



December 10, 2013

Mr. David S. Denk
Regional Permits Administrator
New York State Department of
Environmental Conservation
Region 9
270 Michigan Avenue
Buffalo, New York 14203

CWM CHEMICAL SERVICES, LLC

1550 Balmer Road
Model City, NY 14107
716 286 1550
716 286 0211 Fax

Re: RMU-2 - Record of Compliance – Permit Application Supplement

Dear Mr. Denk:

As requested, we have completed the Record of Compliance Application Supplement and attached it for your use. In completing the application we are responding for CWM Chemical Services, LLC as we read the application instructions as only requiring a response for that entity. If DEC disagrees, please let us know as soon as possible so we can correct the application supplement accordingly.

If you have any questions or comments regarding this application, I can be reached at 716-286-0241.

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

Sincerely,
CWM CHEMICAL SERVICES, LLC

Michael D. Mahar
District Manager
Model City Facility

JPR/MDM/jpr
Attachments

Mr. David S. Denk

NYSDEC

December 10, 2013

Re: RMU-2 - Record of Compliance – Permit Application Supplement

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cc:	M. Passuite	- NYSDEC/Region 9
	J. Strickland	- NYSDEC/Region 9
	D. Weiss	- NYSDEC/Region 9
	B. Rostami	- NYSDEC/Region 9
	A. Zylinski	- NYSDEC/Region 9
	M. Cruden	- NYSDEC/Albany, NY
	T. Killeen	- NYSDEC/Albany, NY
	M. Mortefolio	- NYSDEC/Albany, NY
	G. Burke	- NYSDEC/Albany, NY
	On-site Monitors	- NYSDEC/ Model City, NY
	J. Sacco	- NYSDEC/On-site Monitor
	A. Park	- USEPA/Region II
	J. Devald	- NCHD/Lockport, NY
	J. Banaszak	- CWM/Model City, NY
	J. Rizzo	- CWM/Model City, NY
	R. Zayatz	- CWM/Model City, NY
	EMD Subject File	
	Q & A	



RECORD OF COMPLIANCE—Permit Application Supplement

DEPARTMENT USE ONLY
DEC APPLICATION NUMBER

Please read all instructions on reverse side before completing this application—Please **TYPE** or **PRINT** clearly

1. FULL NAME OF APPLICANT CWM Chemical Services, LLC	
2. MAILING ADDRESS (Principal Place of Business) Street 1550 Balmer Road, Box 200	3. NEW YORK STATE MAILING ADDRESS (if different) Street
City/State/Zip Code Model City, New York 14107	City/State/Zip Code
4. TYPE OF ORGANIZATION <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Other _____ If other than individual, provide Federal Taxpayer ID Number	
5. Does the applicant currently hold any permit issued under the Environmental Conservation Law? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No See Attached	
6. a Has the applicant been denied a permit or has the applicant had a permit revoked or suspended under the Environmental Conservation Law? or b Is the applicant currently the subject of an enforcement action under the Environmental Conservation Law? a <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No b <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
7. If any answer to questions 5, 6(a), or 6(b) is YES, provide details on a separate page and attach it to this form.	
8. Has the applicant, and if the applicant is a corporation, has any officer, director, or large stockholder (owner of 25 percent or more of not publicly-traded stock) of the corporation, within the last ten (10) years, been: a. found in an administrative, civil or criminal proceeding to have violated any provision of the Environmental Conservation Law (ECL), any related order or determination of the Commissioner, any regulation promulgated pursuant to the ECL, the condition of any permit issued thereunder, or any similar statute, regulation, order or permit condition of any other state or federal government agency? See Attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No b. an officer, director or large stockholder (owner of 25% or more of not publicly-traded stock) of a corporation which—during the time such person was an officer, director or large stockholder—was determined in an administrative, civil or criminal proceeding to have violated any provision of the Environmental Conservation Law (ECL), any related order or determination of the Commissioner, any regulation promulgated pursuant to the ECL, the condition of any permit issued thereunder, or any similar statute, regulation, order or permit condition of any other state or federal government agency? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No c. convicted of a criminal offense under the laws of any state or federal government agency, which involves environmental statutes or regulations, or fraud, bribery, perjury, theft or an offense against public administration as that term is used in Article 195 of the Penal Law, or an offense involving false written statements as those terms are defined in Article 175 of the Penal Law? Out-of-state history may be limited to misdemeanors, felonies and civil penalties assessed at \$25,000 or more. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No d. an officer, director or large stockholder (owner of 25% or more of not publicly-traded stock) of a corporation which—during the time such person was an officer, director or large stockholder—was convicted of a criminal offense under the laws of any state or federal government agency, which involves environmental statutes or regulations or fraud, bribery, perjury, theft, or an offense against public administration as that term is used in Article 195 of the Penal Law, or an offense involving false written statements as those terms are defined in Article 175 of the Penal Law? Out-of-state history may be limited to misdemeanors, felonies and civil penalties assessed at \$25,000 or more. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9. If any answer to question 8a through 8d is YES, provide details on a separate page and attach it to this form. See Attached	
10. Does the applicant currently owe any regulatory fees pursuant to Article 72 of the Environmental Conservation Law to the Department of Environmental Conservation? <input type="checkbox"/> Yes, Amount \$ _____ <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Under dispute for year(s) 2013 , amount \$ 10,000	
11. CERTIFICATION (By Applicant who is an individual) I hereby affirm under penalty of perjury that information provided on this form and attached statements and exhibits is true to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. _____ Date Signature Print Name	
ITEMS 12 THROUGH 15 TO BE COMPLETED BY AN APPLICANT OTHER THAN AN INDIVIDUAL	
12. SPECIFY UNDER WHAT LAW APPLICANT WAS ORGANIZED Limited Liability Corporation Laws of State of Delaware	13. STATE DE
14. DATE OF ORGANIZATION 12/24/1997	
15. CERTIFICATION (By An Applicant Other Than An Individual) I hereby affirm under penalty of perjury that I am District Manager (title) of CWM Chemical Services, LLC (company), that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and attached statements and exhibits is true to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. 12/10/13 <i>Michael D. Mahar</i> Date Signature Print Name Michael D. Mahar	

