

## **Assessment of Public Comments for Application #2-6102-00067/00004 for Waste Connections 50<sup>th</sup> Street Transfer Station, 110-120 50<sup>th</sup> Street, Brooklyn, NY 11233**

### **I. Introduction**

On October 17, 2019, Waste Connections of New York, Inc. (“Waste Connections”) submitted an application to the New York State Department of Environmental Conservation (“Department” or “NYSDEC”) to modify its existing Part 360 Solid Waste (“SW”) Permit, Application ID #2-6102-00067/00004, for the Waste Connections 50<sup>th</sup> Street Transfer Station at 110-120 50<sup>th</sup> Street, Brooklyn, NY 11233 (“Facility”). Waste Connections submitted the following documents (“the application”) to the Department in order to request a permit modification:

- Solid Waste Management Facility permit application form;
- Full Environmental Assessment Form (“FEAF”) Part 1;
- Engineering Report;
- Addendum to the Engineering Report;
- Facility Manual;
- Addendum to the Facility Manual; and
- Public Participation Plan (“PPP”).

The Facility is an existing solid waste transfer station owned and operated by Waste Connections. The Facility is authorized to accept the approved design capacity of one thousand seventy-five (1,075) tons per day (“tpd”) of municipal solid waste (also referred to as putrescible solid waste (“PSW”) in the permit and this Responsiveness Summary) and store up to two thousand (2,000) cubic yards (“cy”) of PSW. Waste Connections has applied to modify the facility’s existing permit to accept and store an additional waste stream, Construction & Demolition Debris (“C&D”), in addition to PSW; receive a total of no more than a combined total of one thousand seventy-five (1,075) tpd of PSW and C&D in any combination; and store on-site no more than a combined total of two thousand (2,000) cy of PSW and C&D in any combination at any one time. The application does not propose to increase the approved design capacity or the amount of waste stored at the facility, nor does it expand the facility. The modification does not change the hours of operation and the facility will continue to operate twenty-four (24) hours a day, Monday through Saturday, closed Sunday.

Because the facility is in a Potential Environmental Justice Area (“PEJA”), NYSDEC required Waste Connections to comply with NYSDEC Commissioner’s Policy-29 Environmental Justice and Permitting (“CP-29”). Pursuant to CP-29, Waste Connections submitted a PPP and held two Environmental Justice (“EJ”) Meetings. The first was held on March 4, 2021, and the second was held on April 22, 2021.

On February 17, 2021, the Department issued a Notice of Complete Application (“NOCA”) for the application. On February 24, 2021, Waste Connections published the NOCA in the Daily News, opening the thirty-day public comment period with an end

date of March 26, 2021. Due to COVID-19 and requests from the public, NYSDEC extended the public comment period until May 24, 2021.

The Department received fifteen comment letters:

1. Congresswoman Nydia M. Velázquez, U.S. House of Representatives 7<sup>th</sup> District, New York dated March 25, 2021;
2. Congresswoman Nydia M. Velázquez, U.S. House of Representatives 7<sup>th</sup> District, New York dated May 24, 2021;
3. Senator Zellnor Y. Myrie, New York State Senate, 20<sup>th</sup> District; Assemblywoman Marcela Mitaynes, New York State Assembly, 51<sup>st</sup> District; and Councilman Carlos Menchaca, New York City Council, District 38 dated April 22, 2021;
4. Elizabeth Yeampierre, Executive Director, UPROSE dated May 24, 2021;
5. Sahana Rao, Esq. and Eric A. Goldstein, Esq., Natural Resources Defense Council dated May 24, 2021;
6. Murat Marke, President of M&B Protect Services Inc dated April 28, 2021;
7. Thomas Tolentino, President of Plant Waste Services, Inc. dated April 28, 2021;
8. Imer Cami, President of IFM Contracting Inc. dated April 29, 2021;
9. Paul Serra, Economy Container Corp. dated April 29, 2021;
10. Frank Giaquino, President, Key Container Corp. dated April 30, 2021;
11. Mordechai Ainhorn, Mist Enterprise Inc. dated April 30, 2021;
12. Joel Alvarez, Owner/Operator of Just Rubbish Removal LLC dated May 3, 2021;
13. Anthony DelBroccolo, President of Avid Waste Systems, Inc. dated May 3, 2021;
14. Anthony DiNardi, President of D&D Carting Co., Inc. dated May 3, 2021; and
15. Neil Bohensky, President of Wee Doo Services, Inc. undated, received between 4/28/21 and 5/7/21.

