (e) F027.
- 6.2.3 The Permittee may evaporate up to 25,000 gallons of water per day in the Evaporator/Crystallizer, dewater up to 25,000 gallons per day in each of the Filter Presses, and treat up to 5,000 cans per hour in the Aerosol Processing Unit, subject to the terms of this Permit.
- 6.2.4 Before being transferred to the Evaporator/Crystallizer, all wastes must be tested, as described in Section C2.0 (Waste Analysis Plan) of the Permit Application. Cyanide/sulfide and corrosive wastes shall be analyzed to determine suitability for dewatering and evaporation.

**Table 6.2 – Subpart X Units**

Description	Permitted Throughput	Permitted EPA Waste Codes and Waste Streams
Crystallizer	25,000 gallons/day	D004, D005, D006 (non-cadmium batteries), D007, D008 (non-lead acid batteries), D009, D010, D011, F006-F012, F019, K002-K008, P021, P029, P030, P074, P098, P099, P104, P106, P121, U032, U123, and U134
Filter Press #1	25,000 gallons/day	D004, D005, D006 (non-cadmium batteries), D007, D008 (non-lead acid batteries), D009, D010, D011, F006-F012, F019, K002-K008, P021, P029, P030, P074, P098, P099, P104, P106, P121, U032, U123, and U134

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Description	Permitted Throughput	Permitted EPA Waste Codes and Waste Streams
Filter Press #2	25,000 gallons/day	D004, D005, D006 (non-cadmium batteries), D007, D008 (non-lead acid batteries), D009, D010, D011, F006-F012, F019, K002-K008, P021, P029, P030, P074, P098, P099, P104, P106, P121, U032, U123, and U134
Filter Press #3	25,000 gallons/day	D004, D005, D006 (non-cadmium batteries), D007, D008 (non-lead acid batteries), D009, D010, D011, F006-F012, F019, K002-K008, P021, P029, P030, P074, P098, P099, P104, P106, P121, U032, U123, and U134
Aerosol Processing Unit	5,000 cans/hour	Aerosols Cans as described in Section 1.2.1 of the 2023 Permit Modification Application and Waste Analysis Plan, not to exceed 10% organics or 500ppmw of VOC

### **6.3 SECONDARY CONTAINMENT AND INTEGRITY ASSESSMENTS**

- 6.3.1 The Permittee shall ensure that all ancillary equipment is supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction.  
*[40 CFR 264.192(e)]*
- 6.3.2 The Permittee shall maintain and operate the secondary containment system(s) in accordance with the detailed descriptions in Permit Application Section D3 (Miscellaneous (Subpart X) Units).  
*[40 CFR 264.193(a)-(f)]*
- 6.3.3 The Permittee shall maintain and operate the concrete containment system as follows:
1. Keep it free of cracks or gaps and impermeable to, and able to contain, leaks, spills, and accumulated precipitation until the collected material is detected and removed;
  2. Prevent run-on into the containment system; and
  3. Remove spilled waste and accumulated precipitation within twenty-four (24) hours or in as timely a manner as is possible to prevent overflow of the containment system.
- 6.3.4 The Permittee shall submit the integrity assessments required under 40 CFR 264.192 to the Director prior to operation of any new Subpart X system and whenever the system(s) are re-evaluated.

### **6.4 OPERATING REQUIREMENTS**

The Evaporator/Crystallizer, Filter Presses, and Aerosol Processing Unit shall be operated in accordance with the requirements of this Permit Section and Section D3 (Miscellaneous (Subpart X) Units) of the Permit Application.



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- 6.4.1 The Permittee shall comply with the Environmental Performance Standard provisions of 40 CFR 264.601 by following the operating procedures and controls described in Section D (Process Information) of the Permit Application.
- 6.4.2 The Permittee shall operate in accordance with the Standard Operating Procedures (SOPs) provided in Appendices of Section E of the Permit Application.
- 6.4.3 The Permittee shall not place wastes or reagents in a treatment system that could cause any component of the system, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail. *[40 CFR 264.194(a)]*
- 6.4.4 The Permittee shall prevent spills and overflows from the Subpart X systems using the methods described in Permit Application Section D3 (Miscellaneous (Subpart X) Units). *[40 CFR 264.194(b)]*
- 6.4.5 The Permittee shall transfer waste between tanks, containers or Subpart X units in accord with Permit Application Section D2.2.1 (Tank System Transfer Operations).

**6.5 INSPECTION SCHEDULES AND PROCEDURES**

- 6.5.1 The Permittee shall inspect the Subpart X systems in accordance with the Inspection Plan in Section F2.0 (Inspection Plan) and the Inspection Schedule in Table F2-5, and shall complete the forms in Appendices F-1 and F-2, of the Permit Application. All completed inspections forms shall be maintained at the facility for at least three (3) years.
- 6.5.2 The Permittee shall inspect the Subpart X Units, their ancillary equipment, and their secondary containment areas at least once each operating day for condition, proper equipment operation, and housekeeping.
- 6.5.3 The Permittee shall perform maintenance and testing on the Subpart X Units in accordance with Table F2-6 (Operational Equipment: Testing and Maintenance Schedule) and shall complete the forms in Appendices F-1 and F-2 of the Permit Application.
- 6.5.4 The Permittee shall document compliance with Permit Conditions 6.5.1 through 6.5.3 and place this documentation in the operating record for the facility. *[40 CFR 264.195(h)]*

**6.6 RESPONSE TO LEAKS OR SPILLS**

- 6.6.1 In the event of a leak or a spill from the Subpart X system(s), their secondary containment systems, their ancillary equipment, or if any portion of the system becomes unfit for continued use, the

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Permittee shall comply with Permit Application Section G3.0 (Contingency Plan), remove the system from service immediately and complete the following actions: *[40 CFR 264.196]*

1. Immediately stop the flow of hazardous waste into and out of the Subpart X system or secondary containment system and inspect the system to determine the cause of the release. *[40 CFR 264.196(a)]*

2. If the release is from the Subpart X system, the Permittee must, within twenty-four (24) hours after detection of the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the Subpart X system to be performed. If the Permittee finds that it will not be possible to meet this time period, the Permittee shall notify the Director and demonstrate that a longer period is required. *[40 CFR 264.196(b)]*

If the release is to a secondary containment system, all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

3. Immediately conduct a visual inspection of the release and, based upon that inspection, the Permittee shall: *[40 CFR 264.196(c)]*

- (a) Prevent further migration of the leak or spill to soils or surface water; and
- (b) Remove and properly dispose of any visible contamination of the soil or surface water.

4. If the collected material is a RCRA hazardous waste, the waste shall be managed in accordance with all applicable requirements of 40 CFR Parts 262-264. The Permittee shall note that if the collected material is discharged through a point source to waters of the U.S. or to a Publicly Owned Treatment Works (POTW), it is subject to the requirements of the Clean Water Act. If the collected material is released to the environment, it may be subject to reporting, under 40 CFR Part 302.

5. Unless the Permittee satisfies the requirements of Permit Conditions 6.6.1 5(a) and 6.6.1 5(b), below, the Subpart X system must be closed in accordance with Permit Condition 6.8. *[40 CFR 264.196(e)(1)]*

- (a) For a release caused by a spill that has not damaged the integrity of the system, the Permittee may return the system to service as soon as the released waste is removed and repairs, if necessary, are made. *[40 CFR 264.196(e)(2)]*

- (b) For a release caused by a leak from the Subpart X system into the secondary containment system, the Permittee shall repair the system prior to returning the Subpart X system to service. *[40 CFR 264.196(e)(3)]*

- (1) If a component of the Subpart X system is replaced to eliminate the leak, the new component must satisfy the requirements for new Subpart X systems or components in 40 CFR 264.601 and 264.602.

6.6.2 For all major repairs of a Subpart X system, the Permittee must obtain a certification by a qualified Professional Engineer that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This must be obtained before the system is returned to service. Examples of major repairs are: installation of an internal liner, repair of a vessel, or repair or replacement of a secondary containment system. The certification must be placed in the

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operating records, maintained until closure of the facility; and a copy submitted to the Director.  
[40 CFR 264.196(f)]

## **6.7 RECORDKEEPING AND REPORTING**

- 6.7.1 The Permittee shall report to the Director, within twenty-four (24) hours of detection, when a leak or spill occurs from the Subpart X Units or secondary containment system to the environment. (A leak or spill of one (1) pound or less of hazardous waste, that is immediately contained and cleaned-up, need not be reported.) If the Permittee has reported the release pursuant to 40 CFR Part 302, that report satisfies the requirements of this Permit Condition. [40 CFR 264.196(d)(1) and (2)]
- 6.7.2 Within thirty (30) days of detecting a release to the environment from the Subpart X Units or secondary containment system, the Permittee shall report the following information to the Director: [40 CFR 264.196(d)(3)]
1. Likely route of migration of the release;
  2. Characteristics of the surrounding soil (including soil composition, geology, hydrogeology, and climate);
  3. Results of any monitoring or sampling conducted in connection with the release. If the Permittee finds it will be impossible to meet this time period, the Permittee should provide the Director with a schedule of when the results will be available. This schedule must be provided before the required 30-day submittal period expires;
  4. Proximity of down-gradient drinking water, surface water, and populated areas; and
  5. Description of response actions taken or planned.
- 6.7.3 The Permittee shall submit to the Director all certifications of major repairs to correct leaks within seven (7) days from returning the Subpart X Units to use. [40 CFR 264.196(f)]
- 6.7.4 The Permittee shall maintain at the facility a record of the results of leak tests and integrity tests conducted. [40 CFR 264.192(a) and (d)]
- 6.7.5 The Permittee shall obtain and keep on file at the facility the written statements by those persons (e.g. qualified Professional Engineer) required to certify the design and installation of the Subpart X Units. [40 CFR 264.192(g)]
- 6.7.6 The Permittee shall maintain at the facility, until closure is completed for all Subpart X units, and certified by a qualified Professional Engineer, the following Subpart X specific documents and information, including all amendments, revisions and modifications to these documents and information:
1. A description of the containment systems showing the following:
    - (a) Basic design parameters, dimensions, and materials of construction;
    - (b) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;
    - (c) Capacity of the containment system relative to the number and volume of containers to be stored;

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- (d) Provisions for preventing or managing run-on; and
  - (e) How accumulated liquids can be analyzed and removed to prevent overflow.
2. Where incompatible wastes are stored or otherwise managed in this subpart, a description of the procedures used to ensure compliance with 40 CFR 264.175 (a) and (b), and 40 CFR 264.17 (b) and (c).

**6.8 CLOSURE CARE**

- 6.8.1 At closure of any of the Subpart X Units, the Permittee shall follow the procedures in the Closure Plan, Permit Application Section I, for the Subpart X Units identified in Table 6.2, above.  
*[40 CFR 264.197(a)]*
- 6.8.2 All permitted units are expected to be clean-closed. In the event, the Permittee cannot remove or decontaminate all miscellaneous units, secondary containment systems, appurtenances, soil and/or groundwater in accordance with the Closure Plan, then the Permittee shall close the Subpart X Units and perform post-closure care in accordance with 40 CFR 264.603.

**6.9 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	Submit an Integrity Assessment by a Professional Engineer per 40 CFR 264.192 for the Aerosol Processing Unit.	TBD 30 Days prior to the start of operation
2	Submit a P.E. Certified Integrity Assessment of the new Filter Press.	TBD 30 Days prior to the start of operation
3	Submit a Closure Report from a Nevada Certified P.E. for the removal and disposal of the Silver Recovery Unit.	Within 30 Days after removal and disposal
4	Submit an updated RCRA Part A application to include APU and applicable waste codes.	TBD 30 Days prior to the start of operation

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*Note: This Section is currently not applicable since no land disposal is proposed at the 21EMN facility.*

*Reserved for Future Use*

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**8. SUMMARY**

The US EPA’s National Waste Minimization Program supports efforts that promote a more sustainable society, reduce the amount of waste generated, and lower the toxicity and persistence of wastes that are generated. The Permittee is required to conduct a Waste Minimization Program in accordance with this Section of the Permit and the Source Reduction and Waste Minimization Plan dated February 26, 2019 (or approved revisions of this plan).

**8.1 WASTE MINIMIZATION RECORD**

The Permittee shall maintain at the facility copies of waste minimization documents required in Permit Conditions 8.2 and 8.3 and shall make them available to any authorized representative of NDEP or USEPA conducting an inspection pursuant to 40 CFR 270.32(b).

**8.2 WASTE MINIMIZATION CERTIFICATION**

The Permittee shall annually certify in accordance with 40 CFR 264.73(b)(9):

1. The Permittee has a program in place to reduce the volume and toxicity of all hazardous wastes which are generated by the facility operations to the degree, determined by the Permittee, to be economically practicable;
2. The method of treatment, storage, or disposal is the only practicable method or combination of methods currently available to the facility, which minimizes the present and future threat to human health and the environment;
3. This certification shall be retained with the facility's operating record and shall comply with the signatory requirements of Permit Condition 1.5.13; and
4. The Permittee shall send a copy of the annual certification to NDEP-BSMM.