Item No. 5

CWM Chemical Services, LLC

Current Permit Listing

CURRENT PERMIT LISTING

CWM Chemical Services, LLC ~ Model City, NY
December 2013

<i>Description</i>	<i>Permit No.</i>	<i>Effective Date</i>	<i>Expiration Date</i>	<i>Comments</i>
Hazardous Waste				
Part 373 Sitewide	9-2934-00022/00097	8/21/13	8/20/18	ECL Article 27. All site operations; renewal application due 2/21/18
TSCA Authorization	N/A	12/4/02	None	USEPA; RMU-1 disposal and general site PCB issues; clarified 12/9/02
RMU-2	Mod Request to Sitewide Permit	N/A	N/A	Mod Request submitted 2/27/13; revisions submitted 8/28/13, 10/11/13, and 11/8/13.
Water				
Sitewide SPDES	NY0072061	10/1/03	10/1/08 (indefinitely extended on 4/2/08 pending approval of modification)	ECL Article 17. Includes treated wastewater discharge (001) and stormwater discharge (002, 003 and 004); DEC initiated proposed modification on 10/5/07, updated on 1/4/10
Miscellaneous				
Wetlands	92-986-72	2/24/93	N/A	Construction of RMU-1; Authorized under Nationwide Permit 33CFR330.5, Appendix A, Section B, No. 26, by U.S. Army Corps of Engineers (USACOE)
Wetlands	2000-01534(0)	8/30/00	N/A	Construction of compensatory flood water storage area (USACOE)
Wetlands	2000-01534(3)	2/21/03	N/A	Construction of RMU-1 East Stormwater Retention Basin (USACOE)
Wetlands	9-2934-00022/00229	4/29/13	4/29/2020	ECL Article 24. Removal of soil stockpile within the 100-foot adjacent area of State Freshwater Wetland RV-1.
Wetlands Section 401/401 Article 24	2000-01534(6) (pending)	N/A	N/A	CWA Section 401/404 & ECL Article 24. Joint Application submitted 7/8/13 for RMU-2 impacts and draft mitigation plan, (USACOE)
Sanitary Waste	N/A	4/26/95	None	Town of Lewiston approval letter; no monitoring required
Air				
Facility Registration	9-2934-00022/00226	6/29/06	None	Includes 24 previously permitted emission points. Application for State Facility Permit Required by 1/9/14