The Department has reviewed, summarized, and responded to all comments that are within the scope of this permit action. These summarized comments and responses are presented below. Those comments that were beyond the scope of this permit modification are also summarized and included below.

The draft permit has also been modified to include additional permit conditions as a result of the comments received. These new conditions include:

- 1) a permit condition identifying the required actions and steps Waste Connections must take before the Facility may begin accepting C&D debris under the modified permit. This permit condition is more fully discussed in Response 9; .

- 2) a permit condition requiring Waste Connections to ensure safety of pedestrians and any other traffic in the immediate vicinity by directing inbound and outbound tipping and transfer vehicles. This permit condition is more fully discussed in Response 22; and
- 3) a permit condition requiring Waste Connections to take noise measurements generated during facility peak operations to demonstrate compliance with the regulatory noise levels in 6 NYCRR 360.19(j) and to implement mitigation measures if the Facility is not in compliance.

Other changes to the draft permit include an amendment to the authorized activity section of the permit further clarifying the permitted action and updates to general permit conditions applicable to facilities of this type.

## **II. Comments and Responses by Category**

### **A. Permit Process**

**Comment 1:** I believe your agency should extend the public comment for Waste Connections' Part 360 permit modification for its solid waste transfer station (located at 110-120 50th Street, Brooklyn, NY 11233) for at least 30 days, until April 23, 2021. Constituent groups in my district have raised environmental justice, public health and safety concerns regarding this application, and I understand that UPROSE, NYC-EJA, NRDC have each requested such an extension. (Commenter 1)

**Response 1:** *NYSDEC extended the public comment period to May 23, 2021.*

**Comment 2:** Given these important concerns and the substantial level of community interest in this process, I believe further public review, including a public hearing, is warranted. (Commenter 1)

**Response 2:** *The Department's Uniform Procedures (6 NYCRR Part 621) differentiate between two types of public hearings: adjudicatory hearings and legislative hearings.*

*An adjudicatory hearing takes place when the Department's review or comments received from the public raise substantive and significant issues as defined in 6 NYCRR 624.4(c). An issue is substantive "if there is sufficient doubt about the Applicant's ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry." An issue is significant "if it has the potential to result in the denial of a permit, a major modification to the proposed project or the imposition of significant permit conditions in addition to those proposed in the draft permit." Based on a review of the application and public comments, no substantive and significant issues were identified. Accordingly, an adjudicatory hearing is not warranted for this application.*

*The Department may hold a legislative hearing on a solid waste permit application when a significant degree of public interest exists. A legislative hearing provides an opportunity for the public to make unsworn statements, based on fact or belief, for consideration by the Department in its review of applications for permits. Comments received in written or electronic form are given the same weight as oral comments when NYSDEC is reviewing comments on a permit. After review of all comments submitted during the public comment period for this Permit action, the Department has determined that holding a legislative hearing is not necessary. The Department believes that the written statements it has received for this action effectively communicate the community's concerns. Moreover, as previously stated, written statements and oral remarks have equal weight in NYSDEC's decision-making process. The record currently contains sufficient information for the Department to make an informed permit decision.*

**Comment 3:** Given these important concerns and the substantial level of community interest in this process, I ask that you give each public comment submitted regarding Waste Connections permit application full and fair consideration and make a decision. (Commenter 2)

**Response 3:** *Comment noted. The Department has reviewed and considered all comments submitted during the extended public comment period and has elected to issue a voluntary Responsiveness Summary to publicly address all comments made within the scope of this permitting action.*

## **B. Solid Waste Permitting Requirements**

**Comment 4:** Pursuant to 6 NYCRR § 360.16, Waste Connections' application to modify the Permit must provide sufficient detail to establish that the Facility will comply with New York State's operations restrictions for Solid Waste Management Facilities. However, Waste Connections' application fails to supply the required detail; instead, Waste Connections relies on a general description of existing operations that does not explain how operations would be updated in light of the changes entailed by accepting C&D waste so the Facility remains in compliance. (Commenter 5)

**Response 4:** *As the commenter notes, 6 NYCRR 360.16(b)(1)-(3) requires that "the information contained in an application must contain sufficient detail to: (1) allow the documents to be readily understood; (2) allow the department to ascertain the potential environmental impacts of the proposed facility; and (3) demonstrate that the siting, design, construction, operation, and closure of the facility will be capable of compliance with the applicable requirements of this Part and Parts 361, 362, 363, and 365, and Subpart 374-2 of this Title." Waste Connections has submitted all required documentation and supporting information to the Department in the documents noted in the Introduction section above. The description of proposed operations as provided in the narrative of these documents, along with the included figures and drawings, process flow*

