

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 4

1130 North Westcott Road, Schenectady, NY 12306-2014

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www.dec.ny.gov

October 11, 2023

Dustin Pusatere, Vice President
Shelter Enterprises, Inc.
8 Saratoga Street
Cohoes, NY 12147

**Re: Request for Additional Information
Air State Facility Permit Application
DEC #4-0103-00057/00002**
Shelter Enterprises, Inc.
8 Saratoga Street
City of Cohoes, Albany County

Dear Dustin Pusatere:

On October 14, 2022, the New York State Department of Environmental Conservation (DEC) received the submission of additional information for the renewal of the expired Air State Facility permit for Shelter Enterprises. Upon review of the submitted application materials, we have determined that additional information is required to continue our review. Please submit additional information as described below:

State Environmental Quality Review (SEQR)

Based on the expiration of the previous permit on June 22, 2021 and the lack of a timely application submission (received on June 1, 2022), the renewal of this permit is subject to review under SEQR. This action has been identified as Unlisted. Please submit Part 1 of the Full Environmental Assessment Form (FEAF) pursuant to 6 NYCRR 201-5.2(b)(10).

Climate Leadership and Community Protection Act (CLCPA)

As you may know, the CLCPA became effective January 1, 2020 (Chapter 106 of the Laws of 2019). Among other requirements, the CLCPA directs state agencies to determine if the decisions they make are consistent with the Statewide greenhouse gas (GHG) emission limits established by the CLCPA in Environmental Conservation Law (ECL) Article 75. In the case of the DEC, this includes determining if permits issued are consistent with or would interfere with the attainment of the Statewide GHG emission limits in ECL Article 75. In addition, the CLCPA requires that permitting and other administrative decisions by the DEC and other state agencies not disproportionately burden Disadvantaged Communities (DACs).

CLCPA Section 7(3)

To address Section 7(3) of CLCPA, the DEC is required to ensure that its permitting decisions do not disproportionately burden DACs and prioritize the reduction of GHG and co-pollutant emissions in DACs. Please see <https://www.climate.ny.gov/Resources/Disadvantaged-Communities-Criteria> for more information on DACs and a link to an interactive map of communities that meet the DACs criteria. Since this facility is in a DAC, as identified by the criteria at the link provided above, please calculate the co-pollutant emissions from each emission source or activity resulting in GHG emissions and discuss any alternatives or design measures that will be used to reduce the impact of those emissions on the facility's neighbors. If you conclude that existing measures are enough to reduce these impacts, that should be discussed as well.

CLCPA Section 9

As originally enacted, the Community Risk and Resiliency Act (CRRRA) requires applicants for permits in a number of specified programs to demonstrate that future physical climate risk due to sea-level rise, storm surge, and flooding had been considered in project design. Section 9 of the CLCPA amended the CRRRA to include all permits subject to Uniform Procedures Act (UPA). The CLCPA also expanded the scope of the CRRRA to require consideration of all climate hazards, not only sea-level rise, storm surge and flooding, in these permit programs. The *New York State Flood Risk Management Guidance for Implementation of Community Risk and Resiliency Act*, released in August 2020, (https://www.dec.ny.gov/docs/administration_pdf/crrafloodriskmgmtndc.pdf) provides guidance on consideration of flooding risk by applicants for projects involving new and substantially improved structures or repair of substantially damaged structures in New York State. Neither CRRRA, CLCPA nor the State Flood Risk Management Guidance require relocation or retrofit of existing structures or equipment to address future risks. If this permit modification does not include construction of new structures or equipment installation, consideration of sea level rise and flooding would not be required as part of the permit modification application. Please note that any future permit or permit modification that does involve construction or equipment installation should include consideration of sea level rise in siting and design, as well as increased risk due to pluvial flooding associated with extreme precipitation and risks associated with extreme heat. More information about CRRRA can be found at <https://www.dec.ny/energy/102559.html>.

Environmental Justice

Pursuant to a preliminary screen, DEC has determined that the facility is within an environmental justice area (Census Tracts 012700, 012800, and 012900) and that the potential exists that adverse environmental impacts related to the applications may affect this environmental justice area. Accordingly, environmental justice concerns shall be incorporated into this permit process pursuant to DEC Commissioner Policy 29, Environmental Justice (CP-29).

Please develop and submit a proposed CP-29 Public Participation Plan (PPP) identifying, at a minimum: (i) all stakeholders, including residents adjacent to and in the vicinity of the facility, local elected officials, community-based organizations, and other community residents; (ii) a complete description of the procedures that will be used to distribute and post written information on the permit process in an easy-to-read, understandable format using plain language; (iii) a complete description of the procedures to be used to hold at least two public information meetings at locations and times convenient to the stakeholders to keep the public fully informed about the permit process; and (iv) a complete description of the procedures to be used to establish easily accessible document repositories to make available pertinent information, including but not limited to application materials, reports, meeting presentation materials, media releases, and correspondence between the facility and DEC. For more information on PPPs and examples of plans and related documents, please refer to our Environmental Justice Policies and Regulations page on our website at <https://www.dec.ny.gov/public/36929.html>.

Please feel free to contact me by e-mail at kristen.peek@dec.ny.gov or by telephone at (518) 357-2373 if you have any questions.

Sincerely,



Kristen Peek
Environmental Analyst 1

ecc: Patricia Gabriel, DEC R4 DEP
Rahman Rafique, DEC R4 DAR
Ben Potter, DEC R4 RAPCE
Kate Malcolm, DEC R4 RPA