**8.3 SOURCE REDUCTION PLANS AND REPORTS**

**8.3.1 Source Reduction Evaluation Review and Plan**

A Source Reduction Evaluation Review and Plan should be conducted and prepared in accordance with the procedures and format provided in the EPA Waste Minimization Opportunity Assessment Manual or other equivalent source reduction guidance. Additional industry specific source reduction guidance is available from both the EPA and the State. The review and plan shall include, at a minimum, the following: *[40 CFR 270.32(b)]*

1. The name and location of the facility.
2. The NAIC/SIC Code of the facility.
3. A copy of any written company policy or statement that outlines the general goals, objectives, and methods of source reduction to be implemented within the next five years.
4. Identification of all routinely generated hazardous waste streams, which result from ongoing processes or operations. For the purposes of this paragraph, a hazardous waste stream is to be included if it meets the following criteria:
  - (a) It is a hazardous waste stream processed in a wastewater treatment unit which discharges to a publicly owned treatment works or under a national pollutant discharge

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elimination system (NPDES) permit and its weight before treatment exceeds five (5) percent of the weight of the total yearly volume of hazardous waste generated at the site; or

- (b) It is a hazardous waste stream which is not processed in a wastewater treatment unit and its weight exceeds five (5) percent of the weight of the total yearly volume of hazardous waste generated at the site, less the weight of any hazardous waste stream identified in Permit Condition 8.3.1 4(a).
5. For each hazardous waste stream identified in Permit Condition 8.3.1 4 the following information shall be included:
    - (a) An estimate of the quantity of hazardous waste generated; and
    - (b) An evaluation of source reduction approaches available to the Permittee, which are potentially viable. The evaluation shall consider at a minimum the following source reduction approaches:
      - (1) Input change;
      - (2) Operational improvement;
      - (3) Production process change; and
      - (4) Product reformulation.
  6. Any source reduction and/or recycling measure implemented by the Permittee in the last five years.
  7. A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures which will be taken by the Permittee with respect to each waste stream identified. The review and plan shall fully document any statement explaining the Permittee's rationale for rejecting any available source reduction approach identified in Permit Condition 8.3.1 5.<sup>i</sup>
  8. A detailed description of any programs the Permittee may have to assist generators of hazardous waste in reducing the volume or quantity and toxicity of wastes they produce.
  9. An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to the air, water, or land environmental mediums.
  10. A description of employee training programs and employee incentive programs for source reduction, which may be in effect at the facility.
  11. A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures identified in Permit Condition 8.3.1 7.
  12. A summary of the source reduction evaluation review and plan.
  13. Certification of the review and plan and the summary by a qualified Professional Engineer, or by an individual who is responsible for the processes and operation of the facility, or by an environmental assessor, who has demonstrated expertise in hazardous waste management. The engineer, individual, or assessor shall certify the review, the plan and

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<sup>i</sup> **Note:** NDEP does not consider a source reduction method to be valid if it merely switches the waste load from one environmental medium (air, water, or land) to another.

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the summary only if the review, the plan and the summary meet all the requirements of Permit Condition 8.3.1.

### 8.3.2 Certification of Plan Implementation

The Permittee shall submit a written statement from a responsible official of the facility certifying that the Permittee has implemented, is implementing, or will be implementing, the source reduction measures identified in the facility's Source Reduction Plan according to the implementation schedule contained in the plan.

8.3.2.1 The Permittee may determine not to implement a measure selected pursuant to Permit Condition 8.3.1 7 only if the Permittee determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following: *[40 CFR 264.73(b)(9)]*

1. An increase in the generation of waste (hazardous and solid).
2. An increase in the release of hazardous chemicals to other environmental media.
3. Adverse impacts on product quality.
4. A significant increase in the risk of an adverse impact to human health or the environment.

### 8.3.3 Source Reduction Plan and Plan Summary Amendments

If the Permittee elects not to implement the measures selected pursuant to Permit Condition 8.3.1 7, the Permittee shall amend its review, plan, and summary to reflect this rejection; and include in the review, plan, and summary, proper documentation identifying the rationale for this rejection. Any amendments to the review, plan or summary shall be submitted to the Director no later than thirty (30) days prior to implementation of the changes. *[40 CFR 270.32(b)]*

### 8.3.4 Hazardous Waste Management Performance Report

Within one (1) year of the effective date of this permit and every year thereafter, the Permittee shall prepare a hazardous waste management performance report documenting hazardous waste management approaches implemented at the facility. The report shall be prepared in accordance with the EPA Waste Minimization Opportunity Assessment Manual or other equivalent source reduction guidance. The report shall include, at a minimum, the following: *[40 CFR 270.32(b)]*

1. The name and location of the facility;
2. The SIC Code for the facility;
3. The following information for each waste stream identified pursuant to Permit Condition 8.3.1 4:
  - (a) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed by the Permittee during the current reporting year and the baseline year. The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared. For the initial report, the baseline year is any calendar year selected by the Permittee for which substantial data is available on waste generation, or on-site or off-site management. Alternatively, the Permittee may select the current



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reporting year as the initial baseline year. For all subsequent reports, the baseline year is the current reporting year of the immediately preceding report.

- (b) An assessment of the effect, during the current year, of each hazardous waste management measure implemented since the baseline year, upon the generation and the on-site and off-site management of hazardous waste. For the initial report, the assessment of the effect required by this condition shall be made for the current year in general terms for any waste management measures implemented in the preceding five years. The report shall consider, but shall not be limited to, measures which use the following approaches:
    - (1) Source reduction;
    - (2) Recycling; and
    - (3) Treatment.
  - (c) A description of factors during the current reporting year that have affected hazardous waste generation and on-site and off-site hazardous waste management since the baseline year. For the initial report, the description of factors shall be made in general terms for those factors affecting generation and management in the preceding five years. The description shall include, but is not limited to, any of the following:
    - (1) Changes in business activity;
    - (2) Changes in waste classification;
    - (3) Natural phenomena; and
    - (4) Other factors that have affected either the quantity of hazardous waste generated or on-site and off-site hazardous waste management requirements.
  - (d) A description of any factors, which may have prevented implementation of any aspect of the source reduction plan.
4. A summary of the hazardous waste management performance report;
  5. Certification of the report and summary by a qualified Professional Engineer, an individual who is responsible for the processes and operations of the facility, or an environmental assessor, who has demonstrated expertise in hazardous waste management. The engineer, individual, or assessor shall certify the report and summary only if the report and summary meet all the requirements of Permit Condition 8.3.4.

**8.4 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Reserved</i>	

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**9. SUMMARY**

The Permittee is required to manage hazardous waste in accordance with the air emission standards of Subparts AA, BB, and CC of 40 CFR 264, as applicable. Containers (Permit Section 3), Tanks (Permit Sections 4 and 5), and Subpart X Units (Permit Section 6) of hazardous waste with volatile organic compound (VOC) concentrations over 500 ppm and equipment that contains or contacts hazardous waste with  $\geq 10$  percent organics are subject to these requirements.

**9.1 ORGANIC AIR EMISSION STANDARDS**

- 9.1.1 Prior to constructing any Hazardous Waste Management Unit (HWMU) with process vents subject to the requirements of 40 CFR 264, Subpart AA or installing any additional equipment subject to the requirements of 40 CFR 264, Subpart BB, the Permittee shall apply for a permit modification, as described in Permit Condition 1.2.1, and provide the specific Part B information required under 40 CFR 270.14-17, 270.24 and 270.25, as applicable, with the modification request.
- 9.1.2 Prior to installing any tank, surface impoundment or miscellaneous unit subject to 40 CFR Part 264, Subpart CC, the Permittee shall apply for a permit modification, as described in Permit Condition 1.2.1, and provide the specific Part B information required under 40 CFR 270.14-17 and 270.27, as applicable, with the modification request.
- 9.1.3 The Permittee shall also maintain compliance with the Air Quality Operating Permit #AP4953-2235 (and any revisions and renewals) issued to 21<sup>st</sup> Century Environmental Management of Nevada by NDEP, by the Bureau of Air Pollution Control.

**9.2 APPLICABILITY**

40 CFR 264 Subpart AA establishes air emission controls for HWMU’s with process vents. Subpart AA applies to process vents associated with operations that manage hazardous wastes with organic concentrations of at least 10 ppmw. 40 CFR 264 Subpart BB establishes air emission controls for equipment leaks. Subpart BB applies to HWMU’s that contain or contact hazardous wastes with organic concentrations of at least ten (10) percent by weight for at least three hundred (300) hours per calendar year. 40 CFR 264 Subpart CC establishes air emission controls for containers, tanks, surface impoundments, or miscellaneous units subject to 40 CFR 264 Subparts I, J, K, or X. Generally, if a hazardous waste has an average VOC concentration less than five hundred (500) parts per million by weight (ppmw) at the point of waste origination, the unit is exempt from the Subpart CC regulations. The containers stored in the areas identified and the units listed in Table 9.2 below are subject to Subpart AA, Subpart BB and/or Subpart CC regulations:

**Table 9.2**

#	Waste Management Area	Requirements
1	West Pad Container Storage Area	Subpart CC ~ Containers
2	East Pad Container Storage Area	Subpart CC ~ Containers
3	East Container Storage Area	Subpart CC ~ Containers
4	Lab Pack Room	Subpart CC ~ Containers

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#	Waste Management Area	Requirements
5	Aerosol Processing Unit	Subpart AA
6	Aerosol Processing Unit Storage	Subpart CC ~ Containers
7	<i>Reserved</i>	<i>Reserved</i>

- 9.2.1 The Permittee shall use the procedures specified in 40 CFR 264.1034(d) to determine if a process vent is subject to the Subpart AA air emission standards.
- 9.2.2 The Permittee shall use the procedures specified in 40 CFR 264.1063(d) to determine if equipment is subject to the Subpart BB air emission standards.
- 9.2.3 The Permittee shall use the procedures specified in 40 CFR 264.1080, 264.1082 or documentation submitted by the Generator of the waste to determine if a waste stream requires Subpart CC air emission controls.
1. When using Generator supplied information the determination shall be made in accordance with 40 CFR 264.1083.
  2. If an exemption is based on 40 CFR 264.1082(c)(1), then the VOC concentration of the hazardous waste streams shall be reviewed at least once every twelve (12) months.

### 9.3 **OPERATING REQUIREMENTS**

- 9.3.1 The Permittee shall control air pollutant emissions from each container subject to this Permit Section, in accordance with the following requirements, as applicable to the container.  
*[40 CFR 264.1086(b)(1)]*
- 9.3.1.1 For a container having a design capacity greater than twenty-six (26) gallons and less than one hundred and nineteen (119) gallons, the Permittee shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Permit Condition 9.3.2, below.
- 9.3.1.2 For a container having a design capacity greater than one hundred and nineteen (119) gallons that is not in light material service, the Permittee shall control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in Permit Condition 9.3.2, below.
- 9.3.2 A container using Container Level 1 standards is one of the following:  
*[40 CFR 264.1086(c)(1)]*
- 9.3.2.1 A container that meets the applicable U.S. Department of Transportation (DOT) regulations on packaging, hazardous materials for transportation, as specified in 49 CFR Part 178-Specifications for Packaging or 49 CFR Part 179-Specifications for Tank Cars and 40 CFR Part 107, subpart B-Exemptions; 49 CFR Part 172-Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and

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Training Requirements; 49 CFR Part 173-Shippers-General Requirements for Shipments and Packages; and 49 CFR Part 180-Continuing Qualification and Maintenance of Packaging.

- 9.3.2.1.1 For the purpose of complying with this Part, no exceptions to the 49 CFR Part 178 or 179 regulations are allowed except as provided in Permit Condition 9.3.2.1.2.
- 9.3.2.1.2 For a lab pack that is managed in accordance with the requirements of 49 CFR Part 178, for the purpose of complying with this Part, the Permittee may comply with the exceptions for combination packaging specified in 49 CFR Part 173.12(b).
- 9.3.2.2 A container equipped with cover and closure devices that form a continuous barrier over the container openings, such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., such as a “portable tank” or bulk cargo container equipped with a screw type cap).
- 9.3.2.3 An open-top container in which an organic-vapor suppressing barrier (e.g. organic-vapor suppressing foam) is placed on or over the hazardous waste in the container such that no hazardous waste is exposed to the atmosphere.
- 9.3.3 A container using Container Level 1 controls shall have a cover or closure device that is compatible with the waste and the intended management of the container.
- 9.3.4 Whenever storing a container using Container Level 1 controls, the Permittee shall install all covers and closure devices for the container, and secure and maintain each closure device in the closed position except as follows:
- 9.3.4.1 Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:
- 9.3.4.1.1 In the case when the container is filled to the intended final level in one continuous operation, the Permittee shall promptly secure the closure devices in the closed position and install the covers as applicable to the container, upon the conclusion of the filling operation.
- 9.3.4.1.2 In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, the Permittee shall promptly secure the closure devices in the closed position and install covers as applicable to the container, upon:
1. The container being filled to the intended final level;
  2. The completion of a batch loading after which no additional material will be added to the container within fifteen (15) minutes;
  3. The person performing the loading operation leaving the immediate vicinity of the container; or
  4. The shutdown of the process generating the material being added to the container, whichever condition occurs first.

