

**Modification to an Approved Unified Permit  
RECORD OF DECISION  
Devens Recycling Center LLC  
Lot 9A, Independence Drive  
Devens, MA 01434  
December 9, 2010**

**1. Applicant:**

The Applicant is Devens Recycling Center, 45 Independence Drive, Devens, MA 01434, its successors and assigns.

**2. Premises and Proposed Modification:**

The Applicant has requested a modification to the Unified Permit for the Devens Recycling Center, located at 45 Independence Drive, Devens, MA to allow for Saturday operating hours from 7:00AM to 1:00PM for a six-month trial period. The 11.10 acre site is located within the Rail, Industrial and Trade Related District (the "Site"). The existing Facility consists of a 90,000 square foot building and associated truck and rail service for the handling of construction and demolition material recycling (the "Facility"). The Unified Permit was issued by the DEC on May 30, 2006 with 21 conditions. On April 21, 2009 the Applicant received approval for a modification to their current site assignment to allow the Facility to accept up to 500 tons per day of Municipal Solid Waste (MSW). The Unified Permit was subsequently modified on July 9, 2009 to facilitate the handling of MSW as well as Construction and Demolition Debris.

**3. Application:**

The following items serve as the list of exhibits for this Application:

- a. A completed Level Two Unified Permit Application dated October 12, 2010 (DEC No. D10-069), 1 page;
- b. Accompanying letter dated October 12, 2010 to Peter Lowitt, from Judith L. Royce-Cohen; 1 page.
- c. Odor report from Tech Environmental dated October 21, 2010 to Judy Cohen, from Michael T. Lannan, PE, re: Odor Assessment for Devens Transfer Station Change in Hours of Operation; 4 pages.
- d. Traffic Report from GPI dated October 21, 2010 from Heather L. Monticup, (GPI) to Judy Cohen, re: proposed extended hours of operation, Devens Recycling Center; 13 pages.
- e. Review of GPI Traffic Report dated November 2, 2010 from Sam Offei-Addo, PE (BSC Group) to Neil Angus, re: Review of GPI October 21, traffic study; 2 pages.
- f. Follow-up Traffic Report from GPI dated November 10, 2010 from Heather L. Monticup(GPI), to Judy Cohen, re: Response to BSC comments, proposed extended hours of operation, Devens Recycling Center; 73 pages.
- g. Review of GPI Follow-up Traffic Report dated November 12, 2010 from Sam Offei-Addo, PE (BSC Group) to Neil Angus, 4 pages.
- h. Determination of Completeness dated October 21, 2010
- i. Harvard Board of Selectman letter dated November 2, 2010 to the Devens Enterprise Commission.

- j. DEC truck route inspection log (10-28-10 to 11-9-10);
- k. DRC response to DEC Truck Route Inspection Log with accompanying DRC inspection logs (10-28-10 to 11-12-10) and 5 notices to trucking companies with maps of the designated truck route and noting their failure to use the designated truck route;
- l. Memo dated October 20, 2010 from Peter Lowitt to Towns of Ayer, Harvard and Shirley Board of Selectman and Planning Offices; Subject: Amend Operating Hours - 45 Independence, DRC (copy of Application and notification of Public Hearing on November 16, 2010, along with certified mail return receipts);
- m. Memo dated October 21, 2010 from Peter Lowitt to Abutters and Interested Parties; Subject: Amend Operating Hours - 45 Independence, DRC; (notification of Public Hearing on November 16, 2010), including mailing list of abutting property owners and certified mail return receipts;
- n. Public Hearing Legal Notice Fax to Nashoba Publications, from Peter Lowitt/Mary Quinn, dated October 19, 2010 – to be published October 22 and 29, 2010.
- o. Copies of Legal notices from October 22 and 29, 2010 newspapers.
- p. Public Hearing Notice Fax to Town Clerks of Ayer, Harvard, Shirley, Lancaster and MassDevelopment, from Peter Lowitt/Mary Quinn, dated October 26, 2010.
- q. Public Hearing Notice Fax to Community Service Cable Committee, from Peter Lowitt/Mary Quinn, dated October 26, 2010.
- r. Public Hearing Notice Fax to Secretary of State and Attorney Generals Office, from Mary Quinn, dated October 21, 2010.
- s. E-mail correspondence as follows:

Date	From	To	Subject
10-6-10	Judy Cohen	Neil Angus	RE: Truck Route
10-13-10	Edith Netter	Neil Angus	No Site Assignment notice is needed
10-22-10	Lynne Welsh	Neil Angus	DCR inspection memo
10-26-10	Michael Lannan	Neil Angus	Dispersion Modeling Summary Table
10-29-10	Judy Cohen	Jay Thompson	RE: Harvey Truck
10-29-10	Judy Cohen	Neil Angus	RE: Harvey Truck 11:43AM
11-16-10	Judy Cohen	Neil Angus	FW: Traffic Monitoring
11-17-10	Peter Lowitt	Neil Angus	FW: Bingo
11-17-10	Sam Offei-Addo	Neil Angus	Re: Devens Recycling Traffic Study
11-18-10	Judy Cohen	Neil Angus	Re:
11-23-10	Judy Cohen	Neil Angus	RE: Additional Info.
11-23-10	Neil Angus	Sam Offei-Addo	FW: Additional info.
11-23-10	Sam Offei-Addo	Neil Angus	Re: FW: Additional info.
11-26-10	Sam Offei-Addo	Neil Angus	Re: DRC
11-26-10	Sam Offei-Addo	Neil Angus	Re: DRC
12-8-10	Judy Cohen	Neil Angus	Truck trips

- t. DEC Staff Report dated November 12, 2010 from Peter Lowitt and Neil Angus;
- u. DEC Staff Report dated December 6, 2010 from Peter Lowitt and Neil Angus;

**4. Unified Permit Components and Actions:**

The Applicant seeks a modification to the July 9, 2009 Unified Permit to expand their current operating hours (7:00AM-5:00PM Monday through Friday) to allow for Saturday operating hours from 7:00AM to 1:00PM for a six-month trial period.