*diagram, and equipment specifications, were sufficient to make an informed decision on this permitting action. As a result, and on February 17, 2021, the Department issued a NOCA for this permit modification. Moreover, reporting and compliance protocols will be in place to ensure permit compliance.*

**Comment 5:** Since Waste Connections does not acknowledge that this permit modification would increase the Facility's throughput and raise new operational challenges, its application does not provide the level of detail necessary to ascertain either (1) the extent of potential adverse health and environmental impacts or (2) whether Facility operations post-modification will comply with state solid waste regulations. (Commenter 5)

**Response 5:** *See response to comments 4 and 7. While Waste Connections is proposing to modify its permit to allow Waste Connections to accept C&D debris in addition to the permitted PSW waste stream, Waste Connections has not requested any increase in storage or approved design capacity. The existing one thousand seventy-five (1,075) tpd approved design capacity and two thousand (2,000) cy storage limit will remain the same. Please refer to the Section 3.1 of the 50th St. Engineering Report Amendment and Section 3.1 of the 50th St. Facility Manual Amendment located at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources).*

*As a result, the Department analyzed the proposed changes as compared to the currently authorized activity in its State Environmental Quality Review Act ("SEQRA") review. The Department has reviewed the FEA and its supporting documentation and has concluded that this project will not have the potential to cause any significant adverse environmental impacts in any of the relevant areas including, inter alia, adverse impacts from traffic, dust, and odors.*

**Comment 6:** The proposed Waste Connections permit modification would not simply substitute putrescible waste for C&D debris at the 50th Street transfer station. In practical terms, it would open the door to hundreds of additional tons per day of waste being hauled to and from this facility. (Commenter 5)

**Response 6:** *See response to comments 5 and 7. The proposed permit modification does not increase the currently permitted 1,075 TPD approved design capacity.*

*Moreover, regarding the commenters concerns that more waste would be hauled to the Facility, in terms of truck traffic, the Department notes that Waste Connections "Traffic and Environmental Analysis" documents that maximum truck traffic will not increase from what is currently permitted. This is because C&D debris is generally slight heavier or more dense than PSW and the proposed permit modification does not request an increase in the currently permitted 1,075 TPD approved design capacity. Refer to Appendix G of the Addendum to the Engineering Report located at*

[www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources) for the “Traffic and Environmental Analysis.”

**Comment 7:** While Waste Connections is technically correct in stating that it does not seek to raise the overall limits for daily throughput and on-site storage of waste, its application does not present the actual impacts that modifying the permit would have relative to current operations. In 2019, the average daily throughput for the Facility was 606 tons per day, and Waste Connections has stated that the Facility’s current throughput averages 675 tons per day. The Facility’s operation at two-thirds capacity is at least partly related to New York City policy favoring the use of marine waste transfer stations to reduce waste hauling truck traffic in the city. Modifying the Permit to allow the Facility to accept C&D waste in addition to putrescible solid waste will almost certainly increase daily throughput and on-site storage above the existing amounts for putrescible solid waste. (Commenter 5)

**Response 7:** *When the Department first issued Waste Connection’s permit, the Department evaluated the potential environmental impacts as related to receiving one thousand seventy-five (1,075) tpd of PSW and storing two thousand (2,000) cy of the same. The Department determined that those actions would not result in any significant adverse environmental impacts and issued a negative declaration of environmental impacts. As per this permit action and pursuant to CP-29, Waste Connections submitted a FEAF and all required documentation necessary to assess the potential environmental impacts of the proposed action assuming the currently permitted maximum capacity operating condition. Based on the FEAF and supplemental supporting documents, the Department has determined that, even operating at the permitted maximum operating capacity, the proposed action will not result in any significant adverse environmental impacts.*

**Comment 8:** Finally, from a compliance standpoint, the proposed permit modification fails to provide sufficient details to establish that it satisfies the Part 360 permit modification requirements. (Commenter 5)

**Response 8:** *See response to comments 4, 5, and 6. Waste Connections has submitted the required documentation and supporting information to the Department as required by all applicable laws, rules, and regulations. Therefore, the Department is able to make an informed decision on this permitting action.*