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9.3.4.2 Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows: *[40 CFR 264.1086(c)(3)(ii)]*

9.3.4.2.1 For the purposes of meeting the requirements of this Permit Condition, an empty container as defined in 40 CFR 261.7(b) may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).

9.3.4.2.2 In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container as defined by 40 CFR 261.7(b), the Permittee shall promptly secure the closure devices in the closed position and install covers as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within fifteen (15) minutes or the person performing the operation leaves the immediate vicinity of the container, whichever occurs first.

9.3.4.3 Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities (e.g., sampling) other than transfer of hazardous waste. Following completion of the activity, the Permittee shall promptly secure the closure device or reinstall the cover, as applicable to the container.

9.3.4.4 Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device which vents to the atmosphere is allowed during normal operations for maintaining the internal pressure of the container in accordance with the container design specifications. The device shall be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens shall be established such that the device remains in the closed position whenever internal pressure of the container is within the normal internal operating pressure for that container as defined in 40 CFR 264.1086(c)(3)(iv).

9.3.4.5 Opening of a safety device, as defined in 40 CFR 264.1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

#### **9.4 INSPECTION AND REPORTING REQUIREMENTS**

9.4.1 The Permittee shall inspect containers using Container Level 1 controls and their covers as follows:

9.4.1.1 Containers accepted at the facility which are not empty per 40 CFR 261.7(b), shall be visually inspected within twenty-four (24) hours of acceptance. Each container and its cover shall be inspected for visible cracks, holes, gaps or other open spaces when the cover or closure device is secured in the closed position. If a defect is detected, the Permittee shall repair the defect in accordance with Permit Condition 9.4.1.2.

9.4.1.2 When a defect is detected for a container, cover or closure device, the Permittee shall make first efforts at repair of the defect no later than twenty-four (24) hours after detection and the repair shall be completed as soon as possible but no later than five (5) calendar days after the defect is detected. If a repair or defect cannot be completed within five (5) calendar days, then

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the hazardous waste shall be removed from the container and the container shall not be used to manage hazardous waste until the defect is repaired.

- 9.4.2 Visual inspections, monitoring, and all recordkeeping requirements shall be met for each unit to ensure compliance with 40 CFR 264.1088.
- 9.4.3 The Permittee shall report to the Director within seven (7) days any unit that is not listed in Table 9.2 and is managing hazardous waste such that 40 CFR 264 Subpart AA, BB or CC should apply to that unit.
- 9.4.4 A monitoring and inspection schedule and procedures shall be submitted to the Director, within thirty (30) calendar days prior to the anticipated start-up of any new Subpart AA, BB, or CC unit or emissions control technology on existing units. The inspection schedule and procedures shall be approved by the Director prior to any continuous or intermittent operations.
- 9.4.5 The Permittee shall determine if a Permit modification is required under 40 CFR 270.42 or Permit Condition 1.2.1 for any new activity requiring management under this Part and follow the procedures in 40 CFR 270 to obtain a Permit modification if required.
- 9.4.6 The Permittee shall comply with the standard requirements in 40 CFR 264.1032-1033 pertaining to all process vents subject to Subpart AA standards.
- 9.4.7 The Permittee shall comply with the test method and procedure requirements in 40 CFR 264.1034 pertaining to all process vents subject to Subpart AA standards.
- 9.4.8 The Permittee shall comply with the reporting requirements, as applicable, provided in 40 CFR 264.1036 pertaining to all process vents subject to Subpart AA standards, as specified in Permit Condition 2.12.4.9(a).
- 9.4.9 The Permittee shall control air pollutant emissions, as applicable, for all tanks, surface impoundments and containers subject to Subpart CC standards in accordance with 40 CFR 264.1084-1087.
- 9.4.10 The Permittee shall comply with the reporting requirements, as applicable, provided in 40 CFR 264.1090, as specified in Permit Condition 2.12.4.9(c).

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## **9.5 RECORDKEEPING REQUIREMENTS**

9.5.1 The Permittee shall maintain in the operating record at the facility the following information:

9.5.1.1 A copy of the procedure used to determine that containers with a capacity of one hundred and nineteen (119) gallons or greater, which do not meet applicable DOT regulations as specified in 40 CFR 264.1086(f), are not managing hazardous waste in light service.

9.5.1.2 For waste streams that do not require the use of air emission control equipment, documentation shall be recorded and maintained in the operating record that includes the information that was used by the Permittee for each waste determination (e.g. test or certification by the generator). If analysis results for waste samples are used for the waste determination, then the Permittee shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements in 40 CFR 264.1083.

9.5.1.3 For containers used at the facility to manage hazardous wastes covered by this Permit Section, sufficient information shall be provided to describe:

1. An identification number for the container or group of containers;
2. The purpose and placement of this container, or group of containers, in the management train of this hazardous waste; and
3. The procedures used to ultimately dispose of the hazardous waste handled in the containers.

9.5.2 The Permittee shall comply with the recordkeeping requirements of 40 CFR 264.1035, as applicable, pertaining to all process vents subject to Subpart AA standards.

9.5.3 The Permittee shall comply with the recordkeeping requirements of 40 CFR 264.1089, as applicable, pertaining to all tanks, surface impoundments and containers subject to Subpart CC standards.

## **9.6 AIR EMISSION CONTROL INFORMATION TO BE MAINTAINED AT THE FACILITY**

9.6.1 As warranted, the Permittee shall maintain at the facility, until closure of the facility is completed and certified by a qualified Professional Engineer, the following air emission control documents, information and all amendments, revisions and modifications to these documents and information:

9.6.1.1 Identification of each area that manages waste subject to 40 CFR 264 Subpart AA, BB or CC controls and the Permittee's certification that the requirements of this Subpart are met. The facility must document if the containers are subject to Level 1, Level 2 or Level 3 requirements;

9.6.1.2 An emission monitoring plan for Method 21 in 40 CFR Part 60, Appendix A. This plan shall include monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting any exceedance, and procedures for mitigating noncompliance.

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**9.7 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Reserved</i>	

DRAFT



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**10. SUMMARY**

This section of the Permit describes the Groundwater Detection Monitoring Program, in compliance with 40 CFR 264.98, with which the Permittee determined that there was statistically significant evidence of contamination for Chromium at the PF-4 groundwater monitoring well. Because of this evidence of contamination, the Permittee established and was required to maintain a Groundwater Compliance Monitoring Program, as described in Permit Section 11. Because of a continued increase in the Chromium at the PF-4 groundwater monitoring well the Permittee is establishing and will be required to maintain a Corrective Measures Implementation (CMI), as described in Permit Section 12A.

A description of the facility, defining onsite, offsite and the “Point of Compliance” (POC) (see 40 CFR 264.95) is identified by the legal description of the facility, as contained in Appendix A-1 of Section A of the Permit Application. The shallow groundwater, proximity of other industry, and the information contained in the RCRA Facility Assessment dated November 15, 2001 (release from the operation controls of the facility to the environment reported to the Division, and subsequently identified in the RFA) were grounds for requiring the Permittee to maintain a Groundwater Detection Monitoring Program.

The initial 21EMN groundwater monitoring system consisted of data from eight (8) groundwater monitoring wells. Two (2) additional compliance monitoring wells will be installed as part of the Corrective Measures Study (CMS, June 2013), as described in Permit Section 12A. The existing upgradient well (background) is Well PF-1. Background groundwater samples were collected and analyzed for at least 8 consecutive quarters and Groundwater Protection Standard (GWPS) values were established for the constituents and parameters being monitored (see Table 10.3a, below). The GWPS values for the remaining constituents (see Table 10.3b, below) are the maximum concentration limits given in Table 1 of 40 CFR 264.94(a)(2). The GWPS will be used to assess the potential influence of the facility upon the groundwater beneath the site.

**10.1 POINT OF COMPLIANCE**

The Point of Compliance (POC) is established as described in the Permit Section 10 Summary, above. All wells identified herein as POC wells, or installed for that purpose subsequent to Permit issuance, are considered reflective of the conditions at the Point of Compliance. For the purposes of determining whether the facility complies with the GWPS established herein, any exceedance of the GWPS identified in Tables 10.3A and 10.3B requires compliance with Permit Conditions 10.6 and 10.7.

**10.2 WELL LOCATION, INSTALLATION AND CONSTRUCTION**

The Permittee shall maintain the groundwater monitoring system as required by 40 CFR 264.97, as specified in Permit Application Section E (Groundwater Monitoring), and as summarized below.

10.2.1 The Permittee shall maintain groundwater monitoring wells at the locations specified on the map in Figure E1-2 in Permit Application Section E (Groundwater Monitoring) and in conformance with Table 10.2, below. *[40 CFR 264.97(a)]*

**Table 10.2**

<b>Monitoring Well Identification</b>		<b>Designation</b>
1	PF-1	Background
2	PF-2	POC
3	PF-3	POC
4	PF-4	POC
5	PF-4D <sup>i</sup>	POC
6	PF-5	POC
7	PF-6	POC
8	PF-7 <sup>ii</sup>	POC
9	PF-8 <sup>iii</sup>	POC
10	PF-9 <sup>iv</sup>	POC

- 10.2.2 The Permittee shall maintain the monitoring wells identified in Permit Condition 10.2.1, in accordance with the detailed plans and specifications presented in Section E8.0 (GMP Network Inspection, Maintenance, and Well Replacement) of the Permit Application. [40 CFR 264.97(a)]
- 10.2.3 The Permittee shall maintain borehole integrity of each monitoring well identified in Table 10.2, as required by 40 CFR 264.97(c).
- 10.2.4 Any wells deleted from the monitoring program shall be plugged and abandoned in accordance with NAC 534.420, and shall be decommissioned only upon prior approval of the Director. All well decommissioning methods and certification reports shall be submitted to the Director within sixty (60) days from the date any wells are approved to be removed from the monitoring program.
- 10.2.5 All new and replacement wells shall be drilled and constructed as approved by NDEP-BSMM. A well installation work plan shall be submitted to the Department, for approval, for all new and replacement monitoring wells. The Permittee may not begin drilling until NDEP-BSMM approval has been granted. All new and replacement monitoring wells shall be designed, constructed, and installed in accordance with Nevada’s Monitoring Well Installation Regulations (NRS 445A.660, NAC 534); and, as appropriate, in general accordance with current guidance from the Division and the EPA for drilling and construction of groundwater monitoring wells.
- 10.2.5.1 The Permittee shall take all reasonable precautions during drilling to prevent cross-contamination between the water-bearing hydrologic zone and the geologic zones overlying and underlying the hydrologic zone.

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<sup>i</sup> Installed after Statistically Significant Increases in Chromium and Cyanide were detected at PF-4; well PF-4-D was installed next to and 10 feet deeper than PF-4 to assess groundwater for the presence of chromium at a greater depth.

<sup>ii</sup> Installed after Statistically Significant Increases in Chromium and Cyanide were detected at PF-4; well PF-7 was installed to assess groundwater for the presence of chromium immediately downgradient of the Detoxification Room and upgradient of well PF-4.

<sup>iii</sup> Replacement well, replacing the existing groundwater monitoring well PF-4, installed upgradient of the reactive barrier system, as part of the Corrective Measures Plan (CMP).

<sup>iv</sup> Compliance well installed downgradient of PF-4 at the property border, as part of the CMP. This is the furthest downgradient location within the property boundary.

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10.2.6 The Permittee shall submit to the Division within sixty (60) calendar days of installation of any new or replacement monitoring well, or decommissioning of an existing monitoring well, revised versions of Figure E1-2, and any other listing/description of the groundwater monitoring wells in Section E of the Permit Application. The Permittee shall obtain a permit modification for any new or replacement monitoring well.

**10.3 INDICATOR PARAMETERS AND MONITORING CONSTITUENTS**

10.3.1 The Permittee shall monitor all wells listed in Table 10.2 for the parameters and constituents listed in Tables 10.3A and 10.3B in accordance with Permit Condition 10.3.1.1.

*[40 CFR 264.98(a)]*

10.3.1.1 All Point of Compliance (POC) and background wells in Table 10.2 shall be sampled quarterly for parameters and constituents listed in Table 10.3A; and sampled biannually for parameters and constituents listed in Table 10.3B.

