



January 06, 2023

File Ref: FID 267193300  
Milwaukee County  
HW - LIC

Jeffrey D. Vilione  
Enviro-Safe Consulting, LLC  
W130 N10500 Washington Drive  
Germantown, WI 53022

**SUBJECT:** Final Determination to Conditionally Approve the Feasibility and Plan of Operation Report;  
Enviro-Safe Resource Recovery; EPA ID #WIR000142877

Dear Mr. Vilione:

In accordance with s. NR 670.415(1), Wis. Adm. Code, attached is the final determination to conditionally approve the Enviro-Safe Resource Recovery (ESRR) Feasibility and Plan of Operation Report (FPOR), dated October 28, 2022. Please carefully review the conditions in the final determination. This determination allows for the issuance of annual operating licenses for the 10-year period through January 5, 2033, except when extended under s. NR 670.051(1), Wis. Adm. Code. The initial licenses for hazardous waste storage in containers (License #4719) and hazardous waste treatment in containers (License #4720) are expected to be issued separately, in accordance with Condition 15.

In a letter dated November 10, 2022, the department issued a preliminary determination that the FPOR was complete and contained the minimum information required by chs. NR 660-673, Wis. Adm. Code. Today's letter confirms that the department did not receive any public comments during the 45-day comment period, and has determined that no environmental impact statement is required, the wetlands water quality standards of ch. NR 103, Wis. Adm. Code, have been met and the needs requirements of s. 289.28, Wis. Stats., have also been met.

Note that the Department retains jurisdiction to either require the submittal of additional information or to modify this approval at any time if, in the Department's opinion, conditions warrant further modifications.

If you have any questions regarding the attached documents, please contact Doug Coenen at [douglas.coenen@wisconsin.gov](mailto:douglas.coenen@wisconsin.gov) or (cell) 608-843-2160.

Sincerely,

Andrea Keller, Chief  
Hazardous Waste Prevention & Management Section  
Waste and Materials Management Program

cc: Dawn Zellmer, ESRR  
Jim Delwiche, WDNR  
Randy Malek, WDNR  
Lori Mulsoff, WDNR  
Ben Petrus, WDNR  
Norberto Gonzales, U.S. EPA Region 5

**BEFORE THE STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES**

**FINAL DETERMINATION  
regarding the  
FEASIBILITY AND PLAN OF OPERATION REPORT  
for  
ENVIRO-SAFE CONSULTING, LLC.  
dba ENVIRO-SAFE RESOURCE RECOVERY  
Village of Germantown, Wisconsin  
EPA ID #WIR000142877**

**Hazardous Waste Storage in Containers (License #4719)  
Hazardous Waste Treatment in Containers (License #4720)**

**GENERAL FACILITY INFORMATION**

**Licensee**

Enviro-Safe Consulting, LLC. dba Enviro-Safe Resource Recovery (ESRR)  
W130 N10500 Washington Drive  
Germantown, WI 53022

**Facility Owner**

JDV Real Estate Holdings, LLC  
W130 N10500 Washington Drive  
Germantown, WI 53022

**Facility Location**

Germantown Industrial Park  
Village of Germantown, WI  
Washington County, Wisconsin

**Facility Contact**

Dawn Zellmer, CEO  
(262) 790-2500  
dzellmer@enviro-safe.com

**Licensed Maximum Capacities**

Hazardous Waste Storage in Containers (Lic. 4719): 115,800 gallons (total within six storage units)  
Hazardous Waste Treatment (Fuels Blending) (Lic. 4720): 12,000 gallons per day

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### LICENSING PROCESS

In general, Wisconsin law and regulations regarding the management of hazardous waste are patterned after the federal program established under the Resource Conservation and Recovery Act (RCRA). Licenses are required for facilities that store, treat, and dispose hazardous waste unless the activity is exempted or excluded. The following outlines the key steps leading to the issuance of a hazardous waste license for a new facility:

- a. Prior to submitting the application, the facility must identify and acquire, as necessary, applicable local approvals in accordance with s. 289.22, Wis. Stats.
- b. The facility must submit an application which, under ch. NR 670, Wis. Adm. Code, is required to include a feasibility and plan of operation report (often referred to as an FPOR) and a Part A application. The FPOR functions as the feasibility report required by 289.23, Wis. Stats., and the plan of operation required by 289.30, Wis. Stats.
- c. After the department determines and notifies the applicant that an application is complete and technically adequate, the department issues:
  - A preliminary determination regarding the need for an environmental impact statement per s. 289.25(1), Wis. Stats., and whether the need for the facility has been demonstrated per s. 289.28, Wis. Stats.
  - A preliminary determination to approve the FPOR per s. NR 670.406(1), Wis. Adm. Code.
- d. When issuing the preliminary determination(s), the department publishes and announces public notices per s. 289.25(3), Wis. Stats, and s. NR 670.410, Wis. Adm. Code.
- e. The applicant must distribute the license application as required by s. 289.24(4), Wis. Stats.
- f. Public comment is available for 45 days after public notice per s. NR 670.410, Wis. Adm. Code. A public hearing may also be requested during this period per s. 289.26(1), Wis. Stats. and s. NR 670.411, Wis. Adm. Code.
- g. Within 60 days after the close of the comment period, the department issues a final determination of feasibility per s. 289.29(3) and (4), Wis. Stats. and s. NR 670.415(1), Wis. Adm. Code. This also includes a determination that there is a need for the facility per 289.28(3), Wis. Stats.
- h. Within 90 days after the completeness determination or within 60 days after the feasibility determination, whichever is later, the department issues a plan approval (with conditions) of the FPOR per 289.30(6), Wis. Adm. Code.
- i. The department may then issue an operating license per s. 289.31, Wis. Stats, after providing the notices required in s. NR 670.415(2), Wis. Adm. Code, and s. 289.31(4), Wis. Stat. According to s. NR 670.050, Wis. Adm. Code, operating licenses shall be effective for a fixed term of up to 10 years and subject to annual reissuance during that term.

The following paragraphs are intended to describe some of the nuances involved in the hazardous waste licensing process.

The Wisconsin hazardous waste regulatory program is generally modelled after the federal program adopted under the Resource Conservation and Recovery Act (RCRA), as promulgated in 40 CFR Parts 260 through 273. The RCRA program requires “permits” to be obtained by hazardous waste treatment, storage, and disposal facilities (TSDFs). In Wisconsin, ch. 289, Wis. Stats., requires that these same facilities obtain “licenses” which have the same function and effect.

Chapter 289, Wis. Stats., lays out a minimum two-phased approach for licensing of solid waste facilities, including hazardous waste facilities, and establishes submittal, review, and public involvement processes for each phase. These phases involve the development and approval of a feasibility report followed by development and

approval of a plan of operation. For hazardous waste facilities, subch. B of ch. NR 670, Wis. Adm. Code, combines these into a single phase involving a feasibility and plan of operation report (FPOR) and adds additional submittal, review, and public involvement processes. Therefore, the FPOR-based licensing process for hazardous waste facilities is subject to the applicable requirements of both ch. 289, Wis. Stats., and ch. 670, Wis. Adm. Code. The FPOR is equivalent to the “Part B Application” called for in the federal RCRA program.

The final determination is often referred to as the “plan approval” or “approval,” as that term is used (for example) in s. 289.29(3), Wis. Stats (for feasibility reports) and ss. 289.30(4) through (8), Wis. Stats (for plans of operation). The final determination (approval) and its conditions become part of the license along with the approved application (the FPOR and EPA Part A application) and all approved subsequent license (plan) modifications. This operating license is equivalent to the “Part B Permit” called for in the federal RCRA program.

The final determination allows for the issuance of annual operating licenses to cover the period until the date 10 years from the date of the determination, unless extended under s. NR 670.051(1), Wis. Adm. Code.

### **FACILITY DESCRIPTION**

Historical and current facility information presented in this section was obtained from ESRR’s license application.

#### **Current Facility and Operations**

ESRR began operations in 2002, and has performed solid waste processing, hazardous waste 10-day transfer, used oil marketing/processing, universal waste handling, hazardous secondary material management, and solvent continued use storage and consolidation for customers in Wisconsin and other midwestern States. ESRR’s current facility was originally developed in 2012. ESRR recently constructed a building addition (completed in November of 2021) to provide additional capacity. The 2021 addition modified and expanded the office/lab area, added a section to RM 125, added RM 127, and added the north loading docks. Certain parts of the original facility and parts of the recently expanded facility are now proposed to be licensed for hazardous waste storage and treatment.

The current operation includes the following key waste and material handling areas:

- Container Storage Areas:
  - RM 124 - Staging and Container Storage
  - RM 125 - Container Storage
  - RM 126 - Container Storage and Consolidation
  - RM 127 - Container Storage, Bulking, Consolidation and Lab Pack/Repacking
- Above Ground Storage Tank T01 and T02 (18,000 gal each, outdoors)
- Above Ground Storage Tanks T07 thru T10 (12,500-gal each, indoors within RM127)
- East Loading Docks (Docks #1-5, east of RMs 124, 125 and 126)
- North Loading Docks (Docks #6-9, north of RM 127)
- Tanker Filling Pads #1 and #2 (adjacent to outdoor Tanks T01 and T02)

The 2 outdoor tanks, 4 indoor tanks, and RM 127 are not proposed for hazardous waste use. The FPOR indicates that a revised Solid Waste Plan of Operation is being developed for submittal to the WDNR to recognize changes in solid waste processing operations related to the building addition.