**Comment 9:** Waste Connections’ application violates NYSDEC’s regulatory application requirement to provide enough specifics for NYSDEC to ascertain whether the facility will comply with state solid waste management facility regulations by omitting discussion of how Facility operations will accommodate these changes to ensure that the Facility remains in compliance. (Commenter 5)

**Response 9:** *NYSDEC is bound by law to issue permits that comply with all applicable laws, rules, and regulations; and that the applicant can immediately*

*comply with the terms and conditions of the issued permit. Waste Connections has submitted all requested and required documentation necessary for the Department to make an informed permitting decision on the submitted application. Waste Connections' application has adequately demonstrated that Waste Connections can comply with state solid waste management facility regulations.*

*The Department has added a condition to the permit that identifies the steps required to be taken by Waste Connections, e.g., installation of additional equipment, before the Facility may begin accepting C&D debris under the modified permit.*

**Comment 10:** In addition, the transfer and storage of C&D waste poses distinct challenges from those associated with putrescible solid waste — for instance, C&D waste handling is more likely to generate fugitive dust. Thus, the modification will change the amount of traffic, dust, odors, noise, and other factors that may have health and environmental impacts for the surrounding community. (Commenter 5)

**Response 10:** *Regarding traffic, see responses to comments 6, 7, and 13.*

*Regarding odor, dust and general air quality-related concerns, material tipping and loading is conducted with the exterior doors of the Facility closed except to allow vehicles, equipment, and personnel to enter or exit the Facility. The Facility is already equipped with a high-pressure dust and odor control misting system, which is installed within the ceiling structure of the Building. The system has spray heads that are distributed to provide coverage over the area of the tipping floor and each of the five (5) exhaust fan located in the roof of the Facility. The proposed modification would add an additional piece of equipment (Dustboss 30), specifically to control any additional dust generated from C&D debris, which will cover the area of the building where the PSW and C&D debris is tipped and processed.*

*The existing exhaust fans will be equipped with filters to control and prevent C&D debris generated dust from discharging through the roof top exhaust fans. Refer to Section 3.7, Building HVAC of the Addendum to the Engineering Report and Section 4.6 of the Addendum to the Facility Manual located at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources) to review the existing HVAC system and dust and odor control system including the proposed improvements.*

*As for noise, there will be no change in mobile equipment used at the facility and the proposed operations will continue to be indoors with doors closed, as such there will be no change in noise as compared to the currently permitted activities.*

*Waste Connections' application has adequately demonstrated that Waste Connections can comply with state solid waste management facility regulations and the Department has reviewed the FEAF and its supporting documentation*

*and has concluded that this project will not have the potential to cause any significant adverse environmental impacts in any of the relevant areas including, inter alia, adverse impacts from traffic, dust, odors, and noise.*

**Comment 11:** Adding potentially hundreds of tons of construction waste a day (and the diesel trucks that transport them) to this community under these circumstances would seem to be both inequitable and ill-timed. (Commenter 5)

**Response 11:** *The proposed permit modification does not change the currently-approved design capacity of one thousand seventy-five (1,075) tpd of regulated solid waste and storage of two thousand (2,000) cy of these waste materials. The proposal is to change only the type of material. Also see the responses to comments 5 and 6.*

**Comment 12:** Waste Connections has submitted a Waste Control Plan as part of its Facility Manual; this plan provides for measures to avoid the acceptance of unauthorized waste, such as random load inspections, visual observation, the use of Truck Scales to detect radioactive waste, and employee training on how to recognize unauthorized waste. The Waste Control Plan does not address potential issues with the transfer of authorized waste. (Commenter 5)

**Response 12:** *Collectively, the documents provide the framework and details on how the authorized waste is to be managed and any potential issues with the management of authorized waste will be mitigated through compliance with the regulatory requirements. These issues have been adequately addressed in the application.*

**Comment 13:** As climate change and COVID-19 present us with a new normal we must take bold action to mitigate these threats, especially for those that are the most vulnerable. This includes those in the hospital located just 1,300 feet from the waste facility, and the 7 schools and three senior centers within just half a mile of the facility. PS1, The Bergen School, is only 2,000 feet from the waste facility with grades Pre-Kindergarten through 5th grade and 1,201 students. There are approximately 3,000 students ages Pre-Kindergarten through 8th grade in the schools that are within ½ mile from the waste facility. Dirtier waste streams such as C&D along with increased diesel truck traffic is a hazard and environmental, health, and social injustice. (Commenter 4)