Item No. 8

CWM Chemical Services, LLC

Compliance History

2004-2013

**CWM-Model City, NY Compliance History (Past 10 Years)
2004 to 2013**

Date	Agency	Nature of Violation	Disposition	Penalty
10/21/2005	NYSDEC	Failure to accurately measure flowrate at outfall 002 (SMP06) is a violation of the SPDES permit. Due to the flat topography in the area of the SMP06 ditch, there is often standing water present in the flume. When the flume is surcharged, it is not possible to accurately determine the flowrate. The DEC Water Engineer recommended the use of an area-velocity meter. Note: New Parshall flume installed in spring of 2004 to address this issue at the recommendation of the same Engineer.	Determined that the A-V Meter would not accurately measure flow either. Installed weir in April 2005 and are measuring flow only when water is high enough to pass over the lip of the weir. Actual flowrate volumes have been reduced since installation of the weir.	None
11/29/2006	NYSDEC	A notice was received from DEC for three SPDES permit exceedances that were reported in the monthly DMRs: 1) Oil and grease limit is 15 mg/l. 28.5 mg/l was obtained for a sample taken at SMP9 on 12/13/05. 2) An elevated total suspended solids result was associated with a sample taken at SMP6 on 07/17/06. 3) Total sulfide limit is 2 mg/l. 12.8 mg/l was obtained for a sample taken at outfall 001 on 10/26/06.	1) There was a review of sampling equipment, techniques and field notes that yielded no information on the potential source for the oil and grease results. Since the following sample taken on 01/10/06 was Non-Detect, no further action was required. 2) CWM believes that the sample was not valid due to the presence of algae. In the future, monitoring personnel will remove algae from the weir before sampling. 3) CWM challenged the offsite laboratory results as samples collected on 10/12/06 and 11/09/06 showed no detectable concentration of Sulfide (<1 mg/l). The presence of sulfide at the level reported would have been noticeable in the lab. Based on the absence of any sulfide odor throughout the discharge period and the results of the samples before and after the reported detection as well as the water in the discharge line and the residual water in the pond, CVVM is confident that the sulfide was not present in the water being discharged on October 26th.	None

**CWM-Model City, NY Compliance History (Past 10 Years)
2004 to 2013**

Date	Agency	Nature of Violation	Disposition	Penalty
10/25/2007 01/30/2008	NYSDEC EPA	Notice received from DEC and EPA alleging wastewater discharge with a "floating substance" and questioned whether liquid or foam was being discharged through a vent line.	CWM submitted written responses to DEC (on 11/05/07) and to EPA (on 03/13/08). The floating substance was foam that was produced by air incorporation when water hits the energy dissipation chamber located near the discharge point. The vent line allows for air release from the chamber. It had been extended into the water to prevent damage due to the river waves moving the line back and forth across the surface of the shore. The discharge rate was reduced to decrease the foaming and the vent line has been shortened so that it does not extend to the water's edge. An engineering firm has been commissioned to study modifications that may be made to the chamber. The recommendations will be pursued prior to the next discharge.	None Incorporated into Consent Order on 11/14/2008
11/12/2008	NYSDEC	Consent Order (CO 07-72) covering time frame 11/15/00 - 12/31/08 includes 80 self-identified infractions reported to DEC, 7 spills reported to DEC, 4 violations noted by DEC during site inspections and an incident of foaming during SPDES authorized discharge of CWM's treated effluent.	Corrective and preventative actions implemented for each self-identified infraction at time of occurrence and spill incident. Three Container Deficiencies and one dripping WWT pipe noted during RCRA inspections corrected immediately. Discharge pipe configuration modified to minimize foam generation and eliminate potential for foam to be released through the air vent.	\$175,000
2/25/2011	NYSDEC	Consent Order (CO 10-48) covering time frame May 2008 - April 2010, includes 7 self-reported violations and an allegation of inadequate landfill cover in April 2010.	Corrective and preventative actions implemented for each self-identified infraction at time of occurrence. Landfill spray-on cover re-applied in inactive areas due to deterioration by snow/rain.	\$45,000

**CWM-Model City, NY Compliance History (Past 10 Years)
2004 to 2013**

Date	Agency	Nature of Violation	Disposition	Penalty
4/18/2012	NYSDEC	Consent Order (CO 12-16) covering time frame April 2011- March 2012, includes 4 self-reported violations and 2 DEC identified violations: Storage of more than 117 drums in Area V and failure to report GW well with broken bailer within 30 days.	Corrective and preventative actions implemented For each self-identified infraction at time of occurrence. Area V not to exceed 117 liquid drums at end of work day.	\$21,000
7/10/2012	EPA	EPA Notice of Violation from inspection in August, 2011. Two violations corrected during audit. One alleged violation- failure to initiate closure of tanks TA-01, TA-02.	Two violations corrected during audit (CA). Preventative action to prevent repetition - Cycle program. Alleged violation concerning tank closures resolved successfully.	\$ 0
11/29/2012	EPA	EPA Notice of Non-Compliance from inspection on 8/21/2008. CWM did not submit TRI form for aluminum dust for years 2005-2007.	CWM reassessed waste stream in question (baghouse dust). Consulted generator and submitted TRI forms for aluminum dust for 2005, 2006 and 2007.	\$0