Hazardous waste is proposed to be handled in existing RMs 124, 125 and 126, existing East Loading Docks (Docks #2, 3 and 4), and existing Tanker Filling Pads #1 and #2. Appendix B-02 of the FPOR includes a professional engineer certification that the facility was constructed in substantial compliance with the FPOR.

## Land Use

This information was presented in the FPOR.

The facility is located on a 5.6 acre parcel in the Germantown Industrial Park that is zoned M-1 (limited industrial). A storm water pond is located on the east side of the property with wetlands located on the eastern edge and northern edge of the property. Surrounding land uses include commercial and industrial businesses located to the south, north and west of the facility. A stormwater retention pond and undeveloped land is located directly to the east. The nearest residential property is located about 2,000 feet to the east of the ESRR's property. Primary access to the facility is from Donges Bay Road which defines the southern boundary of the industrial park.

The original Conditional Use Permit (CUP# 03-11) for the ESRR facility was issued by the Village of Germantown in 2011. In 2015, the Conditional Use Permit (CUP# 06-15) was revised and approved by the Village of Germantown to allow for in operations associated with issuance of a Wisconsin Solid Waste Transfer/Processing license (#4587) in 2015. The FPOR indicates that hazardous waste storage and treatment operations do not require a CUP amendment as indicated by correspondence with the Village of Germantown during the local approval identification process required for new facilities by s. 289.22, Wis. Stats.

## Licensed Storage

Licensed storage of hazardous waste is proposed to occur in containers within six locations, or units, at the facility:

- Three of these units are separate warehouse areas, or rooms (RMs) within the facility building: RM 124, RM 125, and RM 126. These units will be used for the storage of containers having a capacity of less than 330 gallons, such as drums or intermediate bulk containers (IBCs, or "totes"). These containers will be stored on pallets. Note that RM 127 is not proposed for licensed hazardous waste activities or for hazardous waste processing.
- The other five locations are exterior loading areas that are proposed to be licensed for contingency storage of out-bound waste transport vehicles (such as vacuum trucks or tanker trucks) in case they must remain at the site due to non-routine circumstances (such as transport vehicle break-down, inclement weather events, or temporary limits at the receiving facility). These locations are Tanker Filling Pads #1 and #2, located east of the outdoor aboveground tank, and three of the east loading docks (Loading Docks #2, #3 or #4) located east of RMs 124 and 125.

The FPOR describes that before shipment to ESRR, wastes must be analyzed, characterized, described in a waste profile form which must be reviewed and approved by ESRR to confirm that it can be safely stored and handled at the facility. Containers will be received at the facility's loading docks and staged in RM 124, where they will be inspected for integrity. The wastes in the containers will be observed and sampled in accordance with the Waste Analysis Plan in order to verify that the waste matches the profile's description. Containers will then be moved into one of the licensed interior storage units. After they are placed into storage, some containers of hazardous wastes will be shipped off-site in their original containers (trans-shipped) to property licensed or permitted facilities for treatment or disposal.

ESRR proposes to store hazardous wastes in containers, which include smaller containers of up to 330 gallons that can be handled by hand or by forklift, as well as larger tanker truck units that typically hold up to 6,000 gallons. Hazardous waste storage in tanks is not proposed.

The FPOR describes that some wastes that are accepted and stored will be trans-shipped in their original containers to another properly permitted or licensed facility for storage, treatment, or disposal, without processing or treatment by ESRR.

**Licensed Treatment**

Licensed treatment of hazardous waste is proposed to occur in RM 126. Fuel blending treatment involves the combination of hazardous wastes and other materials to create a blend that meets a fuel specification amendable to burning for energy recovery. The fuel blending operations will be conducted in RM 126 and consists of vacuuming the contents of smaller containers into a tanker truck that is staged in one of the two outside tanker filling area east of the outside above-ground storage tanks (Tanker Filling Pads #1 and #2) or one of the three east loading docks (Loading Docks #2, #3 and #4). These five tanker truck areas are licensed for storage.

**Licensed Capacities**

The following table presents the proposed licensed hazardous waste units and maximum licensed capacities.

<b>CONTAINER STORAGE (Lic. 4719)</b>	<b>Maximum Licensed Storage</b>		
<b>Licensed Unit</b>	<b>Gallons</b>	<b>55-Gal Equiv.</b>	<b>6,000-Gal Equiv.</b>
RM 124	33,880	616	
RM 125	43,120	784	
RM 126	8,800	160	
East Loading Docks	18,000		3
Tanker Filling Area #1	6,000		1
Tanker Filling Area #2	6,000		1
<b>STORAGE - TOTAL</b>	<b>115,800</b>	<b>1,560</b>	<b>5</b>

<b>TREATMENT IN CONTAINERS (Lic. 4720)</b>	<b>Maximum Licensed Treatment</b>
RM 126 - Fuels Blending	12,000 Gallons per Day

**Waste Processing and Other Activities that do not Require a License**

Certain processing of containerized waste that do not require a treatment license may occur in the licensed storage units, as described in the FPOR.

- Consolidation, or Bulking: Containers may be opened, and their waste contents consolidated with other wastes in other containers. Consolidation processes that do not change the nature or character of the wastes does not require a treatment license. Consolidation may occur between containers that are within RMs 124, 125 or 126. Consolidation may also occur from tankers parked in Loading Docks #2, #3 or #4 or Tanker Filling Pads #1 or #2 into smaller containers located in RM 126.
- Elementary Neutralization: Acidic or basic wastes may undergo elementary neutralization, which is exempt from treatment licensing.
- Lab Packing/Repacking: Lab-packs contain smaller containers of compatible hazardous waste packed according to DOT standards with non-biodegradable absorbent materials. Smaller containers can be consolidated into a larger container with other compatible waste by either pouring/emptying the material into a container, or repacking the unopened small container itself into a larger container.
- Aerosol Can Processing: Aerosol cans may be punctured and drained using a puncturing device specifically designed to effectively empty and contain the residual contents and emissions. ESRR has indicated that this activity is currently not occurring or scheduled to occur; when implemented, applicable emissions controls required by subch. CC of ch. NR 664, Wis. Adm. Code must be met.

Wisconsin regulations (ch. NR 663, Wis. Adm. Code) allow transporters to store hazardous waste for less than 10 days without a storage license. ESRR holds Wisconsin Hazardous Waste Transportation License #15809 and provides transportation services with a fleet of vehicles. ESRR has used its existing facility for license-exempt 10-

day storage. The FPOR describes ESRR's plans to phase out routine 10-day storage over a six-month period after it becomes licensed for hazardous waste storage, after which the facility will be used as a 10-day transfer facility only for exceptions to normal practices, such as when the generator makes an error in the manifest's destination facility section.

The FPOR describes that ESRR also operates as a used oil storage facility and a universal waste handling facility, under chs. NR 666 and NR 679, Wis. Adm. Code, respectively.

The FPOR describes that ESRR stores and processes solid wastes that are not hazardous wastes under ch. NR 502, Wis. Adm. Code. Solid wastes consist of liquid and solid materials that ESRR collects from its commercial and industrial customers. Solid wastes are stored in containers, and may be consolidated into other containers, or into the four indoor aboveground storage tanks in RM 127. These activities are described in the Plan of Operation dated March 18, 2015 contained in FPOR Appendix V-01, which is required to be followed in accordance with Wisconsin Solid Waste Processing Facility License #4587. Solid wastes managed in licensed hazardous waste areas will be handled in the same way as hazardous wastes.

The FPOR describes that the facility is used for solvent continued use storage and consolidation. In general, this involves ESRR's collection of used solvent material and delivery to another user, who utilizes the used solvent for its intended purpose as a solvent. Used solvent utilized in this way is not a spent material and therefore is not subject to regulation as a solid waste or a hazardous waste.

Solvent continued use material is typically accepted by ESRR in containers of up to 330 gallons. Shipment to the user of the materials is typically performed by shipping the materials in their original containers, consolidating the container contents into tanker trucks, or by consolidating the original container contents into the two outdoor aboveground storage tanks before the material is transferred to tanker trucks.

Generators, brokers, and other handlers of continued use materials can demonstrate compliance by maintaining documentation as currently outlined in the department's guidance document WA-1594. A material intended for continued use cannot be treated, processed, or reclaimed before being reused. It also cannot be combined with other less contaminated materials, or otherwise blended to dilute contaminants, to make the material more amenable for reuse. The continued use exclusion does not apply to any of the following materials per s. NR 661.02(5)(b), Wis. Adm. Code:

- a. Materials used in a manner constituting disposal, or used to produce products that are applied to the land.
- b. Materials burned for energy recovery, used to produce a fuel or contained in fuels.
- c. Materials accumulated speculatively.
- d. Materials listed in s. NR 661.02(4) (a) and (b), Wis. Adm. Code.

### **Secondary Containment**

Secondary containment for container storage areas must be provided to collect leakage or spillage from stored containers, and is required to have sufficient capacity to contain 10% of the total volume of containers or the volume of the largest container, whichever is greater. These systems must be free of cracks or gaps, be sufficiently impervious, and must contain leaks, spills, and accumulated precipitation.