**Response 13:** *Based off Waste Connections Appendix G “Traffic and Environmental Analysis” of the Addendum to the Engineering Report submitted as part of the SEQRA analysis to supplement the FEA, Waste Connections determined, and the Department has confirmed, that this permit modification will not result in an increase of truck vehicle miles traveled through Brooklyn neighborhoods since local haulers permitted to haul C&D debris will no longer need to travel across Brooklyn neighborhoods to other permitted facilities. Furthermore, Waste Connections concluded, and the Department has verified, that truck traffic will not increase above what is currently permitted. This is due to*



*the fact that the density of C&D debris is greater than PSW thereby fewer vehicles are needed to transport the same amount of C&D than PSW and the proposed permit modification is not for an increase in the currently permitted throughput of 1,075 TPD. Refer to Appendix G of the Addendum to the Engineering Report located at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources) for the "Traffic and Environmental Analysis."*

*With respect to air quality, see response to comment 10.*

*Waste Connections' application has adequately demonstrated that Waste Connections can comply with state solid waste management facility regulations and the Department has reviewed the FEAF and its supporting documentation and has concluded that this project will not have the potential to cause any significant adverse environmental impacts in any of the relevant areas including, inter alia, adverse impacts from traffic, dust, odors, and noise. In addition, and in an effort to promote the fair involvement of all people in the Department's permitting process, NYSDEC has required that Waste Connections comply with all CP-29 requirements.*

## **B. SEQRA**

**Comment 14:** I strongly feel that an Environmental Impact Statement is necessary before final action is taken on the modification request. (Commenter 2)

**Response 14:** Pursuant to 6 NYCRR 617.7(a)(1), NYSDEC, as lead agency, determined that the proposed action did not have the potential to result in at least one significant adverse environmental impact. Therefore, an Environmental Impact Statement is not necessary.

*Waste Connections submitted an FEAF, an Addendum to the Engineering Report Appendix G of the Addendum and the Engineering Report containing site-specific analyses of the potential impacts of the proposed permitting action. Based on this FEAF, NYSDEC has concluded that the project will not have the potential to cause any significant adverse environmental impacts in any of the relevant areas, including, inter alia, transportation, noise, odor, environmental justice, human health, flooding, air, consistency with community character and consistency with community plans and has issued a negative declaration pursuant to SEQRA.*

**Comment 15:** In view of the potential environmental impacts of this permit modification, the preparation of an Environmental Impact Statement is necessary before final action is taking on the modification request. (Commenter 5)

**Response 15:** See response to comment 14.

**Comment 16:** Further, given the 50th Street Transfer Station's location in a community already overburdened by industrial facilities, and near several sensitive receptors including parks and residences, NYSDEC must require Waste Connections to prepare a full Environmental Impact Statement analyzing how the permit modification it seeks will affect the surrounding community. (Commenter 5)

**Response 16:** See response to comment 14.

### **C. Environmental Justice**

**Comment 17:** The permit modification request is particularly concerning considering Sunset Park is an environmental justice community of color already overburdened. (Commentor 1 and 2)

**Response 17:** Comment noted. Please note, it is NYSDEC policy to promote environmental justice. Moreover, CP-29 specifically intends to ensure that NYSDEC's environmental permit process incorporates environmental justice concerns and provides opportunities for public participation. The proposed action was subject to two public participation meetings and two rounds of invitations for these meetings, notification in the newspaper and an extended public comment period longer than is required by regulations. These measures were taken to ensure the public was provided the opportunity to participate in this permit modification process.

**Comment 18:** Company representatives disclosed that they only sent notification to people living within a quarter-mile radius of their 50th Street address and included the notice in one weekly and one daily newspaper. The existing Waste Connections facility is located in the industrial waterfront and a quarter-mile radius does not capture one. Adequate community stakeholders, and 2. Scope of emission pollution, health, or safety impacts of the C&D proposal. (Commenter 4)

**Response 18:** Waste Connections has undertaken the required public outreach and implementation of an enhanced PPP, including notice requirements, consistent with CP-29. The Department determined that the quarter-mile radius represented the potential impact area of the proposed action and targeted mailings and invitations to the public participation meetings to residents and businesses in this area. NYSDEC additionally reached out to environmental and civic groups and public officials beyond the quarter-mile radius anticipating that these groups and officials would share this information with all members and constituents. Please refer to the Appendix in the PPP for the full list. The facility conducted two rounds of invitations and two public participation meetings to ensure all stakeholders were able to participate in the meeting. The Department additionally required a second invitation and meeting were in order to correct an error by the applicant, whereby the applicant only sent the first round of invitations to residents.

