

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Bureau of Solid Waste Management

625 Broadway, Albany, New York 12233-7260

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Mr. Steve Martucio
Highway Superintendent
Town of Conesus
5862 Federal Road, PO Box 190
Conesus, NY 14435

JUN 05 2019

Dear Mr. Martucio:

Re: BUD No. 1386-8-26
Gas Well Brine and LPG Storage Brine for Dust Control or Road Stabilization

The New York State Department of Environmental Conservation (Department) has reviewed the Town of Conesus's February 27, 2019 petition for a Beneficial Use Determination (BUD) for gas well production brine and LPG storage facility brine. The Department has determined this use of gas well and LPG storage brine, as proposed on unpaved roads in the Town of Conesus for dust control and road stabilization, to constitute beneficial use pursuant to 6 NYCRR Part 360.12(f). This BUD is subject to the following conditions:

1. This BUD applies to brine from the following sources, based on chemical analysis as required under 6 NYCRR Part 360.12(f):
 - Excess brine from the Crestwood, LLC, (Finger Lakes) liquified petroleum gas (LPG) storage facility, 7535 Eagle Valley Road, Bath, NY, based on chemical analysis dated February 8, 2019 by ALS Environmental - Rochester Laboratory.
 - Production brine from the National Fuel Gas Supply Corporation facility at 1161 Peet Road, Wellsville, NY, based on chemical analysis dated May 11, 2018 provided by TestAmerica Laboratories, Inc.

Pursuant to a November 1, 2018 Enforcement Discretion Letter from the Department to municipalities using brines for road treatment, the Department has reviewed the analytical data for these sources, which are each a point of use pursuant to 360.12(f)(2)(vi), on a case-specific basis. The Department has determined brine used from these sources for unpaved road dust control and stabilization, to constitute beneficial use.

This BUD does not authorize road-treatment use of waste brine from other sources, nor of other gas- or oil-well drilling or production wastes, nor any wastes including production brine from Marcellus or other high-volume hydrofractured (shale) gas wells. Production brine or storage brine from these sources is subject to annual verification analysis pursuant to 6 NYCRR Part 360.12(f)(3)(ix).

2. Brine may be used pursuant to this BUD only on unpaved roads or parking surfaces identified in the petition or owned by the Town of Conesus.

3. Brine used under this BUD may only be used on unpaved roads for stabilization or dust control at frequencies and rates specified in the petition, in order to minimize runoff of brine from excess application. In accordance with 360.12(f)(4), these practices must be followed:
 - Brine application is prohibited between sundown and sunrise.
 - Brine application is prohibited on sections of road with a grade exceeding ten percent.
 - Brine application is prohibited on wet or frozen roads, during rain, or when rain is imminent.
 - The application vehicle must have a spreader bar or similar device designed to deliver a uniform application of brine, and the vehicle must have brine shut-off controls in the cab.
 - Brine cannot be applied directly to vegetation near the surface that is being treated.
 - Application of brine nearer than 50 feet to any stream, creek, lake or other body of water is prohibited.
 - Application of brine within 12 feet of structures crossing bodies of water or crossing drainage ditches is prohibited.
 - The application vehicle must be moving at least five miles per hour when brine is being applied; when the vehicle stops, discharge of brine must stop.
4. Brine used pursuant to this BUD ceases to be regulated as a solid waste once it meets technical requirements or specifications, including chemical analysis criteria in subdivision 360.12(f), for dust control or road stabilization. Town-owned trucks conveying brine from the source(s) authorized in this BUD for direct road application or to a Town storage tank for future use for this purpose, are exempt from 6 NYCRR Part 364 Waste Transporters permitting under 6 NYCRR Part 364-2.1(b)(13).
5. By March 31 of every year, an annual report must be submitted to the Department containing the following information for the previous calendar year:
 - Source of the brine
 - New laboratory analysis report obtained during the reporting year for the brine used during that year from each source or point of use, for the parameters in subdivision 360.12(f).
 - Total amount of brine applied
 - Dates of brine application
 - Name of roads where brine was applied with distance applied and approximate gallons applied; and
 - Effectiveness of brine application (excellent, good, fair, poor) and problems encountered, if any.

6. The annual report, and any other correspondence or required submissions for this BUD, should be sent to:

Greg MacLean, P.E.
Regional Materials Management Engineer
NYSDEC Region 8
6274 East Avon-Lima Road
Avon, NY 14414-9516

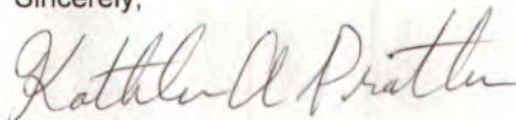
Kathleen Prather, P.E.
Bureau of Solid Waste Management
Division of Materials Management
NYSDEC
625 Broadway, 9th Floor
Albany, NY 12233-7260

Submissions may be made electronically upon arrangement with the above addressees.

7. Any brine not used in accordance with this BUD must be managed or disposed in accordance with applicable Part 360 Series or other Department regulations.
8. All analyses must be performed by a New York State Department of Health ELAP-certified laboratory. All analyses and reporting of results must be performed in accordance with procedures outlined in current Department analytical services protocols.
9. The Department reserves the right to modify, suspend, or revoke this BUD at any time, upon notice and opportunity to be heard, if it finds pursuant to 6 NYCRR Part 360.12(d)(5) any of the following: that one or more factors serving as the basis for this BUD is incorrect or no longer valid; or the Department finds there has been a violation of the conditions of this BUD; or if necessary to prevent adverse impacts to the public health or the environment or to control nuisances.
10. This determination does not relieve the Town of Conesus from responsibility to comply with other local, state or federal requirements.
11. This BUD will expire five years from the date of this letter. A renewal may be granted upon written request and justification.

If you have any questions regarding this determination, please contact me.

Sincerely,



Kathleen A. Prather, P.E.
Chief, Solid Waste Recovery and Medical Waste
Section
Bureau of Solid Waste Management