**Table 10.3A – Quarterly Monitoring**

Parameter or Constituent	GWPS [mg/l] <sup>v</sup>
1 Arsenic	0.334 <sup>vi</sup>
2 Barium	0.175 <sup>vi</sup>
3 Cadmium	0.005 <sup>vii</sup>
4 Chromium	0.050 <sup>vii</sup>
5 Lead	0.015 <sup>viii</sup>
6 Mercury	0.002 <sup>vii</sup>
7 Selenium	0.11 <sup>vi</sup>
8 Silver	0.050 <sup>vii</sup>
9 Cyanide	0.052 <sup>vi</sup>
10 TOX	0.059 <sup>vi</sup>
11 TOC	5.4 <sup>vi</sup>
12 pH	7.8 to 8.5 <sup>vi</sup>
13 Specific Conductance	5.4 <sup>vi, ix</sup>
14 Nitrate <sup>x</sup>	26.9 <sup>xi</sup>
15 Sodium <sup>x</sup>	1,896 <sup>xi</sup>
16 Sulfate <sup>x</sup>	3,500 <sup>xi</sup>
17 Chloride <sup>x</sup>	861 <sup>xi</sup>

<sup>v</sup> Values established using ProUCL and assuming 95% UPL for 5 future values.

<sup>vi</sup> Values established with Background Data from 2<sup>nd</sup> Quarter 2006 to 2<sup>nd</sup> Quarter 2015.

<sup>vii</sup> Smallest of MCL values given in 40 CFR 141.23 and 40 CFR 264.94; Background value was well below the MCL.

<sup>viii</sup> Action Level for Lead.

<sup>ix</sup> Units for Specific Conductance are m\*S/cm = m\*mho/cm.

<sup>x</sup> Hazardous constituents which may appear from spills or fires at the Facility.

<sup>xi</sup> Values established with Background Data from 4<sup>th</sup> Quarter 2013 to 4<sup>th</sup> Quarter 2015.

**Table 10.3B - Semi-Annual Monitoring**

	Constituent	GWPS [mg/l] <sup>vi</sup>
1	Endrin (1,2,3,4,10,10-hexachloro-1,7-epoxy-1,4,4a,5,6,7,8,9a-octahydro-1,4-endo,endo-5,8-dimethano naphthalene)	0.0002
2	Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
3	Methoxychlor (1,1,1- Trichloro-2,2-bis (p-methoxyphenylethane)	0.100
4	Toxaphene (C <sub>10</sub> H <sub>10</sub> Cl <sub>6</sub> , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
5	2,4-D (2,4-Dichlorophenoxyacetic acid)	0.100
6	2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.010

10.3.2 For those parameters and constituents in Tables 10.3A and 10.3B for which no GWPS values are established at the time this Permit is issued, the Permittee shall establish GWPS values, using the background well, in accordance with the following:<sup>vii</sup> [40 CFR 264.97(g)]

10.3.2.1 A sequence of at least four (4) samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer’s effective porosity, hydraulic conductivity, and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

10.3.2.2 An alternative sampling procedure proposed by the Permittee and approved by the Director.

10.3.3 The Permittee shall take a sufficient number and volume of samples from each well to analyze for each parameter and/or constituent identified in Tables 10.3A and 10.3B each time the system is sampled. [40 CFR 264.97(g)]

10.3.3.1 Point of Compliance (POC) and background wells shall have four independent field measurements of specific conductance and pH at the time of each quarterly sampling event. [40 CFR 264.98(d)]

10.3.3.2 Background groundwater quality for monitoring parameters or constituents shall be based on all available data from quarterly (Table 10.3A) or semi-annual (Table 10.3B) sampling of Well PF-1. [40 CFR 264.97(g)]

10.3.3.3 The Permittee shall take a minimum of one sample from each background well, each time the POC wells are sampled, to identify changes to background groundwater quality for each parameter or constituent. [40 CFR 264.97(g)(2)]

<sup>vi</sup> GWPS values are from Table 1 in 40 CFR 264.94(a)(2).

<sup>vii</sup> Until a GWPS is established, the concentrations found for these parameters and constituents will be compared to the concentrations found in the background well during the same quarter.

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10.3.3.4 The Permittee shall recalculate the Groundwater Protection Standards established in Tables 10.3A and 10.3B and include such calculations when submitting an application for future permit renewal in accord with 40 CFR 270. The recalculation shall include all data obtained from the background well(s), which will be used by the Director to assist in establishing a background limit for each parameter or constituent monitored; alternatively, the Director may accept another suitable method of establishing the Groundwater Protection Standards which the Permittee can request through a permit modification following the procedures outlined in Permit Condition 1.2.1.

**10.4 SAMPLING AND ANALYSIS PROCEDURES**

The groundwater monitoring program must include sampling and analysis procedures that accurately measure hazardous constituents in groundwater and that are designed to ensure monitoring results that provide a reliable indication of the groundwater below the hazardous waste management area. The Permittee shall use the following techniques and procedures when obtaining and analyzing samples from the groundwater monitoring wells described in Permit Condition 10.2. *[40 CFR 264.97(d) and (e)]*

10.4.1 Samples shall be collected using the techniques described in the Groundwater Monitoring Plan in Section E5.0 (Groundwater Sampling Methods) of the Permit Application.

10.4.2 Samples shall be preserved and shipped (when shipped off site for analysis), in accordance with the procedures specified in the Groundwater Monitoring Plan in Permit Application Section E5.2.6 (Sample Storage and Transportation).

10.4.3 Samples shall be analyzed in accordance with the procedures specified in the Groundwater Monitoring Plan in Section E7.0 (Analytical Procedures) of the Permit Application.

10.4.4 Samples shall be tracked and controlled using the chain-of-custody procedures specified in the Groundwater Monitoring Plan in Permit Application Section E5.2.6 (Sample Storage and Transportation).

10.4.5 Field sampling equipment shall be calibrated in accordance with the manufacturer’s guidelines for each piece of equipment. Manufacturer’s guidelines for each field-sampling device shall be maintained at the facility. The calibration data shall be recorded and maintained as part of the operating record of the facility.

**10.5 ELEVATION OF THE GROUNDWATER SURFACE**

10.5.1 The Permittee shall determine the groundwater surface elevation at each well each time the groundwater is sampled, in accordance with Permit Condition 10.4 and Permit Application Section E (Groundwater Monitoring). *[40 CFR 264.97(f)]*

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10.5.2 For all new or replacement wells, the Permittee shall record, with as-built drawings, the total depth of the well and the elevations of the following:

1. Top of the casing;
2. Ground surface and/or apron elevation; and
3. Protective Casing.

## **10.6 MONITORING PROGRAM AND DATA EVALUATION**

10.6.1 The Permittee shall collect, preserve, and analyze samples pursuant to Permit Conditions 10.3 and 10.4.

10.6.2 The Permittee shall determine groundwater quality at each monitoring well at the compliance point quarterly, during the active life of all regulated units, including the closure period.

*[40 CFR 264.98(d)]*

10.6.2.1 The Permittee shall express the groundwater quality at each monitoring well in a form necessary for the determination of statistically significant increases (i.e., means and variances).

*[40 CFR 264.97(h)]*

10.6.3 The Permittee shall determine the groundwater flow rate and direction in the uppermost aquifer quarterly and submit the results to the Director per Permit Condition 10.8.3. *[40 CFR 264.98(e)]*

10.6.4 The Permittee shall determine whether there is a statistically significant increase (SSI) over the GWPS for each parameter identified in Tables 10.3A and 10.3B each time groundwater quality is determined at the compliance point (quarterly for Table 10.3A and biannually for Table 10.3B). In determining whether such an increase has occurred, the Permittee must compare the groundwater quality at each monitoring well specified in Table 10.2 to the GWPS values specified in Tables 10.3A and 10.3B, in accordance with the procedures specified in Permit Condition 10.7. If GWPS values have not been established for a parameter, then the value at each monitoring well specified in Table 10.2 will be compared to the background value at PF-1 for that sampling event.

*[40 CFR 264.98(f)]*

10.6.5 The Permittee shall perform the evaluations described in Permit Condition 10.6.4 within thirty (30) days after receiving the sampling results from the laboratory.

## **10.7 STATISTICAL PROCEDURES**

10.7.1 A statistically significant increase (SSI) is determined by comparing each groundwater monitoring result to the corresponding GWPS value in Tables 10.3a and 10.3b. If the value of the groundwater data is higher than its respective GWPS limit, then the Permittee shall:

10.7.1.1 Resample the affected well for required parameters at the next scheduled quarterly sampling event.

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- 10.7.1.2 Compare the results obtained to the GWPS limits in Tables 10.3A and 10.3b. If the results of the resample are higher than the GWPS, such that two consecutive results exceed the GWPS, then the Permittee shall comply with Permit Conditions 10.8.4 and/or 10.8.5.
- 10.7.1.3 The Permittee shall perform the evaluations described in Permit Condition 10.7.1 within ninety (90) days after receipt of quarterly groundwater analytical results. *[40 CFR 264.98(f)(2)]*

**10.8 RECORDKEEPING AND REPORTING**

- 10.8.1 The Permittee shall enter all field equipment calibration data, monitoring, testing, and analytical data obtained in accordance with Permit Condition 10.4 in the operating record. The data must include all computations, calculated means, variances, and tests of distribution results. *[40 CFR 264.73(b)(6)]*
- 10.8.2 The Permittee shall submit to the Director the analytical and field data results required by Permit Condition 10.6 and the results of the statistical analyses required by Permit Condition 10.7 in accordance with Table 10.8, below. The data shall be reported in graphical, tabular and electronic file format, as approved by the Director.

**Table 10.8**

<b>Bi-Annual Period</b>		<b>Due Date</b>
1	January 1 – June 30	September 30
2	July 1 – December 31	March 30

- 10.8.3 The Permittee shall submit a groundwater gradient map for the “upper” aquifer annually. The map shall indicate the velocity in feet/year, the groundwater elevation for each well used to generate the map, and the direction of flow. The map is due with the second biannual report required by Permit Condition 10.8.2. The map shall be submitted in electronic and paper copy format.
- 10.8.4 If the Permittee determines, pursuant to Permit Condition 10.7.1.2, that there is a statistically significant increase (SSI) above the GWPS for any of the parameters and constituents specified in Tables 10.3a and 10.3b, which is not already being addressed under Permit Section 12A, the Permittee may demonstrate that a source other than a currently operating regulated unit caused the increase or that the increase resulted from error in sampling, analysis, evaluation, or natural variation in the groundwater. *[40 CFR 264.98(g)(6)]*

In such cases, the Permittee shall:

- 10.8.4.1 Notify the Director in writing within seven (7) days of determining statistically significant evidence of contamination at the compliance point that the Permittee intends to make such a demonstration; and *[40 CFR 264.98(g)(6)(i)]*
- 10.8.4.2 Within ninety (90) days, submit a report demonstrating that a source other than a currently operating regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, evaluation, or natural variations in the groundwater.

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*[40 CFR 264.98(g)(6)(ii)]*

- 10.8.4.3 Within ninety (90) days, submit to the Director an application for a permit modification to make any appropriate changes to the detection monitoring program at the facility; and  
*[40 CFR 264.98(g)(6)(iii)]*
- 10.8.4.4 Continue to monitor in accordance with the detection monitoring program established under this section.  
*[40 CFR 264.98(g)(6)(iv)]*
- 10.8.5 If the Permittee determines, pursuant to Permit Condition 10.7.1.2, that there is an SSI above the GWPS for any of the parameters specified in Tables 10.3A and 10.3B, which is not already being addressed under Permit Section 12A, and the Permittee does not submit the required demonstration under Permit Condition 10.8.4, then the Permittee shall:
- 10.8.5.1 Notify the Director in writing within seven (7) days of the determination.  
*[40 CFR 264.98(g)(1)]*
- 10.8.5.2 Immediately sample the groundwater in all wells and determine the concentration of all constituents identified in Appendix IX of 40 CFR 264.  
*[40 CFR 264.98(g)(2)]*
- 10.8.5.3 For any Appendix IX constituents found in the analysis, pursuant to Permit Condition 10.8.5.2, the Permittee may resample within one month of receiving the analytical results and repeat the analysis for those compounds detected. If the results of the resample confirm the initial results, then the newly identified constituents will form the basis for the Compliance Monitoring. If the Permittee does not resample, then the constituents found pursuant to Permit Condition 10.8.5.2 will form the basis for the Compliance Monitoring.  
*[40 CFR 264.98(g)(3)]*
- 10.8.5.4 Within ninety (90) days of determining an SSI, submit to the Director an application for a permit modification to establish a Compliance Monitoring Program for the currently operating regulated units.  
*[40 CFR 264.98(g)(4)]*
- The application must include the following information:
- 10.8.5.4.1 An identification of the concentration of any Appendix IX constituent detected in the groundwater at each monitoring well at the compliance point;  
*[40 CFR 264.98(g)(4)(i)]*
- 10.8.5.4.2 Any proposed changes to the groundwater monitoring system at the facility necessary to meet the requirements of 40 CFR 264.99;  
*[40 CFR 264.98(g)(4)(ii)]*
- 10.8.5.4.3 Any proposed changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of 40 CFR 264.99; and  
*[40 CFR 264.98(g)(4)(iii)]*
- 10.8.5.4.4 For each hazardous constituent detected at the compliance point, a proposed concentration limit under 40 CFR 264.94(a)(1) or (2), or a notice of intent to seek an alternate concentration limit under 40 CFR 264.94(b).  
*[40 CFR 264.98(g)(4)(iv)]*



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**10.9 REQUEST FOR PERMIT MODIFICATION**

If the Permittee or the Director determines that the Groundwater Detection Monitoring program no longer satisfies the requirements of the regulations, the Permittee must, within ninety (90) days of the determination, submit an application for a permit modification, in accordance with Permit Condition 1.2.1, to make appropriate changes to the program which will satisfy the regulations.