**Comment 19:** Waste Connections staff did not offer thorough or informative answers to any of the community questions. (Commenter 4)

**Response 19:** *Comment noted. The applicant supplemented the April 22, 2021 public participation meeting with a follow-up e-mail on May 7, 2021 to all parties attending the meeting for which email addresses were available. This document provided more detailed responses to questions and directed the reader to sections of the permit application where an issue was addressed. While this e-mail was not required by the PPP, the applicant provided it to further enhance public participation.*

**Comment 20:** The community meeting was not recorded to share with DEC, thus undermining community leadership, transparency, and putting the burden of proof on the Sunset Park community. There was also no record of who participated at either of the community meetings. The meeting notice was put out in Spanish, but no Spanish interpretation was offered at the meeting. (Commenter 4)

**Response 20:** *All the questions and comments submitted in the chat function were captured and responded to either at the meeting or in the subsequent May 7, 2021 follow-up email sent by the applicant. While there is no requirement for an applicant to record their EJ meetings, the certification report includes a summary of the meeting and attendees. No one prior to or during the meeting asked for a Spanish interpreter. A fact sheet in Chinese was added to the Waste Connections' document portal at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources) after this request was made at the meeting. Additionally, the fact sheet was also translated into Arabic which was also posted on the document portal.*

#### **D. Air Quality**

**Comment 21:** Waste Connections' proposal to bring C&D debris to this facility will have adverse health and environmental impacts on the surrounding communities we represent. Existing polluters have contributed to higher-than-average rates of asthma in some parts of the neighborhood, according to a 2012 study by SUNY-Downstate and Lutheran Medical Center. We have significant concerns that this application to handle C&D debris will exacerbate the existing air pollution problems in the community. (Commenter 3)

**Response 21:** *See responses to comments 10 and 13.*

**Comment 22:** Community members raised issues about air pollution from the site and trucks, pedestrian and road safety, toxic exposure and fugitive dust, and movement of contaminants with extreme weather events. (Commenter 4)

**Response 22:** *See responses to comments 10 and 13.*

*Regarding commenters concerns relating to pedestrian and road safety, Waste Connections has stated to the Department that it provides for a safe working environment at the transfer station and 50<sup>th</sup> Street and the area surrounding the facility. Additionally, Waste Connections has stated that employees direct inbound and outbound tipping vehicles to ensure safety of pedestrians and any other traffic in the immediate vicinity. There is also no change expected to existing traffic patterns or volumes associated with the permit modification. In order to codify these statements, NYSDEC has added a permit condition that requires Waste Connections to ensure safety of pedestrians and any other traffic in the immediate vicinity by directing inbound and outbound tipping and transfer vehicles.*

*With respect to operations during extreme weather events, Waste Connections has developed a Contingency Plan that is part of the Facility Manual. The plan includes procedures that will be followed during severe weather such as snow, sleet, hail, wind and extreme heat or cold. In the event of a major impending hurricane, the transfer station will cease operations and not accept any inbound material. All outbound material that is being stored will be removed regardless of material quantity.*

*Please refer to Section 8.0 of the Addendum to the Engineering Report Amendment and Sections 10.6, 10.7 and 10.8 of the Addendum to the Facility Manual Amendment located at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources).*

**Comment 23:** Research shows that facilities that process C&D release toxic particulate matter including respirable crystalline silica (“RCS”). RCS is considered the greatest health risk to C&D workers after asbestos. RCS is a very small particle, at least 100 times smaller than ordinary sand. It is created when cutting, sawing, grinding, and crushing stone, rock, concrete, brick, block, and mortar. (Commenter 4)

**Response 23:** *Under the proposed permit modification, no cutting, sawing, grinding, and crushing stone, rock, concrete, brick, block, and mortar will occur at the facility.*

**Comment 24:** Additionally, the increased truck traffic would add to the already heavily trafficked Gowanus Expressway that bisects Sunset Park, exposing thousands of residents to more constant auto emissions. (Commenter 4)

**Response 24:** *The proposed permit modification should not lead to increased truck traffic. See responses to comments 6, 11, and 13.*

## **E. Dust and Odor**

**Comment 25:** Waste Connections’ discussion of dust and odors focuses on existing practices used to mitigate these issues with respect to putrescible solid waste; it is not clear how these practices are meant to control the elevated risk of fugitive dust from

C&D waste, nor is it clear how the Facility can effectively respond to malfunctions in the existing systems. (Commenter 5)