The FPOR describes the secondary containment systems that have been previously constructed for each of the ESRR's licensed storage areas, and the FPOR contains professional engineer certification of the secondary containment volumes computations. Volume that could be displaced by equipment, pallets, or fire suppression systems were also considered. For the outdoor storage areas, volume for the 25-year, 24-hour precipitation event was also considered.



## **Waste Analysis**

The FPOR includes a Waste Analysis Plan (WAP) that details ESRR's procedures for each waste accepted and handled, to understand and confirm all the information which must be known to treat, store or dispose of the waste. The WAP's format and contents were modeled after the department's WAP Example dated February 10, 2022.

Some of the key contents of the WAP include:

- procedures used for obtaining a waste analysis of each waste container prior to approval for shipment to the facility, including details of the Waste Information Profile and approval process.
- upon waste container receipt, procedures to confirm that the waste conforms to the approved waste characterization, and matches the shipping documents.
- procedures for handling discrepancies and rejected shipments.
- recordkeeping and reporting associated with these activities.

As required, the WAP specifies that chemical analytical information used for waste determinations must be generated by a laboratory certified or registered under ch. NR 149, Wis. Adm Code, and based on representative samples of the waste. In addition, ESRR uses an on-site lab for some analyses used to confirm that delivered wastes conform to the approved waste profile.

The FPOR also includes detailed precautions to prevent the mixture or inadvertent comingling of incompatible wastes and materials, and to safely store materials that may be incompatible.

## **Environmental Impact Considerations**

The facility is located in the Germantown Industrial Park that is zoned M-1 (limited industrial) and has acquired a Conditional Use Permit from the Village of Germantown that allows for the proposed storage and treatment of hazardous wastes. The facilities buildings and improvements already exist such that no new construction is proposed.

The FPOR contains information pertaining to the review of potential environmental impacts from the proposed hazardous waste operations, including the following:

- The FPOR describes operational controls to minimize air emissions and odors associated with the proposed activities. The FPOR also indicates that air emissions from the modified operations are expected to be below the threshold requiring a permit from the department's Air Management Division.
- The facility currently maintains an WPDES Industrial Storm Water No Exposure Certification (FIN No. 54508) based upon the current activities being conducted. Surface water discharges are not expected to be changed or impacted by the proposed activities. The FPOR describes infrastructure and operational controls to control accidental spills or releases.
- No construction is proposed to occur on or near two wetlands (totaling about 0.34 acres) that have been identified at the property. Stormwater runoff from the developed sources is routed to an existing retention basis adjacent to the property.
- The FPOR addresses the factors related to proposed physical changes identified in s. NR 670.014(2)(x)2.b, Wis. Adm. Code, including terrestrial resources and aquatic resources,
- The FPOR describes the factors related to the existing physical environment, identified in s. NR 670.014(2)(x)2.c, including dominant aquatic and terrestrial plant and animal species and habitats, social and economic conditions, and other special resources.
- The FPOR discusses the probable adverse and beneficial impacts of the proposed activities.

Section NR 670.014(2)(x)2.c.4, Wis. Adm. Code, addresses information regarding social and economic conditions. The following table was generated from U.S EPA's Environmental Justice Screening and Mapping

Tool (EJScreen) for the area with a 2-mile radius from the ESRR facility. Data indicators presented in this table do not indicate the need for additional environmental justice consideration.

### EJSCREEN Report (Version 2019)

2 miles Ring Centered at 43.209108,-88.071039, WISCONSIN, EPA Region 5

Approximate Population: 7,935

Input Area (sq. miles): 12.56

Enviro-Safe 2 miles

Selected Variables	Value	State Avg.	%ile in State	EPA Region Avg.	%ile in EPA Region	USA Avg.	%ile in USA
<b>Environmental Indicators</b>							
Particulate Matter (PM 2.5 in $\mu\text{g}/\text{m}^3$ )	8.77	7.89	72	8.63	44	8.3	64
Ozone (ppb)	41.6	40.5	65	43.4	19	43	36
NATA* Diesel PM ( $\mu\text{g}/\text{m}^3$ )	0.367	0.301	70	0.446	<50th	0.479	<50th
NATA* Cancer Risk (lifetime risk per million)	22	21	66	26	<50th	32	<50th
NATA* Respiratory Hazard Index	0.28	0.27	63	0.34	<50th	0.44	<50th
Traffic Proximity and Volume (daily traffic count/distance to road)	250	600	52	530	58	750	52
Lead Paint Indicator (% Pre-1960 Housing)	0.1	0.36	17	0.38	22	0.28	39
Superfund Proximity (site count/km distance)	0.33	0.12	93	0.13	92	0.13	92
RMP Proximity (facility count/km distance)	2.8	0.89	92	0.82	94	0.74	95
Hazardous Waste Proximity (facility count/km distance)	4.6	1.4	91	1.5	91	4	89
Wastewater Discharge Indicator (toxicity-weighted concentration/m distance)	0.11	1.9	97	0.82	87	14	90
<b>Demographic Indicators</b>							
Demographic Index	9%	24%	16	28%	12	36%	7
Minority Population	10%	18%	50	25%	39	39%	21
Low Income Population	9%	29%	10	31%	11	33%	11
Linguistically Isolated Population	1%	2%	67	2%	62	4%	47
Population With Less Than High School Education	4%	8%	28	10%	25	13%	21
Population Under 5 years of age	6%	6%	56	6%	54	6%	52
Population over 64 years of age	10%	16%	23	15%	27	15%	31

Approval of a hazardous waste FPOR and associated licensing is an integrated analysis action under s. NR 150.20(2)(a)7s., Wis. Adm. Code, which does not require a separate environmental analysis process. ESRR is not proposing to materially change its operations or undertake any new construction as part this licensing effort. Therefore, continued hazardous waste storage activities are not expected to significantly change environmental impacts, and an environmental impact statement under s. 1.11, Wis. Stats., is not needed.

#### Need

The FPOR describes that ESRR is planning to offer hazardous waste storage and treatment services to customers in the Midwestern U.S. They propose to store up to store 115,000 gallons, and treat up to 12,000 gallons per day, of hazardous wastes at their existing solid waste facility. While there are other hazardous waste storage and treatment facilities in ESRR’s proposed service area, ESRR has seen a demand from their customers for

convenient hazardous waste storage and treatment services. Based on the foregoing considerations, the department has determined that there is sufficient need for the proposed facility.

### **Air Emissions Controls**

The standards of Subchapter AA of ch. NR 664, Wis. Adm. Code, apply to air emissions from process vents from equipment handling hazardous wastes with organic concentrations of at least 10 parts per million by weight (ppmw). According to the FPOR, ESRR has none of this equipment, therefore subchapter AA standards would not apply.

The standards of Subchapter BB of ch. NR 664, Wis. Adm. Code, apply to air emissions from equipment that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight. The FPOR proposes to only use transfer equipment that is provided with transportation vehicles, such that this equipment does not remain at the facility. The FPOR specifies that transfer between smaller containers of waste will be by pouring, not through the use of transfer equipment.

The standards of Subchapter CC of ch. NR 664, Wis. Adm. Code, apply to air emissions from tank systems, and from containers more than 26 gallons in capacity that manage hazardous wastes containing an average organic concentration of greater than or equal to 500 ppmw at the point of waste origination. To achieve Level 1 controls, the FPOR indicates that containers will be visually inspected upon receipt and will meet applicable DOT specifications, and that containers will be covered and closed at all times when they are in storage except during active sampling, consolidation, or lab-packing/repacking. The FPOR indicates that emissions from fuel blending activities are minimized by the use of the submerged loading method into the tanker truck, in which waste enters the tanker below the liquid surface level to control turbulence, in order to meet Level 2 controls. Subchapter CC also requires Level 2 emission controls for all other containers greater than 121 gallons.

### **Closure and Financial Assurance**

The FPOR included a Closure Plan, certified by a professional engineer, that describes the waste removal and facility decontamination process that will need to occur upon closure of the licensed hazardous waste units. A cost estimate for implementation of this Plan by a 3<sup>rd</sup> party, and at maximum storage inventories, is provided in the FPOR. ESRR must establish financial assurance for this closure cost estimate in the form established in ch. NR 664, Wis. Adm. Code, prior to issuance of the hazardous waste license. ESRR must also maintain liability coverage for sudden accidental occurrences in the amount of at least \$1 million per occurrence with an annual aggregate of at least \$2 million.

### **Corrective Action**

Corrective action is required by s. 291.37, Wis. Stats, for releases from solid waste management units (SWMUs). The FPOR identifies one SWMU, the building that consists of four warehouses (RM 124, RM 125, RM126 and RM 127) and currently used for solid waste storage and processing, and asserts that these RMs were constructed with concrete non-porous floors and curbs which are sealed, and which serves as secondary containment. The FPOR asserts that there have been no known releases from the SWMU. ESRR has indicated that the outdoor tanks have not been used for the storage of solid wastes.

The department retains the authority to require corrective action in the event of a release from any SWMU or from any licensed hazardous waste unit at the facility.