Item No. 10

Regulatory Fees

Dispute Form date November 19, 2013

(CWM awaiting dispute resolution correspondence from the NYSDEC)

PLEASE RETAIN THESE PROCEDURES FOR YOUR RECORDS
New York Department of Environmental Conservation
Regulatory Fee Determination Unit
625 Broadway, 10th Floor
Albany, New York 12233-5013

Instructions:

This form must be used to dispute any portion of the Environmental Regulatory Fee invoices. Complete a separate form for each invoice disputed. Complete parts I & VII for each.

Additionally, depending on the type of fee(s) disputed, complete Parts II, III, IV, V, or VI as follows:

Part II-	Air/Title V
Part III-	Hazardous Waste & Hazardous Waste Surcharge
Part IV-	Waste Transporter
Part V-	Water (SPDES)
Part VI-	Mined Land

PART I - Must be completed for ALL disputes

Company Name: CWM CHEMICAL SERVICES, LLC

Address: 1550 BALMER ROAD

MODEL CITY, NEW YORK 14107

Invoice No.: 9990000199195 Customer No.: 33361

If the business has been closed, sold, or changed ownership, please indicate here and list any relevant dates and the name and address of the new owner(s).

Part V - State Pollutant Discharge Elimination System (SPDES) Program Permit Information

1. My SPDES permit is for a (check one):

☐ P/C/I Facility ☒ Industrial Facility ☐ Ballast ☐ General
☐ Municipal Facility ☐ Power Plant ☐ Construction Stormwater

2. SPDES I.D. Number (from invoice): 0072061

3. The Department's fee assessment of \$ 30,000 is incorrect. My records indicate the correct amount should be \$ 20,000.

4. The daily discharge, as determined by the Department is 1,990,000 gpd (gallons per day).

5. I believe it should be 999,999 gpd for the following reasons:

The actual Average Daily Discharge (gallons) from 2006 through 2013 ranges between 260,110 gallons

per day (gpd) to 596,055 gpd as shown on the attached summary table. The total discharge is the total

gallons discharge from waste water Outfall 001 and stormwater Outfalls 002, 003, and 004. The actual

Average Daily Discharge is significantly lower than the amount indicated on the invoice.

6. I believe the fee should be based on N/A disturbed acres (\$100 per acre) and N/A future impervious acres (\$600 per acre) for the following reasons:

N/A

7. I believe I have been incorrectly billed for the following reasons:

(If the business has been closed, sold, or changed ownership, please indicate here and list any relevant dates and the name and address of the new owner(s)).

LIST AND ATTACH DOCUMENTARY EVIDENCE TO SUPPORT YOUR CLAIM.

The Department over estimates the Daily Discharge. The actual Average Daily Discharges in gallons per

day from 2006 through 2013 ranges between 260,110 gallons per day (gpd) to 596,055 gpd as shown on

the attached summary table. The Average Daily Discharge should be no more than 999,999 gallons per day.

Part VII - Submittal Instructions

This request must be received by the Department within 30 business days of the Department's original invoice.

Include a copy of your invoice along with payment as follows.

\$ 30,000 Total Fee Assessed (From Billing Invoice)
\$ 10,000 Total Fee Disputed
\$ 20,000 Undisputed Amount (subtract line 2 from line 1)

Include payment in full of the undisputed amount.

IMPORTANT

Interest and penalties will be assessed on fees that are not paid within the required time periods including disputed amounts which are ultimately determined to be owed. To be sure to avoid interest and penalties, remit payment for the full amount of the fee. Any overpayment will be refunded.

I hereby affirm under penalty of perjury that the information provided in this form and attached statements and exhibits is true to the best of my knowledge and belief. False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

J. H. Banaszak
Signature

11/19/13
Date

J. H. Banaszak
Type or Print Name:

Technical Manager
Title

(716) 286-0246
Phone :

- This request must be signed by the facility operator, owner, or his/her designated representative.
- When completed, mail this form and the appropriate payment to:

**New York State Department of Environmental Conservation
Regulatory Fee Determination Unit
625 Broadway, 10th Floor
Albany, New York 12233-5013**

Customer Number 33361
Invoice 9990000199195

Environmental Conservation Law (ECL) Article 72 and 6NYCRR Part 481 of this Department provide that all persons who require a permit, certificate, or approval pursuant to a State environmental regulatory program, or who are subject to regulation under a State environmental regulatory program, are required to submit an annual fee to this Department.