**Response 25:** See response to comment 10.

*In addition, the Ventilation System and dust and odor control must be monitored on a daily basis to ensure system function and compliance with the permit. Moreover, Waste Connections must complete a comprehensive monthly inspection of the Facility that, among other things, encompasses each of the items covered under the daily inspections. Annual Facility inspections, among other things, also provide additional coverage for each of the items monitored under the daily and monthly inspections.*

*Finally, Waste Connections must maintain the Dust and Odor Control System in accordance with the manufacturer's recommendations to ensure consistent, proper function. Non-scheduled maintenance is performed as necessary by Facility Maintenance Staff and Laborers. Non-scheduled maintenance requiring specific product experience will be performed by manufacturer or equipment vendor representatives on call to the Facility. Contingencies include provision of other dust and odor control measures using portable equipment and by manual water spraying. In addition, notification to the Department is required if conditions are such that See Section 10 of the Facility Manual for contingency plans and Section 8 of the Facility Manual Amendment for the descriptions of the periodic inspections, both available at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources).*

**Comment 26:** The nearest residential areas to the Facility are located only 1,050 feet to the south and 1,350 feet to the east; in general, the area just east of the Facility is primarily residential. Waste Connection's application includes a New York City Windrose plot showing typical wind direction and strength in the city; this plot shows that winds up to 20 miles per hour blow through the city from the west, meaning said winds would pass over the Facility towards these nearby residential areas. (Commenter 5)

**Response 26:** See responses to comments 6, 10, 11, 13, and 23. Waste Connections is required to conduct all regulated solid waste activities in such a way so as to effectively control dust and odor in order to make sure that they do not constitute a nuisance. The Department has reviewed the FEAF and its supporting documentation and has concluded that this project will not have the potential to cause any significant adverse environmental impacts in any of the relevant areas including, inter alia, adverse impacts from traffic, dust, and odors.

**F. Concerns related to Storm Events:**

**Comment 27:** We also have concerns regarding Waste Connections lack of a clear storm event mitigation plan. According to their recent community meeting, they indicated plans for the evacuation of tons of waste during storm warnings. Their mention of removing tons of waste by truck during storm evacuations causes deep concern in our community as these plans could result in evacuation delays for tens of thousands of residents and thousands of health care facility patients. (Commenter 4)

**Response 27:** *The Contingency Plan that is part of the Facility Manual discusses actions that Waste Connections will take in case of severe weather. If the facility was at its maximum storage capacity and decided to implement a complete removal of all stored waste, Waste Connections must accomplish that with approximately 85 transfer trailers, which is about twice the number of transfer trailers that would be used in a day when operating at full capacity. The transfer trailers would still leave following authorized truck routes and would travel to authorized disposal locations. The Department agrees that in the event of a major storm such as a hurricane the decision to remove all waste from the facility rather than securing it in place has to be balanced against other competing interests, and the decision could in fact be affected by an area-wide declared state of emergency. In the case of an emergency event of such magnitude that Facility operations would be affected, the Facility is required by permit condition to inform the Department of its plans, and the Department would have the opportunity to evaluate them and require adjustment.*

*Refer to Section 8.0 of the Addendum to the Engineering Report Amendment and Sections 10.6, 10.7 and 10.8 of the Addendum to the Facility Manual Amendment located at [www.wasteconnectionsny.com/resources](http://www.wasteconnectionsny.com/resources)).*

**G. Concerns related to Litter:**

**Comment 28:** It is not clear from Waste Connections' application how the Facility will prevent blowing litter in the event that incoming waste is not properly secured. Both incoming truckloads of waste and the Transfer Trailers onto which waste is tipped are contained via tarp; there is no other protective system or seal separating the waste from open air. There are no procedures to deal with litter generated due to incorrect tarping or tipping. (Commenter 5)

**Response 28:** *NYSDEC's solid waste management facility regulations require that the owner or operator of a facility must not accept waste unless the vehicle transporting the waste is adequately covered or the waste is containerized. When leaving the facility, all vehicles containing waste must utilize a cover which prevents waste and leachate from escaping the vehicle, or the waste must be containerized and that the owner or operator of a facility must ensure that waste at the facility is confined to an area that can be effectively maintained, operated, and controlled; and that blowing litter is confined to waste holding and operating areas by fencing or other suitable means. Any litter outside the waste holding area must be controlled.*

*Waste Connections' permit has a permit condition that states "[e]ach exterior door and gate of the facility must remain closed except to allow vehicles, equipment, or personnel to enter or exit such facility." The Facility Manual Addendum includes in section 10.6.3 that "[a]ll Tipping Vehicles always untarp inside the Building". The Facility Manual Addendum at Section 5.12.1 states that*

*“Waste Connections maintains a proactive cleaning program which, at a minimum, has the streets and sidewalks surrounding the Facility swept and/or washed down on a daily basis.”*

*Waste Connections’ Solid Waste Management Permit has a permit condition that states: “[t]he Permittee daily shall inspect the grounds and streets adjacent to the facility, the facility truck staging area and truck access route for debris. Such material shall be removed when detected and properly disposed of.”*

#### **H. Noise and Nuisance:**

**Comment 29:** Similarly, the application’s discussion of noise control focuses on the conditions that Waste Connections believes render noise impacts “largely mitigated,” such as the conduct of tipping and processing operations indoors. The basis for its conclusion that noise impacts are mitigated by indoor operation is a Noise & Vibration Study (included as Appendix F of the Engineering Report) that assesses the noise level of the Facility’s current putrescible solid waste operations, presumably at its current lower level of throughput. This assessment does not reflect what the noise and vibration levels would be if the Facility were to increase operations by taking in C&D waste. If noise rises above permitted levels, the plan merely provides that “[e]xcessive noise levels detected by Facility personnel will be brought to the attention of the emergency coordinator.” There is no further detail as to how the emergency coordinator will return the Facility to compliance, and it is impossible to tell how quickly and effectively the emergency coordinator will be able to eliminate the nuisance to the surrounding community. In all, the application lacks specificity as to how post-modification Facility operations would account for changes associated with handling increased amounts of waste that includes C&D waste in addition to putrescible solid waste. (Commenter 5)

**Response 29:** *As per this permit action and pursuant to CP-29, Waste Connections submitted a FEAF and all required documentation necessary to assess the potential environmental impacts of the proposed action assuming the currently permitted maximum capacity operating condition. Based on the FEAF and supplemental supporting documents, the Department has determined that, even operating at the permitted maximum operating capacity, the proposed action will not result in any significant adverse environmental impacts including, inter alia, noise and vibration.*

*As stated in the FEAF Part 1, the Engineering Report and Addendum to the Engineering Report indicate that the proposed action would not result in an increase in tonnage/throughput, traffic and/or noise. The proposed action does not include new equipment and all operations will continue to be operated indoors with the doors closed. Per DEP Policy DEP-00-1 Assessing & Mitigating Noise Impacts, no additional noise impact analysis was necessary given the proposed action adhered to the following: the site is contained within an area in which local zoning provides for the intended use as a “right of use”; and the applicant’s operational plan incorporates appropriate best management for noise*

*control for all facets of the operation. The site is located within an M3-1 zoning district, a district designated for areas with heavy industries such as solid waste transfer facility, and the facility's operational plan contains measures to mitigate noise and vibration if needed.*

*Corrective actions for excessive noise can be found in Sections 5.12.4 and 10.3.8 of the Facility Manual Amendment and include the following discussion. If the source of the unacceptable noise is determined as emanating from a vehicle or piece of equipment not owned by the Facility, the Facility Supervisor will notify the Driver and Owner of this violation and advise them that future acceptance of that vehicle will be in jeopardy until adequate repairs are completed or it will be refused future access. Vehicles and equipment are maintained to ensure their exhaust systems are maintained to perform within manufacturer's specification. Should Waste Connections personnel determine that the source of the excessive noise at the Facility emanates from a vehicle or equipment owned Waste Connections, the Emergency Coordinator will be notified, and corrective maintenance will be performed to attain this standard.*

*In addition, the Department has added a permit condition requiring Waste Connections to take noise measurements generated during facility peak operations to demonstrate compliance with the regulatory noise levels in 6 NYCRR 360.19(j) and to implement mitigation measures if the Facility is not in compliance.*

**I. Supportive of Facility**

**Comment 30:** There were several comments provided in support of Waste Connections application to modify its permit to take and accept C&D materials at its Facility, citing a variety of benefits. They included a great need for a C&D disposal outlet in this area, benefits to business efficiency, and reducing the number of miles trucks need to travel to dispose of C&D waste. (Commenters 6-15)

**Response 30:** *Comments noted.*

**J. Beyond the of Scope**

**Comment 31:** We must find solutions to handling waste that reduces truck traffic. (Commenter 1 and 2)