## **FINDINGS OF FACT**

**The department finds that:**

1. ESRR operates a facility currently licensed for solid waste processing at W130 N10500 Washington Drive in the Village of Germantown, Wisconsin.
2. In accordance with s. 289.22, Wis. Stats., ESRR provided written request for local approval requirements to the affected municipalities in letters dated July 20, 2019.
3. In accordance with s. NR 670.431, Wis. Adm. Code, ESRR conducted a pre-application public meeting on September 30, 2019 at the Germantown Community Library. ESRR provided advance public notice of the meeting through newspaper advertisement, signage, and radio announcement.
4. On April 21, 2020, the department received an operating license application for a new hazardous waste treatment and storage facility dated April 15, 2020. The application consisted of a Feasibility and Plan of Operation Report (FPOR), which included a Hazardous Waste Permit Application (Part A). Review fee payment in the amount of \$4,000.00 was received on April 24, 2020.
5. On June 25, 2020, the department issued to ESRR a Notice of Incompleteness and Technical Inadequacy.
6. On December 16, 2020, the department received a revised FPOR dated December 1, 2020.
7. On March 5, 2021, the department informed ESRR that additional information would be needed, and suggested further less formal dialogue prior to further submittals. ESRR informed the department of its concurrence with this approach on March 9, 2021, and subsequently provided draft FPOR sections to the department for its review. During that same period, the department provided ESRR with feedback via numerous emails.
8. On September 2, 2022, the department received a revised FPOR dated September 2, 2022. The FPOR was received in digitized format, and was followed by submittal of a paper copy to assist in the review process. This FPOR was intended to reflect the June 25, 2020 Notice of Incompleteness, and the subsequent exchange of drafts and feedback.
9. On October 28, 2022, the department received a revised FPOR dated October 28, 2022. The revised FPOR addressed clarifications suggested by the department relating to PDF bookmarks and hyperlinks, minor Waste Analysis Plan corrections in Appendix H, and the P.E. certification in Appendix T-01. The FPOR was received in digitized (PDF) format.
10. On October 26, 2022, a draft of the preliminary determination was provided to ESRR for review and comment. The department received comments back from ESRR via email on October 31, 2022. These comments were considered in the development of this preliminary determination.
11. On November 10, 2022, the department determined the October 28, 2022 FPOR to be complete in accordance with s. NR 670.403, Wis. Adm. Code.
12. On November 10, 2022, the department determined that a separate environmental impact report or environmental impact statement for this facility is not required at this time, pursuant to s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code.
13. On November 10, 2022, the department determined that there is a need for the proposed facility pursuant to s. 289.28, Wis. Stats.
14. On November 10, 2022, the department determined that the proposed facility conforms to water quality standards for wetlands pursuant to ch. NR 103, Wis. Adm. Code.

15. The department published a class 1 public notice on the department's website at <http://dnr.wi.gov/topic/Waste/Comment.html> on November 10, 2022. The public notice was published in the Wisconsin State Journal on November 14, 2022 and in the Milwaukee Journal-Sentinel on November 11, 2022, and was advertised via radio announcements on a local radio stations WHQG FM and WKLH FM on November 16, 2022. Pursuant to NR 670.410(3)(a), Wis. Adm. Code, the public notice was provided to applicable federal and state agencies, persons on the facility mailing list, local governments clerks, and local libraries. The public notice was intended to inform the public and interested parties that the FPOR, the preliminary determination, the initial environmental assessment, and the fact sheet are available for review and comment by the public. The public notice indicated that the 45 day public comment period would extend until December 30, 2022. No comments were received by the department.

### **CONCLUSIONS OF LAW**

#### **The department concludes that:**

1. The department promulgated chs. NR 660 through 679, Wis. Adm. Code, establishing minimum requirements for hazardous waste management under the authority of chs. 289 and 291, Wis. Stats.
2. Pursuant to ss. 289.31 and 291.25, Wis. Stats., no person may operate a hazardous waste facility unless the person obtains an operating license from the department.
3. Pursuant to s. NR 670.050, Wis. Adm. Code, operating licenses shall be effective for a fixed term of no more than ten (10) years and are subject to annual renewal during that term.
4. Pursuant to s. NR 670.010(3), Wis. Adm. Code, the license application shall consist of a Part A application form, the feasibility and plan of operation report, and any supplemental information completed to the department's satisfaction.
5. Pursuant to s. 289.29, Wis. Stats., and ch. NR 670, Wis. Adm. Code, the department has determination of feasibility authority for hazardous waste facilities. Pursuant to s. 289.30(6), Wis. Stats., and ch. NR 670, Wis. Adm. Code, the department has the authority to issue hazardous waste facility plan approvals.
6. The department has the authority pursuant to s. 289.30(6), Wis. Stats., and s. NR 670.032, Wis. Adm. Code, to conditionally approve an FPOR if the conditions are necessary to ensure compliance with ch. 291, Wis. Stats., and chs. NR 660 through 670, Wis. Adm. Code.
7. The department has the authority pursuant to s. 670.032(2)(b), Wis. Adm. Code, to establish license conditions as the department determines necessary to protect human health and the environment.
8. The conditions of approval set forth below are necessary to ensure compliance with chs. NR 660 through 673, Wis. Adm. Code, and to protect human health and the environment.
9. Section 291.37, Wis. Stats., and ch. NR 664, Subch. F, Wis. Adm. Code, authorizes the department to require corrective action when a release has occurred from a solid waste management unit at a facility.
10. Licenses issued under chs. 289 and 291, Wis. Stats., must ensure that the provisions of ch. NR 103, Wis. Adm. Code, have been met concerning effects on water quality and wetlands.

11. The department is required to comply with the procedural requirements of s. 1.11, Wis. Stats, and ch. NR 150, Wis. Adm. Code, in the issuance of a hazardous waste license. In accordance with s. NR 150.20(2)(a)7s., Wis. Adm. Code, the review process for the issuance of a license for a new hazardous waste treatment, storage, or disposal facility is an “integrated analysis action” because a detailed environmental analysis and public disclosure are conducted as part of the department’s programmatic procedures under ch. NR 670, Wis. Adm. Code. Therefore, separate additional environmental analysis is not required for this proposal.

### **FINAL DETERMINATION**

The department has determined that there is no need for a separate environmental impact report or environmental impact statement for this facility at this time, pursuant to s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code.

The department has determined that there is a need for the proposed facility to store and treat hazardous waste, in accordance with s. 289.28(3), Wis. Stats.

The department has determined that the proposed facility conforms to the water quality standards for wetlands in ch. 103, Wis. Adm. Code.

The department has determined that the proposed facility is feasible pursuant to s. 289.29, Wis. Stats, and has determined that it a conditional approval of the application pursuant to s. 289.30(6), Wis. Stats., and s. NR 670.406(1), Wis. Adm. Code, is appropriate.

With this final determination, the department also intends to issue initial license under s. 289.31(4), Wis. Stats.

Based on the Findings of Fact and Conclusions of Law, the department hereby conditionally approves the “Feasibility and Plan of Operation Report, Enviro-Safe Consulting LLC, dba Enviro-Safe Resource Recovery, Germantown, Wisconsin”, dated October 28, 2022, subject to compliance with chs. 289 and 291, Wis. Stats., chs. NR 660 through NR 679, Wis. Adm. Code, and with the following conditions.

### **CONDITIONS OF APPROVAL**

ESRR is subject to the following conditions, which constitute conditions of its operating license.

The following terms are defined solely as used in these conditions:

“Waste” or “wastes” (when not used as part of “hazardous waste/s”) shall refer to all hazardous waste and all non-hazardous waste. “Waste” shall not include solid waste originally generated by ESRR (such as by painting its facility) and managed outside of the licensed hazardous waste storage areas. “Waste” does not include the contents of sample containers of equal to or less than 3 gallons in capacity that are used only for laboratory characterization as described in the FPOR, until the sample material is discarded.

“Approval” or “this Approval” means this determination, its conditions, and any subsequent approvals and conditions.

“FPOR” means the Feasibility and Plan of Operation Report dated October 28, 2022, and any modifications approved in writing by the department.

“The department’s designated inspector” means the person assigned to perform hazardous waste inspections at the ESRR facility, and “the department’s designated hazardous waste plan review staff person” means the person

assigned to review hazardous waste license modifications for the ESRR facility. ESRR should contact the Chief of the Hazardous Waste Prevention & Management Section if there are questions about these assignments.