*[40 CFR 264.98(h)]*

**10.10 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

<b>Task</b>		<b>Date Due</b>
1	<i>Reserved</i>	

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<b>RCRA PERMIT NEVHW0033 21EMN LLC EPA ID# NVD980895338</b>	<b>SECTION 11 GROUNDWATER COMPLIANCE MONITORING</b>	<b>REVISION 1 DATE 2025</b>
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**11. SUMMARY**

The Permittee is required to conduct a Groundwater Compliance Monitoring Program in accordance with 40 CFR 264.99. A description of the facility, defining onsite, offsite and the “Point of Compliance” (POC) (see 40 CFR 264.95) is identified by the legal description of the facility, as contained in Appendix A-1 of Section A of the Permit Application. The RCRA Facility Investigation Report dated July 2011 (statistically significant increase in Chromium in PF-4) was grounds for requiring the Permittee to maintain a Groundwater Compliance Monitoring Program. In response to a continued increase in the Chromium detected in PF-4, the Permittee is required to establish and maintain Corrective Measures, as described in Permit Section 12A.

**11.1 WELL LOCATION, INSTALLATION AND CONSTRUCTION**

The Permittee shall continue to maintain the groundwater monitoring system described in Permit Section 10, with the changes and/or additional conditions described in this section of the Permit.

**11.2 GROUNDWATER PROTECTION STANDARD**

11.2.1 The Permittee shall monitor the groundwater to determine whether regulated units are in compliance with the established Groundwater Protection Standard (GWPS) values listed in Tables 10.3A, 10.3B and 11.2. *[40 CFR 264.92 and 264.99(a)]*

11.2.2 The Permittee shall continue to monitor all wells listed in Table 10.2 at the point of compliance, as described in Permit Section 10, during the compliance period<sup>i</sup>. *[40 CFR 264.95 and 264.99(a)]*

11.2.3 The Permittee shall also monitor the groundwater in the background well(s) listed in Table 10.2 and the monitoring wells listed in Table 11.2 for the respective hazardous constituents listed in Table 11.2, during the compliance period. *[40 CFR 264.99(a)]*

**TABLE 11.2**

	<b>Detected Appendix IX Constituents<sup>i</sup></b>	<b>Well Initially Detected At</b>	<b>Wells to be Monitored</b>	<b>GWPS (mg/L)</b>
1	Vanadium	PF-3	PF-3 and PF-9	0.0643
2	Antimony	PF-3	PF-3 and PF-9	0.006 <sup>iii</sup>
3	Cobalt	PF-3	PF-3 and PF-9	TBD <sup>ii</sup>
4	Copper	PF-3	PF-3 and PF-9	1.3 <sup>iii</sup>
5	Nickel	PF-3	PF-3 and PF-9	TBD <sup>ii</sup>
6	Zinc	PF-3	PF-3 and PF-9	TBD <sup>ii</sup>
7	Chloroform	PF-1	PF-1 and PF-9	TBD <sup>iv</sup>
8	Bromodichloromethane	PF-1	PF-1 and PF-9	TBD <sup>iv</sup>

<sup>i</sup> Appendix IX constituents detected in the listed well(s) during past groundwater monitoring.

<sup>ii</sup> Insufficient detections exist in the dataset for PF-1 to calculate a GWPS after eight (8) sampling events per Section 11.10.

<sup>iii</sup> Smallest of MCL values given in 40 CFR 141.23 and 40 CFR 264.94; Background value was well below the MCL.

<sup>iv</sup> To Be Determined; GWPS value shall be established as described in Permit Condition 10.3.2.

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### **11.3 SAMPLING AND ANALYSIS PROCEDURES**

- 11.3.1 The Permittee shall use the techniques and procedures described in Permit Conditions 10.3 and 10.4 when obtaining and analyzing samples from the groundwater monitoring wells.  
*[40 CFR 264.97(d) and (e)]*
- 11.3.2 All wells in Table 10.2 shall be sampled at least quarterly for the parameters and constituents listed in Table 10.3a and least biannually for the parameters and constituents listed in Table 10.3B.  
*[40 CFR 264.99(f)]*
- 11.3.3 The wells listed in Table 11.2 shall be sampled at least quarterly for the respective parameters and constituents listed in Table 11.2.  
*[40 CFR 264.99(f)]*
- 11.3.4 The Permittee must annually analyze samples from the background well(s) and wells determined to be within or downgradient from the Area of Concern,<sup>iv</sup> for constituents listed in Appendix IX of 40 CFR 264 which could possibly be present but are not on the detection monitoring list in the permit, during the compliance period.  
*[40 CFR 264.99(g)]*

### **11.4 ELEVATION OF THE GROUNDWATER SURFACE**

The Permittee shall determine the groundwater surface elevation at each monitoring well, as described in Permit Condition 10.5.  
*[40 CFR 264.97(f)]*

### **11.5 STATISTICAL PROCEDURES**

The Permittee shall use the statistical procedures described in Permit Condition 10.7.

### **11.6 MONITORING PROGRAM AND DATA EVALUATION**

The Permittee shall determine the groundwater quality as follows:

- 11.6.1 The Permittee shall collect, preserve, and analyze groundwater samples pursuant Permit Section 10 and the following.
- 11.6.2 The Permittee shall determine if the constituents listed in Table 11.2 are detected in the groundwater monitoring wells listed in Table 11-2 at larger concentrations than the listed GWPS values<sup>v</sup>.
- 11.6.3 The Permittee shall analyze samples from all monitoring wells in accord with Permit Condition 11.3, and their concentrations shall be reported to the Director in accord with Permit Condition 11.7.

<sup>iv</sup> The Area of Concern was determined by the RCRA Facility Investigation (RFI) [June 2013] carried out in response to the SSI described in Permit Condition 10.7. The well within or downgradient of the Area of Concern is PF-9.

<sup>v</sup> For constituents which do not have an established GWPS value, the Permittee shall determine if the detected concentrations are larger than the concentrations found in the Background Well (PF-1) for the same quarter.

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**11.7 REPORTING AND RECORDKEEPING**

- 11.7.1 The Permittee shall enter all monitoring, testing and analytical data obtained pursuant to Permit Condition 11.3 in the operating record. The data must include all computations, calculated means, variances and results of statistical tests. *[40 CFR 264.73(b)]*
- 11.7.2 The Permittee shall report the results of all sampling conducted pursuant to Permit Condition 11.3 in the reports required by Permit Condition 10.8.2.

**11.8 SPECIAL REQUIREMENT IF THE GWPS IS EXCEEDED**

If the GWPS has been exceeded at any monitoring well at the point of compliance, and the constituent and specific monitoring well exceeding the GWPS are not already being addressed by Permit Section 12A, the Permittee must:

- 11.8.1 Notify the Director of this finding in writing within seven (7) days. The notification must indicate what concentration limits have been exceeded. *[40 CFR 264.99(h)(1)]*
- 11.8.2 The Permittee may demonstrate that the exceedance was caused by a non-regulated unit or error, as described in Permit Condition 10.8.4. *[40 CFR 264.99(i)]*
- 11.8.3 If the Permittee does not submit the required demonstration under Permit Condition 11.8.2, then the Permittee shall submit to the Director, within one hundred and eighty (180) days, an application for a permit modification to establish a corrective action program meeting the requirements of 40 CFR 264.100. *[40 CFR 264.99(h)(2)]*

The application must include the following information:

- 11.8.3.1 A detailed description of corrective actions that will achieve compliance with the GWPS specified in Permit Condition 11.2. *[40 CFR 264.99(h)(2)(i)]*
- 11.8.3.2 A plan for a groundwater monitoring program that will demonstrate the effectiveness of the corrective action. Such a groundwater monitoring program may be based on a compliance monitoring program developed to meet the requirements of this permit section.

**11.9 REQUEST FOR PERMIT MODIFICATION**

If the Permittee or the Director determines that the Groundwater Compliance Monitoring program no longer satisfies the regulatory requirements, then the Permittee must submit an application for a permit modification within ninety (90) days of the determination to make appropriate changes to the program which will satisfy the regulations. *[40 CFR 264.98(h)]*

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**11.10 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

<b>Task</b>		<b>Date Due</b>
1	<i>Reserved</i>	

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## 12A. SUMMARY

The Permittee is required to conduct a Corrective Action Program in compliance with 40 CFR 264.100. A description of the facility, defining onsite, offsite and the “Point of Compliance” (POC) (see 40 CFR 264.95) is identified by the legal description of the facility, as contained in Appendix A-1 of Section A of the Permit Application. Phase 4 of the RCRA Facility Investigation, dated August 29, 2012, demonstrated that Chromium above the established groundwater protection standard (GWPS) in PF-4 does not appear to be from an off-site source. Despite comprehensive investigative efforts, a specific on-site source for the observed Chromium has not been established. However, since Chromium is found in on-site groundwater above its GWPS with no apparent off-site source, NDEP determined that this condition constitutes sufficient grounds for requiring the Permittee to implement a Corrective Action Program. A Corrective Measures Study (CMS) and a Corrective Measures Implementation (CMI) Work Plan and Design Report were completed and submitted to the Director for approval. These documents were approved and implemented in 2013. After the initial passive corrective action system failed to achieve the desired objectives, a Revised Corrective Measures Implementation Work Plan was completed and implemented in 2017 based upon results from a 2016 active remediation Pilot Study. The current approved plan includes continued operation of a pump and treat remedial system.

Any document submitted in support of a Corrective Action Program required under this part shall be adopted by reference as if fully set forth herein.

### 12A.1 WELL LOCATION, INSTALLATION AND CONSTRUCTION

The Permittee shall continue to maintain the groundwater monitoring system described in Permit Section 10, as required by 40 CFR 264.100(d), with the changes and/or additional conditions described in Section 11 and this section of the Permit.

- 12A.1.1 The Permittee shall install and maintain additional groundwater monitoring wells, corrective barrier columns<sup>i</sup> and pump back well at locations specified in the Focused CMS (June 2013) and the amended CMI Work Plan (March 2017) or as otherwise approved, and in conformance with the following list: *[40 CFR 264.100(a)(3) and (d)]*

**Table 12A.1A**

<b>MONITORING WELL IDENTIFICATION</b>		<b>LOCATION</b>
1	PF-8 <sup>ii</sup>	Directly upgradient of the PRB System
2	PF-9 <sup>iii</sup>	Furthest downgradient, at the Facility’s southeastern boundary

<sup>i</sup> The barrier columns are boreholes backfilled with zero-valent iron (ZVI) and form a Permeable Reactive Barrier (PRB).

<sup>ii</sup> Replacement well, replacing the existing groundwater monitoring well PF-4, installed upgradient of the reactive barrier system, as part of the Corrective Measures Plan (CMP).

<sup>iii</sup> Compliance well installed downgradient of PF-4 at the property border, as part of the CMP. This is the furthest downgradient location within the property boundary.

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**Table 12A.1B**

<b>BARRIER COLUMNS IDENTIFICATION</b>		<b>LOCATION</b>
1	Barrier Column 1	Upgradient of PF-4
2	Barrier Column 2	Upgradient of PF-4
3	Barrier Column 3	Upgradient of PF-4

12A.1.2 The Permittee shall construct and maintain the monitoring wells, barrier columns and pump-back wells identified in Tables 12A.1A and 12A.1B, in accordance with the plans and specifications meeting the requirements of 40 CFR 264.97(c). The plans and specifications shall consist of design drawings and design criteria applicable to all wells, as well as individual well specifications identifying total well depth and location of screened intervals.*[40 CFR 264.100(d)]*

12A.1.3 All wells deleted from the monitoring program shall be plugged and abandoned in accordance with Permit Condition 10.2.4. Well plugging and abandonment methods and certification shall be submitted to the Director within sixty (60) days from the date the wells are removed from the monitoring program.