**5. Process:**

- a. Judy Cohen from Devens Recycling, LLC. Submitted the Application and supporting materials on October 12, 2010.
- b. The Determination of Completeness was issued on October 21, 2010.
- c. The DEC transmitted the application by certified mail to the Towns on October 22, 2010. The Towns received the application packets on October 26, 2010.
- d. The 30-day comment period expired on November 25, 2010. A letter was received from the Harvard Board of Selectman (included in record).
- e. The Public Hearing was advertised in Nashoba Publications on October 22 and 29, 2010.
- f. Abutters to the premises were duly notified in writing of the Public Hearing by certified mail on October 21, 2010.
- g. The Public Hearing was opened on October 26, 2010 in Conference Room 1 at 33 Andrews Parkway, Devens, MA and was continued to the December 9, 2010 meeting at 7:30AM. The public hearing concluded on December 9, 2010 and the DEC voted at their regular meeting on December 9, 2010, to approve the Unified Permit Modification request with additional conditions as set forth below.

**6. Waivers:**

No waivers were requested as part of this modification request. All previously approved waivers as granted still apply to this project.

**7. Findings:**

The DEC made the following findings:

1. Odor and pest control are being adequately maintained and the Applicant has complied with all inspection reporting requirements as of the date of this decision.
2. Reports from the State police and the Devens public safety officer indicate there have been no confirmed complaints regarding the Facility operations in the last 6 months.
3. As of the date of this decision, the Applicant has complied with the truck route notification and enforcement requirements included in the conditions of the Site Assignment and Unified Permit, as amended. The truck route is properly signed/posted and the Applicant, DEC and State police continue to monitor residential streets and the designated truck route to ensure proper routes are followed.
4. This request for modification meets the "advance written approval" requirement of Condition #23 of the Site Assignment for any change in operating hours.

**8. Review Criteria:**

1. Regarding the review criteria listed in 974 CMR 3.03(2):
  - (j) Applicable Industrial Performance Standards have been adhered to.
  - (l) Adequate traffic mitigation and control measures are in place.

**9. Conditions:**

The DEC voted to modify the Unified Permit as amended on July 9, 2009, with the following additional conditions:

- 30. Hours of operation shall also include Saturdays from 7am to 1pm (for a six-month trial period).
- 31. Prior to June 6, 2011 the Applicant shall provide the DEC with a written report on truck traffic at the intersection of Saratoga/Barnum and Patton Roads occurring at the dates set forth below and including dates, times, total number of trucks, and number of DRC trucks using/not using the truck route. The number of trucks going to/from DRC where trips originate in Ayer, Harvard, Shirley, Littleton, Groton, Pepperell, Townsend and Lunenburg (“Area Towns”) should be highlighted and then deleted from the number of DRC trucks that do not use the truck route. Additionally, DRC steps to respond to DRC drivers not using the truck route (to ensure future use of the truck route) should be listed and explained.

Date:	Time:
Saturday, December 18, 2010	7-8AM
Saturday, January 8, 2011	9-10AM
Saturday, February 26, 2011	12-1PM
Saturday, March 19, 2011	7-8AM
Saturday, April 9, 2011	8-9AM
Saturday May 21, 2011	10-11AM

- 32. Prior to June 6, 2011 the Applicant shall provide the DEC with the most recent odor monitoring report.
- 33. At its June 16, 2011 meeting, the DEC will determine whether the DRC truck traffic data and odor monitoring reports demonstrate that DRC meets the following criteria:
  - a. The average number of truck trips on Saturdays is less than 200.
  - b. With the exception of trucks originating in Area Towns, the majority of DRC trucks use the truck route and for trucks that do not use the truck route, DRC takes steps to notify them and inform them of the proper route.
  - c. Odors from the Facility do not extend beyond the boundaries of the site on which the facility is located.
- 34. Interim reports shall be provided to the DEC on a monthly basis for informational purposes throughout the six-month trial period.
- 35. This extension of operating hours to include Saturdays from 7am until 1pm shall terminate on June 18, 2011 unless extended by the DEC at its June 16, 2011 meeting.

**9. Decision:**

The DEC closed the Public Hearing on December 9, 2010 and voted the same day, during the Regular Meeting, to issue findings, including that the application complied with

applicable Approval Criteria in 974 CMR 3.03(2), and to approve this modification to the Unified Permit for the Devens Recycling Center, LLC to allow the Facility to operate on Saturdays from 7:00AM-1:00PM for six-months, with conditions as referenced in this decision.

**10. Building Permit**

The proposed modification does not require a building permit.

**11. Permit Duration**

This modified record of decision shall terminate on June 18, 2011 unless extended by the DEC at its June 16, 2011 meeting. It is further noted that a thirty-day "reconsideration period" during which an applicant, a Town, or an aggrieved person may request the DEC reconsider its action (By-Laws, Article IV, Sections C through F). Work performed during this period, which begins on December 10, 2010 and terminates January 9, 2010, is "at risk".

Approved by:

12-9-2010

Date

Peter C. Lowitt  
Peter C. Lowitt, AICP, Director  
Devens Enterprise Commission

Certification

Middlesex, SS

I certify the above is a true action and record of the Devens Enterprise Commission and that Peter C. Lowitt, Devens Land Use Administrator/Director, is empowered by the Devens Enterprise Commission to sign this Record of Decision on its behalf.

12/9/2010  
Date

Mary E. Quinn  
Mary Quinn, Notary  
My Commission expires 6/2/2017