Remittance must be received by the payment due date shown on the invoice to avoid interest and penalty charges. Interest rates are set by the Commissioner of Taxation and Finance, and assessed pursuant to Article 72 of the Environmental Conservation Law. Penalties are assessed based on the amount of the payment deficiency at a rate of five percent of that deficiency per month, not to exceed twenty-five percent. NOTE: The penalty rate for the Operating Permit Program may differ and is shown on your invoice, if applicable.

DISPUTES: Please take notice that pursuant to 6 NYCRR 481.9(c) challenges to a Regulatory Program Fee may be rejected under the following circumstances; (1) failure to make a request for a recalculation of the fee within 30 business days of the date of the Department's original invoice; or (2) failure to make payment in full of the undisputed amount of the annual program fee; or (3) failure to give a specific reason for challenging the fee. A new fee recalculation request must be submitted for each year's assessment, regardless of the status of the previous years recalculation request.

IF A DETERMINATION IS MADE IN FAVOR OF THE DEPARTMENT, DISPUTED AMOUNTS NOT PREPAID AT THE TIME OF DISPUTE ARE SUBJECT TO INTEREST AND PENALTY CHARGES, RETROACTIVE FROM THE DUE DATE.

If you have any questions regarding this bill, you may call the Regulatory Fee Determination Unit's INFORMATION LINE (518) 402-9343 between 9:00am-12:00pm and 1:30pm-4:00pm Monday through Friday.

Dispute Forms, Change of Address Forms and Permit Transfer Forms can all be requested at any Regional DEC Office or you may download them directly at <http://www.dec.ny.gov/about/45325.html>

To:
JOHN HIND
CWM CHEMICAL SVCS INC
PO BOX 200
MODEL CITY, NY 14107

Checks should be made payable to:
NYS Department of Environmental Conservation.
Please include a copy of this invoice along with your payment.

Remit To:
NYS DEPARTMENT OF ENVIRONMENTAL
CONSERVATION
CHURCH STREET STATION
PO BOX 3782
NEW YORK, NY 10008-3782

SubTotal (\$)	30,000.00
Interest (\$)	0.00
Penalties (\$)	0.00
Payments (\$)	0.00
Credits (\$)	0.00
Outstanding balance as of 22-Oct-2013 in USD	30,000.00

Total SPDES Discharge through Permitted Outfalls

Year	Rainfall (inches)	Total Discharge (gallons)	Average Daily Discharge (gallons)
2006	33.6	217,560,000	596,055
2007	24.48	94,940,000	260,110
2008	30.67	117,599,000	322,189
2009	32.97	127,200,000	348,493
2010	34.72	126,290,000	346,000
2011	37.46	175,198,840	479,997
2012	31.47	105,418,654	288,818
2013	33.45	125,408,927	412,529

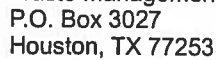
New York State Environmental Conservation Law (ECL) Article 72 and
6NYCRR Part 481

Table 2 for SPDES Individual Permit Fees

	Capacity	Fee (in U.S. \$)
Industrial	Less than 10,000 gpd	600
	10,000 - 99,999 gpd	2,000
	100,000 - 499,999 gpd	6,000
	500,000 - 999,999 gpd	20,000
	1,000,000 - 9,999,999 gpd	30,000
	10,000,000 gpd or more	50,000

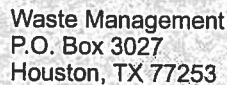
Through October 2013. Amount Prorated.

CWM currently charged \$30,000 per year at the discharge rate of 1,000,000 to 9,999,999 gpd.



Check No. 0011339235

THIS DOCUMENT HAS A COLORED BACKGROUND AND MICROPRINTING IN THE ENDORSEMENT SIGNATURE LINE. THE REVERSE SIDE OF THIS DOCUMENT HAS AN ARTIFICIAL WATERMARK.



ED

BANK OF AMERICA
COMMERCIAL DISBURSEMENT ACCOUNT
NORTHBROOK, IL

CHECK NO

0011339235

70-2328 / 719



Security features included. Details on back.

PAY EXACTLY

\$20,000.00***

VOID AFTER 90 DAYS

DATE: 11/18/2013

PAY EXACTLY

****TWENTY THOUSAND AND XX / 100 DOLLAR****

TO THE
ORDER
OF

NYS DEPT OF ENVIRONMENTAL CONSERVATION
P O Box 3782, Church Street Station
New York, NY 10008-3782

Livina Rankin

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE