



## PERMIT

### Under the Environmental Conservation Law (ECL)

#### Permittee and Facility Information

**Permit Issued To:**

AMERICAN REF-FUEL CO  
155 CHESTNUT RIDGE RD  
MONTVALE, NJ 07645

**Facility:**

AMERICAN REF-FUEL CO NIAGARA, PL  
100 ENERGY BLVD AT 56TH STREET  
NIAGARA FALLS, NY 14304

**Facility Location:** in NIAGARA FALLS in NIAGARA COUNTY

**Facility Principal Reference Point:** NYTM-E: 173.731 NYTM-N: 4778.009

**Authorized Activity:** Delivery, unloading, processing and combustion of solid waste; and loading, transshipment of ash residue, recovered materials and bypass waste. Operation of the alternate fuel-fired furnace/boiler is also authorized as part of the Energy From Waste (EFW) facility.

#### Permit Authorizations

**Solid Waste Management - Under Article 27, Title 7**

Permit ID 9-2911-00113/00023

Modification # 1

Effective Date: 4/1/2005

Expiration Date: 3/31/2015

Renewal

Effective Date: 4/1/2005

Expiration Date: 3/31/2015

#### NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: STEVEN J DOLESKI, Regional Permit Administrator

Address: NYSDEC REGION 9 HEADQUARTERS  
270 MICHIGAN AVE  
BUFFALO, NY 14203 -2999

Authorized Signature: \_\_\_\_\_

*Steven J. Doleski*

Date 4/1/05

#### Distribution List

Environmental Monitor

MARK J HANS

NIAGARA COUNTY HEALTH DEPARTMENT

SCOTT MENRATH



## Permit Components

SOLID WASTE MANAGEMENT

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

## SOLID WASTE MANAGEMENT PERMIT CONDITIONS

1. **Permit Conflicts** If any condition of this permit conflicts with the approved report and plans identified in special condition number 5, the permit condition shall prevail.
2. **Emergency Reporting** In the event of an emergency effecting plant operations, including but not limited to fires, explosion or on-site spills, the Regional Solid Materials Engineer (RSME), or the on-site environmental monitor, shall be notified of the emergency within 24 hours of discovery. Oral reports due on weekends or holidays shall be made on the next business day. The details of the incident and the remediation or corrective action(s) taken shall be fully described in writing to the RSME within five working days of the event.
3. **Permit Applicability** This permit supersedes all previously issued Solid Waste Management Facility permits and permit modifications issued by the Department for this facility.

### APPROVED DOCUMENTS AND WASTES

4. **Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or his agent as part of the permit application. Such approved plans were prepared by American Ref-Fuel Company of Niagara.
5. **Approved Reports and Documents** The approved reports and documents for this facility include:
  - Operations & Maintenance Manual Administrative Plan dated June 2004 and prepared by American Ref-Fuel Company of Niagara.
6. **Modifications to Operations** Whenever the operations Operations & Maintenance Manual Administrative Plan is revised, the revised plan must be given to and reviewed with the Department's on-site environmental monitor.
7. **Approved Wastes** The facility may receive, process and combust only household waste, nonhazardous commercial waste, C&D Debris and NYSDEC-approved nonhazardous industrial waste. No hazardous waste (as defined in 6 NYCRR Part 371, which is subject to regulation under 6 NYCRR Parts 370 through 374) and no radioactive waste (as defined and regulated in 6 NYCRR Part 380) may be accepted at this facility. No regulated medical waste or sewage sludges may be processed at the facility, unless specifically authorized in writing by the RSME.

Requests for approval to accept industrial waste streams shall be submitted on the 47-19-7 Application Form (Application for Treatment or Disposal of an Industrial Waste Stream), along with all supporting



information. The Permittee shall seek to prohibit all wastes that cannot be burned due to physical/technical limitations and environmental reasons. This includes, but is not limited to, yard wastes (leaves, brush, grass, and stump/tree sections), batteries and white goods.

Alternate fuels, approved by the Department, may be combusted in EFW Boiler #2.

**8. Approved Design Capacity** The design capacity of the facility is 801,600 tons of solid waste per year, based on a referenced heating value of the solid waste of 4,940 BTU/pound. The maximum annual solid waste throughput shall be 821,250 tons of solid waste. In addition, a maximum of 200,000 tons per year of alternate fuels may be burned in EFW Boiler #2.

**9. Comprehensive Recycling Analysis** The permitted facility shall not receive any solid waste which was generated within a municipality that has either not completed a Department approved Comprehensive Recycling Analysis (CRA) or is not included in another municipality's CRA which implemented the recyclables recovery program determined to be feasible by the analysis, satisfying the requirements of 6NYCRR Part 360-1.9(f).

#### VARIANCES/EQUIVALENT DESIGNS

**10. Variance from Testing Requirements** The Permittee's request for a variance from the requirements of 6 NYCRR Part 360-3.5(c)(2)(ii) is approved. The Permittee shall sample the ash in accordance with the Ash Sampling and Analysis Plan (Section 3) of the approved Operations and Maintenance Manual (see special condition #5 of this permit).

#### OPERATIONS

**11. Ash Loading** Loading of transportation containers or vehicles with ash residue must only be done inside an enclosed structure. Ash stored outside must be contained in leakproof and covered containers.

**12. Waste Disposal** All bypass waste, as well as any ash and non-burnables, disposed of in New York State, must be disposed in NYSDEC approved facilities. All bypass waste, as well as any ash and non-burnables, disposed of out of New York State must be disposed of in facilities approved by the respective State regulatory agencies.

**13. Sampling Notification** The Permittee shall notify the RSME or the on-site environmental monitor at least 72 hours prior to commencement of any sampling which is conducted for the purpose of assuring compliance with this permit.

**14. Unscheduled Shutdown** The Permittee must notify the RSME or the on-site environmental monitor if an unscheduled facility shutdown occurs for more than 24 hours, or when more than 720 tons of solid waste must be bypassed by the facility.

**15. Refuse Storage** All refuse shall be confined to the refuse bunker, except during boiler malfunctions and unforeseen circumstances. During these times, storage of refuse on the tipping floor will be allowed for up to 72 hours. The on-site environmental monitor shall be notified when storage of refuse on the tipping floor begins. The 72 hour storage period can be extended to seven (7) days. However, prior to such an extension, the Permittee must provide the RSME, within two (2) business days, a written explanation why additional storage time is needed. The start and end times of the tipping floor storage periods must be recorded by the facility and the records shall be available for Department review. The Department reserves the right to restrict the number of periods refuse is stored on the tipping floor, should this be found to be excessive. Non-burnable waste may be stored on the tipping floor. No putrescible waste shall be stored in other areas of the facility at any time.



**16. Complaints** Any complaints received by the permittee about the operation of this facility must be documented in a log book, with a description of action taken to alleviate the concern and the results of the action. Documentation must be available for review upon request by the Department. Any operational changes deemed necessary by the Department to correct nuisance conditions must be implemented.

## CLOSURE

**17. Site Closure** The permittee shall close the site prior to the expiration date of this permit or prior to the expiration of any renewals of this permit in accordance with the closure requirements in 6 NYCRR Part 360 and the approved closure plan.

## REPORTING

**18. Quarterly Reports** A quarterly report must be prepared by the facility which provides information on activities occurring during the quarter in question (January 1 - March 31; April 1 - June 30; July 1 - September 30; October 1 - December 31). All quarterly reports must be submitted on forms provided by or acceptable to the Department and must be submitted no later than 60 days after the quarter in question. The quarterly reports shall include:

- A weekly summary of operational information.
- A breakdown of the recyclables recovered at the facility.
- The quantity of waste material that has been rejected by the facility.
- A list of all municipalities which dispose of waste at the facility. The list must include the scheduled termination date of each municipality's service contract with the Permittee.

**19. Annual Report** An annual report must be submitted no later than 60 days after January 1 of each year on forms provided by or acceptable to the Department.

**20. Report Submission** All annual reports shall be submitted to the following:

NYSDEC  
Division of Solid & Hazardous Materials  
Bureau of Solid Waste, Reduction & Recycling  
625 Broadway  
Albany, New York 12233-7258

NYSDEC  
270 Michigan Avenue  
Buffalo, New York 14203-2999  
Attn: Regional Solid Materials  
Engineer

## MONITORING

**21. Environmental Monitor** Funds as required to support the monitoring requirements shall be provided to the Department for funding of environmental compliance activities related to the operation of Permittee's facility. This payment sum is based on annual Environmental Monitor service costs and is subject to annual revision. Annual payments shall be made to meet the next year's anticipated expenses. The Permittee shall be billed annually for each fiscal year which begins April 1. The Permittee shall make payment 30 days in advance of April 1.

The Department may revise the required payment on an annual basis to include all costs of monitoring to the Department. The annual revision may take into account factors such as inflation, salary increases,



changes in operating hours and procedures and the need for additional Environmental Monitors and supervision of such Environmental Monitors by full-time Environmental Monitor supervisors. Upon written request by the Permittee, the Department shall provide the Permittee with a written explanation of the basis of any modification. If such a revision is required, the Department will notify the Permittee of such revision no later than 60 days in advance of such revision.

Prior to making its annual payment, the Permittee will receive and have an opportunity to review the annual Environmental Monitor Work Plan that the Department will undertake during the year.

Payments are to be in advance of the period in which they will be expended.

### **GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC REGION 9 HEADQUARTERS  
270 MICHIGAN AVE  
BUFFALO, NY 14203 -2999

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 180 days before permit expiration for the following permit authorizations: Solid Waste Management.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:



- a. materially false or inaccurate statements in the permit application or supporting papers;
- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

## NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittees agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

### **Item C: Permittee Responsible for Obtaining Other Required Permits**

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.