**12A.2 GROUNDWATER PROTECTION STANDARD**

12A.2.1 The Permittee shall implement a corrective action program to demonstrate the effectiveness of the corrective measures being taken and determine whether regulated units are in compliance with the established Groundwater Protection Standard (GWPS) values listed in Tables 10.3A, 10.3B, and 11.2. *[40 CFR 264.100(d)]*

12A.2.2 The Permittee shall continue to monitor all wells listed in Table 10.2 at the point of compliance, as described in Permit Section 10, during the compliance period<sup>iv</sup>. *[40 CFR 264.95 and 264.100(d)]*

12A.2.3 The Permittee shall continue to monitor the groundwater in the background well(s) listed in Table 10.2 and the POC wells listed as “wells to be monitored” in Table 11.2 for the respective hazardous constituents listed in Table 11.2, during the compliance period. *[40 CFR 264.100(d)]*

12A.2.4 The Permittee shall monitor on a quarterly basis, the background well(s), pumpback well PF4, the POC wells PF-8 and PF-9, and the barrier columns listed in Table 12A.1B for the parameters and constituents listed in Table 12A.2A, to assess the treatment effectiveness of the active remediation system. The analytical results shall be included in the bi-annual monitoring report submitted pursuant the Permit Section 10.8.2.

<sup>iv</sup> The Compliance Period begins when the Permittee initiates a compliance monitoring program and continues for the active life of the facility.

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12A.2.5 The Permittee shall monitor, at least annually, the barrier columns listed in Table 12A.1B for the parameters and constituents listed in Table 12A.2A and 12A.2B to confirm that anticipated chemical reactions have occurred and a favorable environment has been established inside the barrier columns.

**TABLE 12A.2A – Treatment Effectiveness**

<b>Parameter or Constituent<sup>v</sup></b>	
1	Iron
2	Dissolved Oxygen
3	Redox Potential
4	Dissolved Chromium
5	Hexavalent Chromium
6	pH
7	Specific Conductance

**TABLE 12A.2B – Chemical Reactions inside ZVI Columns**

<b>Parameter or Constituent<sup>vi</sup></b>	
1	Calcium (Ca <sup>2+</sup> )
2	Sodium (Na <sup>+</sup> )
3	Potassium (K <sup>+</sup> )
4	Magnesium (Mg <sup>2+</sup> )
5	Alkalinity
6	Chloride (Cl <sup>-</sup> )
7	Sulfate (SO <sub>4</sub> <sup>2-</sup> )
8	Nitrate (NO <sub>3</sub> <sup>-</sup> )

### **12A.3 CORRECTIVE ACTION PROGRAM**

12A.3.1 The Permittee shall submit the following documents within one hundred and eighty (180) days of a confirmed exceedance of the GWPS of Permit Sections 10 and 11, in a manner consistent with establishing a timely Corrective Action Program:

1. A Corrective Measures Study (CMS), as described in Permit Condition 12B.5.3; and
2. Any other documents, as required by the Division.

12A.3.2 The Permittee shall begin corrective action within a period specified by the Director from the time the groundwater protection standard [GWPS] was exceeded. *[40 CFR 264.100(c)]*

12A.3.3 The Permittee shall implement a corrective action program that prevents hazardous constituents from exceeding their respective concentration limits (as required under Permit

<sup>v</sup> Parameters and constituents of concern based on the PRB System which will be installed as part of the Corrective Measures Implementation (CMI). Some parameters which are listed in Table 10.3A are also listed here so that the barrier columns can be monitored.

<sup>vi</sup> Parameters and constituents monitored to verify that anticipated chemical reactions have occurred and a favorable environment has been established inside the ZVI columns.



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Condition 12A.3.1) at the compliance point by removing the hazardous waste constituents or by treating them in place. *[40 CFR 264.100(b)]*

12A.3.4 In conjunction with the corrective action program, the Permittee shall continue the Groundwater Compliance Monitoring Program described Permit Section 11. This monitoring program shall determine both compliance with the GWPS and the success of the corrective action program required under Permit Condition 12A.3.5. *[40 CFR 264.100(d)]*

12A.3.5 The Permittee shall conduct a corrective action program to remove or treat in place any hazardous constituents that exceed GWPS limits in groundwater between the compliance point and the downgradient facility property boundary, in accordance with the procedures specified in Section L (Corrective Action) of the Permit Application. *[40 CFR 264.100(e)]*

12A.3.6 The Focused Corrective Measures Study (June 2013) and CMI Work Plan and Design Report (July 31, 2013) developed after the RFI was complete include:

1. Installation of three barrier columns (listed in Table 12A.1B) directly upgradient of PF-4, as the remedial action for the continuous increase in chromium;
2. Installation of a “replacement” monitoring well (PF-8, listed in Table 12A.1A) immediately upgradient of the barrier wells, but still downgradient from potential source areas; and
3. Installation of a new monitoring well at the property boundary (PF-9, listed in Table 12A.1A), downgradient of PF-4, to determine the potential for any offsite migration.

The CMI Work Plan and Design Report, with adjustments, were approved on August 30, 2013. The adjustments are described in the approval letter.

A Revised CMI Work Plan (March 2017) was developed based upon the results of a 2016 Pilot Study pump-and-treat system. The modified corrective measure system is to include an active low-flow groundwater pumping system that removes contaminated groundwater from well PF-4 for onsite treatment and disposal.

12A.3.7 If the GWPS is met during the compliance period, the Permittee shall continue corrective action to the extent necessary to ensure that the GWPS is not exceeded. If corrective action is required beyond the compliance period, it must continue until the GWPS has not been exceeded for three (3) consecutive years. *[40 CFR 264.100(f)]*

#### **12A.4 SAMPLING AND ANALYSIS PROCEDURES**

12A.4.1 The Permittee shall use the techniques and procedures described in Permit Conditions 10.3 and 10.4 when obtaining and analyzing samples from the groundwater monitoring wells. *[40 CFR 264.97(d) and (e)]*

12A.4.2 All wells in Table 10.2 shall be sampled at least quarterly for the parameters and constituents listed in Table 10.3a and least biannually for the parameters and constituents listed in Table 10.3B. *[40 CFR 264.99(f)]*

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12A.4.3 The background well(s) listed in Table 10.2 and the wells listed in Table 11.2 shall be sampled at least quarterly for the respective parameters and constituents listed in Table 11.2.

*[40 CFR 264.99(f)]*

12A.4.4 The background well(s), monitoring wells PF-4, PF-8 and PF-9, shall be sampled at least quarterly for the parameters and constituents listed in Table 12A.2A.

12A.4.5 The barrier columns in Table 12A.1B shall be sampled at least annually for the parameters and constituents listed in Table 12A.2A and 12A.2B.

12A.4.6 The Permittee must annually analyze samples from the background well(s) and wells determined to be within or downgradient from the Area of Concern,<sup>vii</sup> for constituents listed in Appendix IX of 40 CFR 264 which could possibly be present but are not already being monitored for. This shall continue during the compliance period.

*[40 CFR 264.99(g)]*

#### **12A.5 ELEVATION OF THE GROUNDWATER SURFACE**

The Permittee shall determine the groundwater surface elevation at each monitoring well, as described in Permit Condition 10.5.

*[40 CFR 264.97(f)]*

#### **12A.6 STATISTICAL PROCEDURES**

12A.6.1 When evaluating the monitoring results to determine the performance of corrective action measures, in accordance with Permit Condition 12A.7, the Permittee shall use the statistical procedures described in Permit Condition 10.7 or other procedures approved by the Director.

#### **12A.7 MONITORING PROGRAM AND DATA EVALUATION**

The Permittee shall establish and implement a groundwater monitoring program to demonstrate the effectiveness of the corrective action program. Groundwater monitoring shall be conducted as the program for compliance monitoring under 40 CFR 264.97 and 40 CFR 264.99. The Permittee shall determine groundwater quality as follows:

12A.7.1 The Permittee shall collect, preserve and analyze samples in accordance with Permit Section 10.

12A.7.2 The Permittee shall determine the concentrations of the hazardous parameters and constituents specified in Permit Condition 12A.2, throughout the compliance period and any extensions due to corrective action implementation, to demonstrate conformance with the GWPS.

*[40 CFR 264.96]*

12A.7.3 The Permittee shall determine the concentration of hazardous parameters and constituents in the groundwater at each monitoring well at the compliance point in accord with Permit

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<sup>vii</sup> The Area of Concern was determined by the RCRA Facility Investigation (RFI) [June 2013] carried out in response to the SSI described in Permit Section 10.7. The wells within or downgradient of the Area of Concern is PF-9.

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Condition 12A.4, and their concentrations shall be reported to the Director in accord with Permit Condition 12A.8. *[40 CFR 264.100(d)]*

- 12A.7.4 The Permittee shall determine if the constituents listed in Table 11.2 are detected in the groundwater monitoring wells listed in Table 11.2 at larger concentrations than found in the background well(s), during the same quarter.
- 12A.7.5 If the Permittee finds additional hazardous constituents present (i.e. not already listed in Permit Sections 10, 11 or 12), their concentrations shall be reported to the Director in writing within seven (7) days from completion of the analysis.
- 12A.7.6 The Permittee shall determine the groundwater flow rate and direction in the uppermost aquifer quarterly. *[40 CFR 264.99(e)]*
- 12A.7.7 The Permittee shall statistically compare the measured concentration of each monitored hazardous constituent with its concentration limit specified in the GWPS each time groundwater quality is determined, in accordance with Permit Condition 12A.7.2. The Permittee must compare the groundwater quality measured at each point of compliance monitoring well and any other specified wells, as stated in Permit Condition 12A.2 and in accordance with the procedures specified in Permit Condition 12A.6.

**12A.8 RECORDKEEPING AND REPORTING**

- 12A.8.1 The Permittee shall enter all monitoring, testing and analytical data obtained, according to Permit Condition 12A.7, in the operating record. The data must include all computations, calculated means, variances, and results of the statistical test(s) that the Director has specified. *[40 CFR 264.73(b)(6)]*
- 12A.8.2 The Permittee shall submit an annual report to the Director describing the effectiveness of the corrective action program. The report shall include graphical representations of the constituents in Tables 12A.2A and 12A.2B, as well as gallons of contaminated groundwater removed monthly. These reports shall be submitted by March 30th, with the second Bi-Annual Monitoring Report (see Section 10.8), and include the analytical results. These reports shall be submitted until the corrective action program has been completed. *[40CFR 264.100(g)]*

**12A.9 REQUEST FOR PERMIT MODIFICATION**

If the Permittee or the Director determines that the corrective action program no longer satisfies the regulatory requirements or requirements of this Section of the Permit, then the Permittee must submit, within ninety (90) days of the determination, an application for a permit modification to make appropriate changes to the program. *[40 CFR 264.100(h)]*

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**12A.10 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Reserved</i>	

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**12B SUMMARY AND APPLICABILITY**

The objective of the corrective action program at a permitted hazardous waste management facility is to evaluate the nature and extent of releases of hazardous waste and/or constituents and, if necessary, implement corrective measures to clean up the releases and protect human health and the environment. The Permittee is required to implement corrective action in accordance with 40 CFR 264.101 and the conditions of this Permit. The Permittee shall follow applicable guidance, including but not limited to, the RCRA Corrective Action Plan, EPA 520-R-94-004, dated May 1994 (or most recent version). The facility has been subject to RCRA Permit conditions since initial construction and there are no identified legacy areas of contamination.

**12B.1 AUTHORITY**

RCRA Section 3004(u) and 40 CFR 264.101, as adopted in NAC 444.8632, require that all hazardous waste permits issued by the Division address corrective action for all releases of hazardous waste or hazardous constituents from any Solid Waste Management Unit (SWMU) at the facility, regardless of when the waste was placed in the unit or whether the unit is closed. These regulations further require that hazardous waste permits contain schedules of compliance for corrective action, where such corrective action cannot be completed prior to issuance of the permit.

NAC 445A.121 sets the standards applicable to all waters of the state and will be used to evaluate the impacts of any releases. NRS 445A.575 and 445A.465 are the statutes which define the authority of the Division to regulate the discharge of hazardous constituents to the waters of the state.

Section 301(c) of the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) defines the area under the facility to be natural resources managed or controlled by the State of Nevada.

**12B.2 SUMMARY AND HISTORY OF CORRECTIVE ACTION**

The initial RCRA Permit, issued on November 24, 1986, and the initial RCRA Facility Assessment (RFA) did not require any corrective action. Later, a groundwater monitoring system was installed in response to a spill in the Detox Room. Levels of detected constituents, namely Chromium have increased consistently in PF-4, a downgradient monitoring well. Multiple phases of a RCRA Facility Investigation (RFI) have been completed, concluding that the observed Chromium is not from an off-site source, nor does it appear to be from any currently active unit. The Permittee was required to begin a Corrective Measures Implementation (CMI) for removing the ongoing increase in Chromium at Monitoring Well PF-4.A Revised CMI Work Plan (March 2017) was developed based on results of a 2016 Pilot Study. The modified corrective measure includes: an active low-flow groundwater pumping system that pumps groundwater from well PF-4 for treatment and disposal. This is covered in Permit Section 12A (Corrective Action Conditions for Regulated Units).

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**12B.3 CORRECTIVE ACTION FOR SWMUs AND AOCs**

The Permittee must institute corrective action, as necessary, to protect human health and the environment for all releases of hazardous waste or constituents from any SWMU at the facility, regardless of the time at which the waste was placed in the unit.

Corrective action shall be specified in accordance with this permit section. This section will contain schedules of compliance for such corrective action.

**12B.3.1 SWMUs and AOCs Identified by the RFA**

The initial RCRA Facility Assessment (RFA) [June 1992], subsequent investigations, and other means have identified the SWMUs and areas of concern (AOCs) at the 21EMN Facility. The current SWMUs and AOCs are listed in Tables 12B.3a through 12B.3f, below.<sup>1</sup>

**Table 12B.3a – SWMUs Regulated under 40 CFR 264 (RCRA-regulated units)**

SWMU/AOC No.	SWMU/AOC Name
1	Truck Bay
2	Tank Storage Bay
3	Detoxification Room
4	Dewatering Room
5	Crystallizer Room (including DEA Storage)
6	Solids Receiving Room and Hopper
7	Lab Pack Room
8	East Container Storage Pad
9	East Container Storage Area
9a	Storm Water Runoff Pond
10	West Container Storage Pad
11	Laboratory
12	West Trailer Staging Area
13	East Trailer Staging Area
14	Aerosol Processing Unit
15	<i>Reserved</i>

**Table 12B.3b – SWMUs and AOCs Requiring No Further Action at this Time**

SWMU/AOC No.	SWMU/AOC Name
<i>Reserved</i>	<i>Reserved</i>

**Table 12B.3c – SWMUs and AOCs Requiring a RCRA Facility Investigation (RFI)**

SWMU/AOC No.	SWMU/AOC Name
<i>Reserved</i>	<i>Reserved</i>

<sup>1</sup> Tables 12B.3a through 12B.3f show the status of the SWMUs and AOCs at the time this permit was issued.

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**Table 12B.3d – SWMUs and AOCs Requiring a Corrective Measures Study**

SWMU/AOC No.	SWMU/AOC Name
<i>Reserved</i>	<i>Reserved</i>

**Table 12B.3e – SWMUs and AOCs Requiring a Corrective Measures Implementation Plan**

SWMU/AOC No.	SWMU/AOC Name
<i>Reserved</i>	<i>Reserved</i>

**Table 12B.3f – SWMUs and AOCs in Corrective Action**

SWMU/AOC No.	SWMU/AOC Name
<i>Reserved</i>	<i>Reserved</i>

12B.3.2 Additional SWMUs or AOCs

Additional SWMUs or AOCs may be discovered during the course of groundwater monitoring, soil monitoring, field investigations, environmental audits, releases or other means.

12B.3.3 Contamination Beyond Facility Boundary

The Permittee shall implement corrective actions beyond the facility boundary where necessary to protect human health and the environment, unless the Permittee demonstrates, to the satisfaction of the Director, that, despite the Permittee’s best efforts, as determined by the Director, the Permittee was unable to obtain the necessary permission to undertake such actions. The Permittee is not relieved of responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. *[40 CFR 264.110(c)]*

**12B.4 NOTIFICATION AND ASSESSMENT REQUIREMENTS FOR NEWLY IDENTIFIED SWMUS AND AOCs**

As described in Section L2.1 of the Permit Application, whenever any additional SWMU or AOC is discovered, the items described below shall be completed, within the specified time frames.

12B.4.1 Notification

The Permittee shall notify the Director within 24 hours of discovery and in writing, within fifteen (15) calendar days of discovery, of any additional SWMUs, AOCs and/or releases of hazardous waste discovered under Permit Condition 12B3.2. The notification shall include, at a minimum:

1. A unique sequential identification number for the SWMU or AOC;
2. The location of the SWMU or AOC; and
3. All available information pertaining to the nature of the release (e.g., media affected, hazardous constituents released, magnitude of release, etc.).

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12B.4.2 Assessment Report (AR)

The Permittee shall prepare and submit to the Director, within ninety (90) calendar days of notification, an Assessment Report (AR) for each SWMU, AOC, or release identified under Permit Condition 12B3.2. At a minimum, the AR shall provide the following information:

1. The unique sequential identification number for the SWMU, AOC or release;
2. Location of the unit(s)/area(s) on a topographic map of appropriate scale, such as required under 40 CFR 270.14(b)(19);
3. Designation of type and function of unit(s) and/or use of area(s);
4. General dimensions, capacities and structural description of unit(s)/area(s) (supply any available plans/drawings);
5. Dates the unit(s)/area(s) was operated/used;
6. Specification of all wastes that have been managed at/in the unit(s)/area(s), to the extent available. Include any available data on 40 CFR Part 261 Appendix VIII or 40 CFR Part 264 Appendix IX constituents contained in the wastes; and
7. All available information pertaining to any release of hazardous waste or hazardous constituents from such unit(s)/area(s) (including groundwater, soil, air, surface water, and/or sediment data).

12B.4.3 Director's Determination

The Director shall determine the need for further investigations at the SWMU(s), AOC(s), or release site(s) covered in the AR. If the Director determines that such investigations are needed, the Permittee shall prepare a plan for such investigations. If the Director determines further investigation of the SWMU(s), AOC(s) or release site(s) is required, the Permittee shall submit an application for a Permit modification, in accordance with 40 CFR 270 Subpart D.

**12B.5 WORK TO BE PERFORMED**

In the event of a release of a hazardous waste or constituent, or a requirement for conducting corrective action by way of the Division, the Permittee shall complete the following:

12B.5.1 RCRA Facility Assessment (RFA)

The Permittee shall complete a RCRA Facility Assessment (RFA) identifying the type of hazardous waste or constituents released, the location of the release, and any potential pathways, as described in Section L2.2 of the Permit Application. The Permittee shall submit this information to the Division in a written report.

12B.5.2 RCRA Facility Investigation (RFI)

The Permittee shall complete a RCRA Facility Investigation (RFI) characterizing the nature and extent of the release identified in the RFA, as described in Appendix L-1 of the Permit Application. This information will be submitted to the Division in a written report.

12B.5.3 Corrective Measures Study (CMS)

If the Division determines that a corrective action is necessary, the Permittee shall conduct a Corrective Measures Study (CMS), as described in Appendix L-2 of the Permit Application,



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to determine the most effective cleanup alternative. The purpose of the CMS is to identify and recommend specific corrective measures that will adequately correct the release. Remedy selection is the determination of which cleanup action will be implemented to correct the release and the time frames in which it must be implemented. The Permittee shall submit this information to the Division in a written report.

**12B.5.4 Corrective Measures Implementation (CMI)**

After the Division evaluates the corrective measure alternatives presented in the approved CMS Report, the Division will propose or accept a corrective measure (or measures) for implementation at the facility. The Permittee shall submit a certified report documenting that the corrective measures have been completed in accordance with the approved remedy.

*[40 CFR 264.100(c)]*

**12B.6 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Reserved</i>	

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**13. SUMMARY**

The permitted facility is fully expected to achieve clean-closure. As such, no measures are currently required for post-closure monitoring, corrective action, or post-closure care. However, in the event the Permittee is not able to achieve and certify clean closure for all units, then post-closure conditions will be implemented

**13.1 APPLICABILITY**

The requirements of 40 CFR 264.117 through 264.119 apply to the Permittee. Permit Application Section I (Closure Plan and Cost Estimates) describe how the respective hazardous waste units plan to be clean-closed.

**13.2 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Update and submit Section I Closure Plan and Cost Estimate to include the Aerosol Processing Unit (APU) for the NDEP-BSMM's approval.</i>	30 Days from issuance of permit revision
2	<i>Update and submit The Financial Assurance Mechanism to include the Aerosol Processing Unit (APU) for the NDEP-BSMM's approval</i>	30 Days from issuance of permit revision

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**14. SUMMARY**

The Permittee shall comply with the Financial Assurance requirements of this section, and maintain an approved financial assurance funding mechanism(s) to fully cover the Closure Costs and Sudden Liability for an accidental release required for the facility. The facility is expected to be ‘clean-closed’ with no post-closure monitoring, corrective action, or care. As such, the required financial assurance does not, at this time, include a funding mechanism for any post-closure care and monitoring of the facility, nor for additional corrective action. A determination for financial assurance conditions respective to corrective action may be assessed at a later date.

**14.1 APPLICABILITY**

The requirements of 40 CFR 264.142, 264.143, 264.147, 264.148 and 264.151 apply to the Permittee, except as provided otherwise in this section or in 40 CFR 264.1. The Division may replace all or part of the requirements of this Permit Section applying to any Solid Waste Management Unit with alternative requirements for financial assurance to be set out in this Permit or in an enforceable document (as defined in 40 CFR 270.1(c)(7)), where the Director:

1. Prescribes alternative requirements for that Solid Waste Management Unit(s) (SWMU(s)) under 40 CFR 264.140(d).

**14.2 MODIFICATIONS**

- 14.2.1 For changes or modifications to the facility that may affect financial assurance requirements, the Permittee shall comply with the requirements of Permit Condition 1.2.

**14.3 FINANCIAL ASSURANCE FOR FACILITY CLOSURE**

The Permittee shall demonstrate continuous compliance with 40 CFR 264.142 and 264.143, by following the Financial Assurance procedures of Permit Application Section I and by providing documentation of financial assurance in at least the amount of the cost estimate required by Permit Conditions 14.4. Any proposed changes in the financial assurance mechanisms must be approved by the Director pursuant to 40 CFR 264.143, and in accordance with Permit Condition 1.2. The Permittee shall comply with both Permit Application Section I and the requirements of this section.

**14.4 COST ESTIMATE FOR CLOSURE**

The Permittee shall maintain a detailed written estimate, in current dollars, of the cost of closing the entire facility in accordance with the requirements of 40 CFR 264.111 through 264.115 and applicable closure requirements in 40 CFR 264.178, 264.197, 264.351, and 264.601 through 264.602. *[40 CFR 264.142(a)]*

- 14.4.1 The closure cost estimate:

- 14.4.1.1 Shall equal the cost of final closure at the point in the facility’s active life when the extent and manner of its operation would make closure the most expensive, as indicated by the facility’s Closure Plan (Permit Application Section I); *[40 CFR 264.142(a)(1)]*

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14.4.1.2 Shall be based on the costs of hiring a third party<sup>i</sup> to close the facility;  
[40 CFR 264.142(a)(2)]

14.4.1.3 May not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes if applicable under 40 CFR 264.113(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and  
[40 CFR 264.142(a)(3)]

14.4.1.4 May not incorporate a zero cost for hazardous wastes, or non-hazardous wastes if applicable under 40 CFR 264.113(d), that might have economic value.  
[40 CFR 264.142(a)(4)]

14.4.2 Adjustment for Inflation

During the active life of the facility, the Permittee must annually adjust the closure cost estimate for inflation no later than sixty (60) days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Permit Condition 14.5 and in accordance with Permit Application Section I3.0 (Closure Cost Estimates). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor<sup>ii</sup> derived from the most recent Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce in its *Survey of Current Business*. The adjustment is made by multiplying the closure cost estimate by the inflation factor.  
[40 CFR 264.142(b)]

14.4.3 During the active life of the facility, the Permittee shall revise the closure cost estimate no later than thirty (30) days after the Director has approved the request to modify the Closure Plan, if the change in the Closure Plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation, as specified in Permit Condition 14.4.2.  
[40 CFR 264.142(c)]

14.4.4 Documentation

The Permittee must keep the following at the facility during the operating life of the facility:  
[40 CFR 264.142(d)]

1. The latest closure cost estimate prepared in accordance with Permit Condition 14.4.1; and
2. When this cost estimate has been adjusted in accordance with Permit Condition 14.4.2, the latest adjusted closure cost estimate along with documentation of how the adjusted cost estimate was derived.

**14.5 FINANCIAL ASSURANCE FOR CLOSURE**

The Permittee shall establish and maintain financial assurance for closure of the facility in accordance with Permit Application Section I.6.0 (Financial Assurance Mechanism) and comply with the requirements specified below. Any change in the financial assurance mechanism must be approved by the Director in accordance with Permit Condition 1.2.1. At the time this Permit was issued, the Permittee had chosen and established a Surety Bond guaranteeing payment into a

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<sup>i</sup> A third party is a party who is neither a parent nor a subsidiary of the Permittee (see definition of Parent Corporation in 40 CFR 264.141(d)).

<sup>ii</sup> The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year. Adjustment is made by multiplying the closure cost estimate by the inflation factor.

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Closure Trust Fund as a financial assurance mechanism. *[40 CFR 264.143]*

14.5.1 Surety Bond Guaranteeing Payment into a Closure Trust Fund *[40 CFR 264.143(b)]*

The Permittee shall satisfy the requirements of this section by obtaining a surety bond and establishing a standby trust fund which conform to the requirements of this section; and by submitting the bond and an originally signed duplicate of the trust agreement to the Director.

*[40 CFR 264.143(b)]*

14.5.1.1 Surety Bond

1. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S.

*[40 CFR 264.143(b)(1)]*

2. The wording of the surety bond shall be identical to the wording specified in 40 CFR 264.151(b).

*[40 CFR 264.143(b)(2)]*

14.5.1.2 Standby Trust Fund

1. The trustee shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State Agency.

*[40 CFR 264.143(a)(1) and 264.143(b)(3)]*

2. The wording of the trust agreement shall be identical to the wording specified in 40 CFR 264.151(a)(1), without Sections 10 (Annual Valuation) and 15 (Notice of Nonpayment). The trust agreement shall be accompanied by a formal certification of acknowledgment.

*[40 CFR 264.143(a)(2) and 264.143(b)(3)(ii)]*

3. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Director.

*[40 CFR 264.143(b)(3)]*

14.5.1.3 Guarantee of Bond

Pursuant to 40 CFR 264.143(b)(4), the bond shall guarantee that the Permittee shall:

1. Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or
2. Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an administrative order to begin final closure issued by the Director becomes final, or within fifteen (15) days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or
3. Provide alternate financial assurance, and obtain the Director's written approval of the assurance provided, within ninety (90) days after receipt by both the Permittee and the Director of a notice of cancellation of the bond from the surety.

14.5.1.4 Bond Obligation

Under the terms of the bond, the surety shall become liable on the bond obligation when the Permittee fails to perform as guaranteed by the bond.

*[40 CFR 264.143(b)(5)]*

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#### 14.5.1.5 Penal Sum

1. The penal sum of the bond shall be in an amount at least equal to the current closure cost estimate. *[40 CFR 264.143(b)(6)]*
2. Whenever the current closure cost estimate increases to an amount greater than the penal sum, the Permittee, within sixty (60) days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director. *[40 CFR 264.143(b)(7)]*

#### 14.5.1.6 Cancellation of Bond

1. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the Permittee and to the Director. Cancellation shall not occur, however, during the one hundred and twenty (120) days beginning on the date of receipt of the notice of cancellation by both the Permittee and the Director, as evidence by the return receipts. *[40 CFR 264.143(b)(8)]*
2. The Permittee may cancel the bond if the Director has given prior written consent based on his receipt of evidence of alternate financial assurance. *[40 CFR 264.143(b)(9)]*

#### 14.5.1.7 Post Funding of Standby Trust

After the Standby Trust is funded:

1. Whenever the current closure cost estimate changes, the Permittee shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the Permittee, within sixty (60) days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified 40 CFR 264.143(a) through (f) to cover the difference. *[40 CFR 264.143(a)(6)]*
2. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the Permittee may submit a written request to the Director for release of the amount in excess of the current closure cost estimate. *[40 CFR 264.143(a)(7)]*

#### 14.5.1.8 Substitution of Financial Assurance

If the Permittee substitutes other financial assurance as specified in 40 CFR 264.143(a) through (f) for all or part of the trust fund, the Permittee may submit a written request to the Director for release of the amount in excess of the current closure cost estimate covered by the trust fund. *[40 CFR 264.143(a)(8)]*

#### 14.5.1.9 Request to Release Funds

Within sixty (60) days after receiving a request from the Permittee for release of funds as specified in Permit Conditions 14.5.1.7 and 14.5.1.8, the Director shall instruct the trustee to

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release to the Permittee such funds as the Director specifies in writing.

*[40 CFR 264.143(a)(9)]*

#### 14.5.1.10 Reimbursements

After beginning partial or final closure, the Permittee, or another person authorized to conduct partial or final closure, shall request reimbursements for partial or final closure expenditures by submitting itemized bills to the Director. The permittee shall request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within sixty (60) days after receiving bills for partial or final closure activities, the Director shall instruct the trustee to make reimbursements in those amounts as the Director specifies in writing, if the Director determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with 40 CFR 264.143(i) that the Permittee is no longer required to maintain financial assurance for final closure of the facility. If the Director does not instruct the trustee to make such reimbursements, the Director shall provide the Permittee with a detailed written statement of reasons.

*[40 CFR 264.143(a)(10)]*

#### 14.5.1.11 Termination of Trust

Pursuant to 40 CFR 264.143(a)(11), the Director shall agree to termination of the trust when:

*[40 CFR 264.143(i)]*

1. The Permittee substitutes alternate financial assurance as specified in Permit Condition 14.5.1.8; or
2. Within sixty (60) days after receiving certifications from the Permittee and an independent registered Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director shall notify the Permittee in writing that he is no longer required to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the Permittee a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

#### 14.5.2 Use of Multiple Financial Mechanisms

The Permittee may satisfy the requirements of this section by establishing more than one financial mechanism for the facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, and insurance. The combination of mechanisms must provide financial assurance for an amount at least equal to the current closure cost estimate. The Director may use any or all of the mechanisms or NAC 444.846 to provide for closure of the facility.

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#### 14.5.3 Release of the Permittee from the Requirements of Financial Assurance for Closure

Within sixty (60) days after receiving certifications from the Permittee and an independent Nevada registered Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the Permittee in writing that the Permittee is no longer required by this permit section to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the Permittee a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

*[40 CFR 264.143(i)]*

#### 14.6 **COST ESTIMATE FOR CORRECTIVE ACTION**

The Permittee shall establish and maintain financial assurance for any remedial or corrective actions required at the facility as a result of a release of hazardous waste and in accordance with the corrective measures study and the requirements specified below. Any change in the financial assurance mechanism must be approved by the Director in accordance with Permit Condition 1.2.

*[40 CFR 264.143]*

##### 14.6.1 The cost estimate for corrective action shall be:

1. Based on the costs of hiring a third party<sup>iii</sup> to conduct the corrective action activities; and
2. Calculated by multiplying the annual corrective action cost estimate by the number of years of corrective action required by the Director.

##### 14.6.2 Adjustment for Inflation

When required to perform Corrective Action, during the active life of the facility, the Permittee must annually adjust the corrective action cost estimate for inflation no later than sixty (60) days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with Permit Condition 14.7. The adjustment may be made by recalculating the maximum costs of corrective action in current dollars, or by multiplying the corrective action cost estimate by the inflation factor, as described in Permit Condition 14.4.2.

##### 14.6.3 During the active life of the facility, the Permittee shall revise the corrective action cost estimate no later than thirty (30) days after the Director has approved the request to modify the Corrective Action Plan, if the change in the Corrective Action Plan increases the cost of corrective action. The revised corrective action cost estimate must be adjusted for inflation, as specified in Permit Condition 14.6.2.

*[40 CFR 264.142(c)]*

##### 14.6.4 Documentation

The Permittee must keep the following at the facility during the operating life of the facility:

1. The latest corrective action cost estimate prepared in accordance with Permit Condition 14.6.1; and

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<sup>iii</sup> A third party is a party who is neither a parent nor a subsidiary of the Permittee (see definition of Parent Corporation in 40 CFR 264.141(d)).



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2. When this cost estimate has been adjusted in accordance with Permit Condition 14.6.2, the latest adjusted corrective action cost estimate along with documentation of how the adjusted cost estimate was derived.

#### 14.6.5 Release from the Requirements of Financial Assurance for Corrective Action

After receiving certifications from the Permittee and a qualified Professional Engineer that corrective action has been completed in accordance with the approved plans, and the Project Coordinator has accepted the final corrective action report and issued a letter indicating no further action, the Director will notify the Permittee that he/she is no longer required to maintain financial assurance for corrective action, unless the Director has reason to believe that corrective action has not been in accordance with the approved corrective action plan. The Director shall provide the Permittee with a detailed written statement of any such reason to believe that corrective action care has not been in accordance with the approved corrective action plan.

### 14.7 **LIABILITY REQUIREMENTS ~ SUDDEN ACCIDENTAL OCCURRENCES**

The Permittee shall demonstrate continuous compliance with Permit Application Section I.7.0 (Liability Requirements) and 40 CFR 264.147(a) to maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence, with an annual aggregate of at least \$2 million, exclusive of legal defense costs. *[40 CFR 264.147]*

#### 14.7.1 Coverage for Sudden Accidental Occurrences

The Permittee must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility. The Permittee must have and maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million, exclusive of legal defense costs. This liability coverage may be demonstrated by having liability insurance, as follows: *[40 CFR 264.147(a)]*

1. Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in 40 CFR 264.151(i). The wording of the certificate of insurance must be identical to the wording specified in 40 CFR 264.151(j). The Permittee must submit a signed duplicate original of the endorsement or the certificate of insurance to the Director. If requested by the Director, the Permittee must provide a signed duplicate original of the insurance policy.
2. Each insurance policy must be issued by an insurer, which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States, including Nevada.

##### 14.7.1.1 The Permittee shall notify the Director, in writing, within thirty (30) days, whenever:

1. A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in Permit Condition 14.7.1; or
2. A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of the facility is entered

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between the Permittee and third party claimant for liability coverage under Permit Condition 14.7.1; or

3. A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation the facility is issued against the Permittee or an instrument that is providing financial assurance for liability coverage under Permit Condition 14.7.1.

#### 14.7.2 Adjustments by the Director

If the Director determines that the levels of financial responsibility required are not consistent with the degree and duration of risk associated with the facility, the Director may adjust the level of financial responsibility required under this section, as may be necessary, to protect human health and the environment. The adjusted level will be based on the Director's assessment of the degree and duration of risk associated with the operation of the facility. In addition, if the Director determines that there is significant risk to human health or the environment from non-sudden accidental occurrences resulting from the operations of the facility, he may require that the Permittee comply with 40 CFR 264.147(b). The Permittee must furnish to the Director, within a reasonable time, any information which the Director requests, to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under 40 CFR 270.41(a)(2) and 40 CFR 124.5 and comply with Permit Condition 1.2.1.

*[40 CFR 264.147(d)]*

#### 14.7.3 Period of Coverage

Within sixty (60) days after receiving certifications from the Permittee and a qualified Professional Engineer that final closure has been completed in accordance with the approved closure plan; the Director will notify the Permittee in writing that he is no longer required by this section to maintain liability coverage for the facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan. *[40 CFR 264.147(e)]*

### **14.8 INCAPACITY OF THE OWNERS, OPERATORS, GUARANTORS OR FINANCIAL INSTITUTIONS**

#### 14.8.1 Notification

The Permittee must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the Permittee or parent company as debtor, within ten (10) days after commencement of the proceeding.

*[40 CFR 264.148(a)]*

#### 14.8.2 Establishment of Financial Assurance

The Permittee will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the institution issuing the surety bond or insurance policy. The Permittee shall establish other financial assurance or liability coverage within sixty (60) days after such an event.

*[40 CFR 264.148(b)]*

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**14.9 COMPLIANCE SCHEDULE**

The Permittee shall perform the following task(s) by the listed due date(s):

	<b>Task</b>	<b>Date Due</b>
1	<i>Reserved</i>	

DRAFT

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**RCRA Permit Renewal Application, Part A** *(attached)*

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### **List of Restricted Wastes at 21EMN**

[See Permit Condition 2.8]

The Permittee is not authorized to receive, treat, store, dispose of, or otherwise manage the following:

1. Waste that is not identified in:
  - (a) Permit Section 3.3;
  - (b) Permit Section 4.1;
  - (c) Permit Section 5.1; or
  - (d) Permit Section 6.2;
2. Any radioactive material that is not exempt from regulation and licensing or is not expressly authorized for storage or treatment under this Permit, or any radioactive or nuclear waste material which requires specific licensing or permitting under any other rules of state or federal authorities for disposal or transshipment;
3. Class 1, Division 1.1 or 1.2, or forbidden explosives (49 CFR 173.50), or any explosive material, as defined by USDOT under 49 CFR 173;
4. Chemical Munitions, Biological Agents, Etiological Agents or infectious wastes;
5. Any material with PCBs greater than 50 ppm;
6. Any material with pH >14; or
7. The hazardous waste prohibitions as described in:
  - (a) Permit Section 3.3;
  - (b) Permit Section 4.1.2;
  - (c) Permit Sections 5.1.2; or
  - (d) Permit Section 6.2.

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**The following documents are adopted herein as if fully set forth in this permit. In the event of any conflict, the most restrictive document shall govern:**

1. 21EMN RCRA Part B Application Volumes I, II, and III – May 2018 and subsequent revisions.