### General Conditions

1. The facility shall be operated in accordance with the FPOR, the requirements of chs. 289 and 291, Wis. Stats., chs. NR 660 to 670, Wis. Adm. Code, and the conditions of this Approval. The FPOR and these conditions are made a part of any operating license which may be issued for the facility based upon this Approval. The Approval conditions, Wisconsin Statutes or the Wisconsin Administrative Code shall take precedence over any less stringent provisions contained within the FPOR.
2. Nothing in this conditional Approval shall relieve Licensee of the legal obligation to comply with applicable federal, state, and local regulatory requirements.
3. The conditions applicable to all operating licenses set out in s. NR 670.030, Wis. Adm. Code, apply to this facility and are hereby incorporated by reference and made a part of this Approval and of any operating licenses and other approvals which may be issued for the facility. The following additional conditions augment the referenced conditions in s. NR 670.030, Wis. Adm. Code, and also apply and are made part of this Approval.
  - a. Regarding s. NR 670.030(5), Wis. Adm. Code: Proper operation and maintenance shall also include effective and accurate inspections, timely and effective actions to correct deficiencies, effective training, and supervision of all personnel that direct or support operational workers, effective contingency planning, and effective emergency response.
  - b. Regarding s. NR 670.030(11), Wis. Adm. Code: All reports submitted by Licensee pursuant to NR chs. 664 or NR 670, Wis. Adm. Code, or this Approval and its conditions shall be certified in the manner described in s. NR 670.011, Wis. Adm. Code. All submittals containing technical data, such as engineering computations, analyses and studies, design drawings, and design specifications, and similar documents involving the technical application of engineering knowledge or principals shall be certified by a qualified professional engineer.
  - c. Regarding s. NR 670.030(12)(j), Wis. Adm. Code: Licensee shall report all instances of noncompliance not otherwise reported under ss. NR 670.030(d), (e) and (f), Wis. Adm. Code, or under a condition of this Approval. The report shall be provided in writing or via e-mail to the department's designated inspector and the department's designated hazardous waste plan review staff person no later than 15 days after Licensee becomes aware of the noncompliance.
  - d. Regarding to s. NR 670.030(12)(k), Wis. Adm. Code: If Licensee becomes aware that there was a failure to disclose relevant facts in any reports, plans, or other documents submitted, or that incorrect information was submitted to the department, Licensee shall promptly notify the department of such facts and/or correct information and of its plans to cease or modify its operations or activities as may be appropriate. If the facts or information affect the FPOR or this Approval, Licensee shall promptly submit a license modification request under s. NR 670.042, Wis. Adm. Code, but no later than 30 days of becoming aware of the issue.
4. Notwithstanding s. NR 670.004(1), Wis. Adm. Code, Licensee shall comply with all the requirements of all applicable regulations in chs. NR 600 to NR 679, Wis. Adm. Code, unless an alternative to a specific requirement is specifically identified in this approval.
5. If any provision in the FPOR is inconsistent with another provision in the FPOR, Licensee shall conform to each provision or obtain approval of a license modification to clarify the provision(s). If the provisions are contradictory, Licensee shall conform to the more stringent provision, as judged by the department.

6. Licensee shall install and maintain suitable bonding and grounding systems in all areas of the facility where a static discharge could result in a fire or explosion that could impact the licensed storage and treatment areas. Licensee shall comply with the applicable building code requirements and standards and codes established by the National Fire Protection Association for all waste storage and treatment activities.
7. Licensee shall operate the facility in a manner that prevents discharges or emissions from the facility from negatively impacting the safety of the facility, the health and safety of personnel at or near the facility, and the environment.
8. The only hazardous wastes that shall be accepted from off-site, stored or treated at the facility are the hazardous wastes identified on the most recent Part A application form included in Appendix A of the FPOR. Other hazardous wastes may only be accepted or stored after receiving written approval from the department following a license modification request under s. NR 670.042, Wis. Adm. Code, which contains a revised Part A application. Licensee will not accept wastes that are identified in the FPOR as wastes that will not be accepted.
9. All waste storage and treatment activities shall be confined to the areas and limited to the processes specified in the FPOR.
10. When Licensee relies on any of the exclusions or exemptions in ss. NR 661.0004 and NR 661.0006, Wis. Adm. Code, Licensee shall maintain documentation in the operating record for at least 3 years that demonstrates that the exclusion or exemption applies and is met. This condition includes but is not limited to excluded scrap metals, hazardous secondary materials, solvent contaminated wipes, oil filters, samples, airbag waste, and recyclable materials. Documentation that demonstrates that used solvents material handled as continued use material is not a solid waste must also be maintained in the operating record for at least 3 years after handing the material at the facility.
11. The department reserves the right to require corrective action by Licensee under the authority of s. 291.37, Wis. Stats., and/or chs. NR 664, subch. F, Wis. Adm. Code, prior to or after closure.
12. All submittals and reports made pursuant to this Approval shall:
  - a. Unless otherwise specified, be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person;
  - b. Include a transmittal letter that explains the purpose of the submittal and, if related to a condition of this Approval, refers to the number of the condition and approval date; and
  - c. Contain the certification in s. NR 670.011, Wis. Adm. Code.
13. Within 14 days of the date of the document, Licensee shall submit to the department's designated hazardous waste plan review staff person:
  - a. any modified versions of the authorization documents in Appendix V of the FPOR;
  - b. any newly issued authorization documents by any authority identified in Appendix V of the FPOR;
  - c. any other permit, license or construction approval identified in s. NR 670.013(11), Wis. Adm. Code; and
  - d. notification that any such document was applied for.
14. Unless otherwise approved by the department, all submittals required by this Approval shall be developed and submitted as follows:
  - a. A single portable digital file (PDF) of the entire submittal shall be provided, including a signed and dated transmittal letter and all attachments and appendices.
  - b. The single PDF shall be built as a searchable/readable PDF, and/or ran through an optical character recognition (OCR) software (such as Enhance Scans in Adobe Pro), to make the document a searchable/readable PDF.



- c. All parts (e.g., sections, subsections) and attachments (e.g., appendices, figures, tables) shall be designated bookmarks in the PDF, and the name of the bookmark should be the name of the part or attachment.
- d. All cross-references to attachments shall be internally hyperlinked to the appropriate attachment (e.g., all references to Appendix A in the body of the FPOR should include a hyperlink to Appendix A).
- e. If requested by the department, digital files of select PDF pages shall be provided in the requested digital format.
- f. All digital files submitted to the department shall be submitted as an email attachment or via a file sharing website acceptable to the department.
- g. If requested by the department, select printed pages shall be provided.

### **Licensing Conditions**

- 15. Licensee shall not store or treat hazardous waste until the department issues an operating license. In order to qualify for an operating license, Licensee shall submit the following to the department:
  - a. Photos of the gates depicted on FPOR drawing G-04.
  - b. Acceptable documentation to demonstrate financial assurance for closure and liability under s. NR 664.0143, Wis. Adm. Code. Closure financial assurance shall be established for at least \$461,438.47 (in 2022 dollars).
  - c. Documentation that Licensee has submitted a copy of the approved contingency plan to all local police departments, fire departments, hospitals and state and local emergency response teams that may be called upon to provide emergency services, as required in s. NR 664.0053, Wis. Adm. Code.
- 16. In the event Licensee plans to implement changes or activities that are not consistent with the FPOR or this Approval, Licensee shall acquire a license modification in accordance with s. NR 670.042, Wis. Adm. Code, prior to implementing the change.
- 17. Minor administrative changes to the FPOR that would not materially affect the quality of decision-making, waste handling procedures, or recordkeeping, and do not increase risk of impacts to human health or the environment would likely not require a license modification. The facility may seek approval of the changes through a license modification, or seek department concurrence that the changes represent minor administrative changes that will not require a license modification. The facility shall maintain records of any changes and maintain a current version of all appendices, and promptly provide copies of the records of changes and current versions to the department upon request.
- 18. To be complete under s. NR 670.051(1), Wis. Adm. Code, an application shall include all of the information identified in s. NR 670.010(3), Wis. Adm. Code and any relevant supplemental information identified by the department. If the Licensee fails to submit a complete and timely application under s. NR 670.051, Wis. Adm. Code, the Licensee will be considered not in compliance with the conditions of the expiring or expired operating license, and the department may take action as described in s. NR 670.051(3), Wis. Adm. Code. Notwithstanding ss. 289.24(3), 289.26(5), 289.29(4), and 289.30(6), Wis. Stats., the conditions of an expired operating license continue in force until the department issues a final determination.

### **Storage Conditions**

- 19. Licensee shall store hazardous waste only in the units identified below. Licensee shall not store waste, in greater quantities than those identified below. For the purposes of this condition, “gallons” shall refer to the capacity of any and all containers, independent of the actual volume of the contents within any container.
  - a. RM 124: 33,880 gallons
  - b. RM 125: 43,120 gallons

- c. RM 126: 8,800 gallons
  - d. East Loading Docks #2, #3, and #4: 18,000 gallons
  - e. Tanker Filling Area #1: 6,000 gallons
  - f. Tanker Filling Area #2: 6,000 gallons
20. The identity, location, and quantity of all stored hazardous wastes shall be known and recorded using an inventory system throughout the entire storage period. The facility's inventory system shall be maintained so that its information is up to date. For each hazardous waste storage unit, Licensee shall be able to create and provide, when requested by the department, reports from the system that identify the following information for any day within the previous 3 years:
- a. Hazardous waste quantities (total and by container, in gallons);
  - b. Non-hazardous waste quantities (total and by container, in gallons);
  - c. Non-waste containers, such as continued use materials (total and by container, in gallons);
  - d. Total quantities (total and by container, in gallons);
  - e. For each container, the unique waste inventory number that can be used to identify the manifest number, manifest line number, and the profile (WIP) number.
21. Within 24 hours of the arrival of hazardous waste from off-site, Licensee shall sign the uniform hazardous waste manifest and move the waste into storage within the rows identified on drawing G-08 of the FPOR. This time limit shall apply for all days, including holidays, weekends, or any other times when the facility or licensed units may not be in active or in normal operating status. This time limit may be extended only as explicitly allowed by this Approval or if otherwise approved by the department. If proper implementation of the approved Waste Analysis Plan warrants an extension to this period (such as when further follow-up with the generator is necessary because the waste does not match the description on the waste profile or manifest), the waste container shall be:
- a. Clearly labelled with the word "Non-Conforming", the date of arrival at the facility, and a unique tracking number that can be used to quickly identify the manifest number, manifest line number, and the profile (WIP) number; and
  - b. Safely isolated and contained in a safe and secure location within a licensed storage area.
- In no case shall the extended time period exceed fourteen (14) calendar days unless approved by the department in writing.
22. Containers placed in the staging area (as identified on drawing G-08) to prepare them for outbound shipment to another facility shall remain in the staging area for no more than forty-eight (48) hours, and shall be segregated from other containers (such as arriving containers).
23. Hazardous waste storage in Loading Docks 2, 3, and 4 and Tanker Fill Areas 1 and 2 shall be limited to inbound tanker loads of hazardous waste and outbound tanker loads of fuel-blended waste. Hazardous waste in Docks 2, 3 and 4 and Filling Pads 1 and 2 in excess of 24 hours shall be limited to non-routine circumstances not within the control of ESRR (such as road closures due to weather, transportation vehicle break-down, or the unplanned unavailability of the designated facility for outbound wastes), and off-site shipment shall occur as soon as possible thereafter. The transfer of hazardous waste into containers that are not tankers (such as barrels or totes) in Loading Docks 2, 3, and 4 and Tanker Fill Areas 1 and 2 shall not occur.
24. Aisle space for containers in storage shall be at least three (3) feet, and shall be provided as depicted on drawing G-08 of the FPOR. Additionally, sufficient aisle space shall be maintained in storage and staging areas:

- a. to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of facility operation in the event of an emergency;
  - b. in a manner consistent with the arrangements with local authorities required in s. NR 664.0037, Wis. Adm. Code; and
  - c. to allow for effective inspections of the storage area and containers.
25. Sufficient lighting and access shall be maintained in all storage areas to allow for inspections of the storage area, containers, container labels and markings, and secondary containment structures.
  26. Licensee shall store waste in structurally sound and non-leaking containers. Containers shall be compatible with the waste materials stored. Containers shall not have defects (including, but not limited to, signs of past leakage, corrosion, pitting, signs of collapse or bulging, severe scratching, punctures, severe dents, or leaning) that present a risk to the structural and containment integrity of the container.
  27. All waste containers shall be stored on pallets or an equivalent method (such as use of an IBC, or “tote” designed with floor separation) to effectively separate them from the floor and any residue that may accumulate on the floor or near the containers.
  28. Containers shall be placed in the storage areas so that containers labels are readily visible from the aisle space. When elevated above eye-level, containers and labels must be made visible through easy and safe use of a ladder, scaffold, or other mechanism that is readily available at all times.
  29. Licensee shall only store or stack containers in a stable manner so that the containers do not lean or tip. All pallets (and similar devices) and containers shall remain stable and of sound integrity.
  30. Licensee shall not stack containers when the stacking would compromise the stability or structural integrity of the container or pallets.
  31. Licensee shall not stack containers on top of other containers more than two-high. When stacking containers:
    - a. Containers of equal or larger size shall be stored on the lower level, unless the containers stored on the bottom level are designed, maintained, and arranged to safely and securely support the containers stored on the upper level;
    - b. If containers with a capacity of greater than twenty (20) gallons are stacked on upper level, pallets shall be used to separate the first level of containers from the second level; and
    - c. Containers on the upper level shall be centered, level and stable.
  32. Containers shall be closed except when adding or removing wastes.
  33. Readily visible warning signs, labels and/or placards shall be posted within the building structure as necessary to effectively warn personnel and emergency responders of the hazards (e.g., ignitability, reactivity corrosivity, hazards requiring DOT labels) of the contents of stored containers.
  34. If a waste spill occurs on or affects a surface such as a container, piece of equipment, floor, containment area, pallet, a containment pallet, or container handling equipment, the affected surface shall be promptly cleaned-up and decontaminated. No additional waste or materials shall be stored on or near the affected surface until this decontamination is complete. Certain spills must also be reported as required below.
  35. All non-hazardous solid waste received from off-site that is placed in a licensed hazardous waste storage unit shall be in containers that are:

- a. Handled, stored, and managed in the same manner as required for hazardous waste; and
  - b. Clearly labeled with the words “Non-hazardous Waste”.
36. Each container of hazardous waste shall be labelled to clearly depict:
- a. The labeling requirements of s. NR 668.50(1)(b)1., Wis. Adm. Code.
  - b. The waste description.
  - c. The U.S. DOT hazard label that identifies the hazard class; and
  - d. A unique tracking number that can be used to quickly identify the manifest number, manifest line number, and the profile (WIP) number.
37. Any container of wastes resulting from consolidation or bulking of containers at the facility, the date each period of accumulation begins shall reflect the earliest original receipt date of the contents of any of the containers.
38. The north loading docks and loading docks 1 and 5, identified on drawing G-04, shall not be used to load or unload containers of hazardous waste, except that the loading dock 5 area may be used for transfer hoses between RM 126 and tanker trucks as described in the FPOR.
39. Unless otherwise approved in a license modification, Licensee shall store no more than any of the following:
- a. 5,555 gallons (as measured by container capacity) of wastes to be incinerated (or managed in a more expensive manner).
  - b. 3,025 gallons (as measured by container capacity) of lab packs.

If Licensee submits a license modification request to modify this condition, it shall consider and address all of the following:

- i. Presentation of an updated closure cost estimate that reflects updated estimates of the quantities of each hazardous waste types that have different transportation and disposal costs (as currently estimated in T-02 of the FPOR based on pre-licensing inventory information), and their percentages of total storage quantities.
  - ii. A description of how the updated estimates relate to actual storage inventories experienced during representative operating conditions after licensed operations, or for worst case conditions.
  - iii. An analysis of other assumptions and changes in the approved closure cost estimate, that are informed by operating experience or are otherwise known to Licensee, and the conclusions of this analysis.
  - iv. Inclusion of the certification described in s. NR 670.011, Wis. Adm. Code, and a plan to establish financial assurance for the new cost estimate.
40. Hazardous waste processing that does not require a treatment license shall be limited to the processes and areas identified in the FPOR.
41. Licensee shall manage emptied containers in a manner that prevents leakage of, or emissions from, any remaining waste or residuals from the container.
42. The valves for the two outdoor storage area sumps, drainage piping and manhole installed to drain the loading dock area and outdoor storage tank area, identified on FPOR drawing G-05, shall be maintained in the closed position, except for the limited time periods when uncontaminated precipitation that accumulates from weather events is discharged. The transfer of wastes, continued use materials, or other materials to or from containers in or near these areas shall not occur while these valves are opened, or are not functioning properly.

### **Treatment Conditions**

43. Hazardous waste treatment shall be limited to the treatment activities described in the FPOR, and shall not exceed 12,000 gallons per day.
44. Treatment activities authorized by this Approval shall be limited to fuel blending of wastes from containers stored in RM 126 into other containers in RM 126, or into tanker trucks located within Loading Docks 2, 3 and 4 and Tanker Filling Pads 1 and 2.
45. Personnel that design, perform or support treatment activities shall be properly qualified and trained in accordance with the FPOR and the conditions of this Approval.

### **Compatibility Conditions**

46. Licensee shall only combine wastes with other wastes or materials that are compatible.
47. Waste shall not be placed in any container, tank, or other unit or location where it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls). Waste shall not be commingled with another waste or material if the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.
48. Containers of waste shall be separated and handled in such a way to prevent any spilled or leaked waste from comingling with another waste or material if the comingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.
49. Containers of incompatible waste shall be labelled to clearly identify any incompatibility hazard.
50. In case of a conflict between FPOR Appendix P-1 (DOT Hazardous Material Load and Segregation Chart) and FPOR Appendix P-2 (Storage Compatibility Chart), Appendix P-01 shall control.

### **Transfer Conditions**

51. Upon issuance of the hazardous waste operating license, Licensee shall transition its current operations as a hazardous transfer facility under s. NR 663.12, Wis Adm. Code to the limited transfer station operations in the manner described in section 1A.8.10.9 of the FPOR. After the date 6 months after issuance of the hazardous waste storage license, Licensee shall operate a hazardous transfer facility only in the case of generator error.
52. Licensee shall not move hazardous waste from any on-site hazardous waste transfer facility (as referenced in s. NR 663.12, Wis Adm. Code) to any licensed hazardous waste storage unit, or from any licensed hazardous waste storage unit to any on-site transfer facility.
53. For any hazardous waste stored or placed within Licensee's facility under the provisions of s. NR 663.12, Wis. Adm. Code (10-day transfer wastes):
  - a. Containers shall be stored or placed in discreet areas designated in the operating record for 10-day transfer wastes.
  - b. Containers shall meet the applicable U.S. department of transportation (U.S. DOT) regulations on packaging hazardous materials for transportation as specified in s. NR 664.1086(6), Wis. Adm. Code, and shall be stored in a safe and secure manner.

- c. Licensee shall clearly enter on the hazardous waste manifest the date when it is first placed in a transfer facility. Licensee shall ensure that on each hazardous waste manifest is readily available in the operating record and that the container can be readily cross-referenced with the manifest.
- d. If stored in a licensed hazardous waste storage unit, the container must be clearly labeled as holding 10-day transfer wastes.

54. If Licensee is listed on the uniform hazardous waste manifest as the destination facility, then Licensee shall not manage the hazardous waste under the 10-day transfer facility provisions of s. NR 663.12 Wis. Adm. Code.

### **Inspection Conditions**

55. All observations, inspections, and monitoring required by chs. NR 664 and NR 670, Wis. Adm. Code, the FPOR, and the conditions of this Approval shall be documented. This documentation shall also include the results of these observations, inspections, and monitoring activities, and documentation of all corrective actions taken to remedy any condition identifies as deficient. Documentation shall be maintained in the Operating Record for at least 3 years. Inspection forms used for this purpose shall be modified as required to be consistent with any changes that occur at the facility, in the FPOR, and/or in the Approval conditions.
56. All deficiencies identified during these required observations, inspections, or monitoring activities shall be clearly identified and documented on the completed inspection form or otherwise documented in the Operating Record. For any deficiency identified on the inspection form, the completion date and description of remedial or corrective action(s) (such as repairs or replacement) shall be recorded on the inspection form, or recorded in the Operating Record in a manner that such action(s) can be readily referenced to the noted deficiency on the inspection form.
57. Personnel performing inspections and corrective/remedial actions shall be properly qualified and trained in accordance with the FPOR and the conditions of this Approval.

### **Training Conditions**

58. All personnel shall successfully complete a training program that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of ch. NR 664, Wis. Adm. Code, the FPOR, and the conditions of this Approval, and to operate or maintain the facility in a safe manner. This includes all facility employees and any others (such as contractors, vendors, and temporary workers) that have duties relating to hazardous waste acceptance, storage, treatment, handling, or recordkeeping, or that execute, monitor, or supervise activities described in the FPOR. Records documenting these qualifications and this training shall be maintained as part of the operating record for at least 3 years.
59. All personnel, regardless of their position or employer, must be trained so they are familiar with the facility's contingency plan in order to properly act in response to an emergency. This includes all facility employees and any others at or near the hazardous waste storage and treatment activities (such as visitors, contractors, vendors, and temporary workers). Records documenting this training shall be maintained as part of the operating record for at least 3 years.

### **Secondary Containment Conditions**

60. The secondary containment systems shall be operated to prevent any migration of wastes or accumulated liquids and materials out of the system.
61. The secondary containment system shall be operated and maintained such that spills, accumulated liquids and

other materials can be promptly detected by visual means, and promptly corrected.

62. The secondary containment structures shall be sealed with a chemically resistant and durable material to maintain an impervious surface. Penetrations, cracks, fissures, gouges, gaps, scrapes and other defects in the secondary containment structures shall be promptly repaired and resealed to maintain an impervious surface and structure.
63. The secondary containment systems shall be kept free of debris. All liquids and materials from containers that accumulate within the secondary containment systems shall be removed from the secondary containment systems area at least daily and properly managed and disposed of.
64. Licensee may not place or store, in secondary containment areas, materials or equipment whose displacement volume will adversely affect the secondary containment capacity of the licensed storage units, such that available secondary containment capacity falls below (a) 10% of the volumetric capacity of all containers, or (b) the volumetric capacity of the largest container, whichever is greater. For the purposes of this condition, "container" means any waste or non-waste container or vessel holding a free liquid.
65. When removing or transferring waste from a container, the container, receiving unit, and all equipment (such as pumps, conveyance mechanisms, hoses, and piping) shall be stationed within an area that provides effective secondary containment for any leaked or spilled waste.
66. The two outdoor storage area sumps, drainage piping and manhole installed to drain the loading dock area and outdoor storage tank area, identified on FPOR drawing G-05, shall be maintained to ensure they are watertight when the valves are closed.
67. Licensee shall provide additional containment capability as may be needed to meet the requirements of s. NR 157.07, Wis. Adm. Code, regarding Class B Firefighting Foam.

### **Submittal Conditions**

68. All submittals required by this Approval shall:
  - a. Unless otherwise specified, be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person;
  - b. Include a transmittal letter that explains the purpose of the submittal and, if related to a condition of this Approval, refers to the number of the condition and approval date; and
  - c. Be submitted electronically via email in lieu of submitting a paper version, or if submitted via another method (such as via a file sharing website), an email notification of the submittal shall be simultaneously provided. Licensee shall bear responsibility for confirming that emails and emailed reports were received by the department.
69. Information provided to the department shall be signed and certified in accordance with s. NR 670.011, Wis. Adm. Code.
70. Unless otherwise approved by the department, all submittals required by this Approval shall be developed and submitted as follows:
  - a. A single portable digital file (PDF) of the entire submittal shall be provided, including a signed and dated transmittal letter and all attachments and appendices.
  - b. The single PDF shall be built as a searchable/readable PDF, [e.g., ran through an optical character recognition (OCR) software (such as Enhance Scans in Adobe Pro), to make the document a searchable/readable PDF].
  - c. The single PDF shall not be copy protected.

- d. As applicable, all parts (e.g., chapters, sections, subsections) and attachments (e.g., appendices, figures, tables) of a document shall be designated bookmarks in the PDF, and the name of the bookmark shall reflect the name of the part/section/subsection or attachment.
  - e. For documents with attachments (e.g., appendices, figures, tables), all cross-references to attachments shall be internally hyperlinked to the appropriate attachment (e.g., all references to Appendix A within the document would provide a hyperlink to Appendix A).
  - f. If requested by the department, separate digital files of select PDF pages (or sections) shall be provided in the requested digital format (e.g., in Word or in Excel, as applicable)
  - g. All digital files submitted to the department shall be submitted as an email attachment or via a file sharing website acceptable to the department.
  - h. If requested by the department, printed pages of some or all of the submittal shall be provided. This shall include full-sized prints of maps, drawings, or figures.
  - i. For an FPOR, and for other reports as appropriate, a Table of Contents shall be included.
  - j. For an FPOR, and for other reports as appropriate, all pages shall contain a header that identifies the facility name, and a footer that identifies the date and the page number.
71. For any license modification request under s. 670.042, Wis. Adm. Code that requests a modification to the FPOR, Licensee shall include, for all FPOR pages proposed to be modified:
- a. The modified pages bearing new dates;
  - b. An updated revision log that identifies the type, description, and date of the revision; and
  - c. A separate digital file clearly depicting the proposed modifications (e.g., using a track changes tool).
72. To ensure the FPOR is up-to-date, by July 31 of each year, Licensee shall submit an updated digital file of the entire FPOR that incorporates any approved modifications, as well as minor administrative changes described in Condition 17, that took effect during the preceding one-year period from July 1 through June 30. This shall include a running record of all revisions to the FPOR. If no such FPOR changes occurred, Licensee shall only be required to provide notification of this fact.

### **Incident and Release Response/Reporting Conditions**

73. Licensee shall submit quarterly reports listing all visible spills or releases of hazardous waste greater than one-gallon (or 8 pounds) that occurred at the facility over the previous three (3) months. The report shall describe the event, including but not limited to:
- a. the date, time, and duration of the release;
  - b. the date, time spill was discovered, and how it was discovered;
  - c. the source of the release;
  - d. the cause of the release;
  - e. a description of the waste that was released, and the waste codes.
  - f. the estimated and quantity of waste spilled;
  - g. the specific location and areal extent (e.g. square feet) of spilled material;
  - h. whether or not the waste was completely confined by a containment structure
  - i. whether or not the waste reached or affected soil, surface water, groundwater, sanitary sewers, or storm sewers;
  - j. the actions taken to respond to and clean up the release; and
  - k. actions taken or that will be taken to prevent a similar incident from recurring.

The report shall be submitted by the 15<sup>th</sup> day of April, July, October, and January of each year. The report shall be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person. If no such spills or releases occurred, Licensee shall only be required to provide notification of this fact.



74. Licensee shall submit a report within fifteen (15) days of any incident that results in implementation of the approved contingency plan, referred to as the Emergency Management Plan in the FPOR. These incidents include but are not limited to, the following incidents involving or affecting wastes:
- a. Incidents that result in on-site response by an external emergency response agency or entity.
  - b. Spills or releases that are not completely confined within a licensed storage area by a secondary containment structure, including those that reach or affect soil, surface water, groundwater, sanitary sewers, storm sewers.
  - c. Releases that require reporting under ch. 706, Wis. Adm. Code.
  - d. Releases that caused or contributed to illness or injury.
  - e. Incidents where waste produced or contributed to unanticipated heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.
  - f. Flooding.

The report shall contain at a minimum the information described in s. NR 664.0056(9), Wis. Adm. Code, and shall also fully describe the incident, including a description of the discovery, response activities, the root cause, and any change in facility plans or operations needed to prevent recurrence and improve response planning and capability. The report shall also include all of the applicable information required for the quarterly report required in Condition 73. The report shall be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person.

75. After any incident that results in implementation of the contingency plan, as described in Condition 74 Licensee shall promptly perform all of the following, when it is safe to do so:
- a. Take photos to visually document the incident.
  - b. Identify the employees or other individuals who have knowledge of, or were involved in the incident, perform interviews with the employees, document in writing the results of the interviews, and retain this documentation.
  - c. Retain and secure any data and other information associated with the incident.
  - d. Retain and secure any equipment and/or parts that were involved in the incident.
  - e. Retain and secure wastes or waste residues that were involved in the incident.
  - f. Within 24 hours of the incident, notify via email or telephone to the department's designated inspector and the department's designated hazardous waste plan review staff person.
  - g. Other response activities as specified in the FPOR.

Licensee shall obtain department written concurrence prior to releasing any items identified above as required to be retained. A request for concurrence shall explicitly refer to this condition. This condition does not apply to spills or releases that are completely contained within secondary containment systems such that the released material does not reach soil, surface waters, groundwater, a sanitary sewer system, and/or a storm-water sewer system; do not result in an exceedance of a discharge or emission limit; and are promptly cleaned up.

76. Licensee shall:
- a. Within three (3) days of the notification, inform via email to the department's designated inspector and the department's designated hazardous waste plan review staff person, of any notification of a discharge pursuant to ch. NR 706, Wis. Adm. Code.
  - b. Within one (1) week, provide copies to the department's designated inspector and the department's designated hazardous waste plan review staff person of any written or electronic correspondence with the department regarding releases reported, investigated, or remediated under chs. 700-799, Wis, Adm. Code (regarding remediation and redevelopment), unless otherwise approved by the department.

77. None of the conditions of this Approval negate or otherwise affect Licensee's duty to comply with the

reporting requirements in s. NR 670.030(12)(f), Wis. Adm. Code, regarding any noncompliance which may endanger health or the environment. None of the conditions of this Approval negate or otherwise affect Licensee's duty to comply with the reporting requirements under ss. NR 664.0056(9) or NR 706.05, Wis. Adm Code, or other similar requirements for reporting releases or emergency response incidents.

78. Licensee shall comply with all applicable requirements of the department's regulations regarding the investigation and remediation of environmental contamination as laid out in chs. NR 700 to 758, Wis. Adm. Code. Licensee shall submit to the department's hazardous waste program (assigned inspector and/or licensing person) any notification under s. NR 706, Wis. Adm. Code. Within 3 days of any hazardous substance discharge notification made by the Licensee under s. NR 706, Wis. Adm. Code., Licensee shall inform the department's designated inspector and designated hazardous waste plan review staff person in writing of such notification, along with a brief description of the discharge.

### **Air Emissions Conditions**

79. Licensee shall comply with all applicable requirements of air pollution control regulations in chs. NR 400 to 499, Wis. Adm. Code, ch. 285, Wis. Stats., and applicable requirements under the federal Clean Air Act. This shall include, but is not limited to, maintaining copies of any air compliance certifications, and supporting documentation, including record-keeping associated with any operation permit exemption. If Licensee applies for an air quality construction or operations permit, Licensee shall also provide a copy to the department's designated hazardous waste plan review staff person.

### **Waste Analysis Plan and Waste Acceptance Conditions**

80. Licensee shall follow the Waste Analysis Plan (WAP) included in the FPOR.
81. Licensee shall maintain the following records for each shipment of waste accepted from off-site.
- a. All information gathered from the generator (or their authorized representative) upon which Licensee based its decision to accept or handle the waste including but not limited to:
    - (i) Records supporting the generator's hazardous waste determination under s. NR 662.011, Wis. Adm. Code (or the equivalent information if the waste is generated outside of Wisconsin).
    - (ii) The Waste Characterization Form (see Appendix A of the Waste Analysis Plan in the FPOR).
    - (iii) Other information to describe the waste provided by the generator or developed by Licensee (such as sampling information, laboratory analytical reports, safety data sheets).
    - (iv) The information required by s. NR 664.0013(1), Wis. Adm. Code.
  - b. Information used to confirm the acceptability of the waste upon its delivery, including container inspection records, waste screening records, waste observation records, sampling information, and laboratory analytical reports, and for hazardous waste any information relied on to comply with s. NR 664.0013(1)(d), Wis. Adm. Code.
  - c. For hazardous waste, the written notice to the generator required under s. NR 664.0012(2), Wis. Adm. Code.
  - d. For hazardous waste, the manifest(s).
  - e. For non-hazardous waste, the shipping paper(s).
  - f. For hazardous waste, information regarding hazardous waste descriptions and hazardous waste analyses required by s. NR 664.0073(2)(c), Wis. Adm. Code.
  - g. For hazardous waste, information regarding ignitable, reactive, or incompatible hazardous waste that is required by s. NR 664.0017, Wis. Adm. Code.
  - h. For hazardous waste, information regarding free liquids and bulk and containerized liquids that is required by s. NR 664.0314, Wis. Adm. Code.

- i. For hazardous waste, information regarding organic concentrations that is required by s. NR 664.1063(4) and s. NR 664.1050(2), Wis. Adm. Code and VO concentrations and vapor pressure required by ss. 664.1082(3)(a) and s. NR 664.1083, Wis. Adm. Code.
- j. For hazardous waste, information to determine whether equipment in contact with the hazardous waste is in heavy material service or light material service, as applied in Subchapter BB of s. NR 664, Wis. Adm. Code.
- k. For hazardous waste, information regarding underlying hazardous constituents and land disposal restrictions that is required by s. NR 668, Wisc. Adm. Code, including but not limited to the notices required by s. NR 668.07, Wis. Adm. Code.
- l. All information or reports developed or possessed by Licensee regarding waste imports or wastes from a foreign source, including but not limited to information related to ss. NR 664.0012(1) and NR 664.0071(1)(c), Wis. Adm. Code, or subch. H of NR 662, Wis. Adm. Code.

This information and these records shall be cross referenced for each separate waste accepted at the facility so that the information is readily identifiable and promptly retrievable. This information and associated records shall be retained in the operating record for at least three (3) years after the material and/or its treatment residues were no longer stored or on-site.

82. Licensee shall follow the sampling collection guidance as outlined in U.S. EPA's SW-846, "*Volume II, Field Manual*." Sampling methods not covered by SW-846 must be approved by the department.
83. Licensee shall ensure that all samples collected are representative of the waste stream from which the samples are collected. Licensee shall ensure that the person(s) collecting the samples are trained in proper sample collection.
84. For analytical data presented in the Waste Information Profile (WIP) in order to demonstrate the waste is or is not a characteristic waste, and/or to describe other waste properties, or to otherwise meet s. NR 662.011(4)(b), Wis. Adm. Code, on which the Licensee relies on to approve wastes for shipment to, or accept waste into, the Facility, the Licensee shall confirm that the data was generated by a laboratory that is certified or registered for the test method by the State of Wisconsin under ch. NR 149, Wis. Adm. Code, except for certain screening tests for inbound wastes identified in the approved WAP.
85. Personnel that make decisions to approve waste streams and/or accept waste deliveries, and administrative, laboratory and receiving personnel and that support these decisions, shall be qualified and trained in accordance with the FPOR and the conditions of this Approval.
86. Licensee may only approve a WIP after reasonable review by a properly qualified, trained, and competent person concludes that all of the following have been achieved:
  - a. The information presented in, or provided in support of, the WIP has been presented in a logical way that supports the generator's or (if applicable) authorized agent's conclusions.
  - b. The information and documentation comprising acceptable knowledge is sufficient to support the waste determination and to properly manage the waste.
  - c. The information presented in or provided with the WIP has been determined to be sufficient to reasonably demonstrate the generator's or (if applicable) authorized agent's familiarity with and competence in complying with the waste determination requirements of ss. NR 662.011(4) and (5) Wis. Adm. Code, and the information requirements of s. NR 662.011(6) Wis. Adm. Code.
  - d. Appropriate approval conditions to be met by the generator or (if applicable) authorized agent have been established.

87. Licensee shall not rely on analytical data to approve a WIP or to accept waste unless, after review of the information provided as part of the WIP and/or inquiry, or other relevant information, the Licensee is able to reasonably determine that the data was generated from a representative sample.
88. Licensee shall develop an annual report by March 30 of each year that addresses cases when incoming shipments did or did not conform to their WIPs or otherwise resulted in discrepancies during the preceding calendar year, based on the results of Level I, II, and III analyses as described in sections 5.0 through 5.3 of the approved WAP. The report may be developed in lieu of the report described in section 5.4 of the approved WAP, and shall include the following information:
- a. Identify the number of Level I analyses, Level II analyses, and Level III analyses.
  - b. Identify the number of discrepancies identified in Level I analyses, Level II analyses, and Level III analyses.
  - c. Identify the nature and cause(s) for each discrepancy identified in Level I, II, and III analyses, and any apparent trends or commonalities.
  - d. Describe the steps taken by the facility to evaluate and resolve the discrepancies, including but not limited to and as applicable, obtaining information from the generator or its authorized representative to resolve the discrepancy, developing a new or revised WIP, and modifying the information required in the WIP and/or its approval.
  - e. Identify and confirm that the Licensee has implemented measures and/or process improvements to prevent or minimize recurrence of the discrepancies and improve the quality of the information provided by generators in the future.
  - f. Include a description of any measures and/or process improvements (corrective actions) agreed to by the generator or authorized agent that describes the reason for a discrepancy and actions to be taken to prevent re-occurrence.
  - g. Include an analysis of the success of measures, process improvements, and corrective actions from the previous year's annual report.
  - h. Include a description of the following required follow-up actions and results: For any WIP found to be inaccurate through a Level I, II, or III analysis that results in a revised WIP or in modification or cancellation of a WIP approval, the facility shall review all other WIPs for wastes from that generator (including WIPs submitted by an authorized representative of that generator) for completeness, and confirm with the generator or authorized representative that the WIPs remain complete and accurate.
  - i. Be maintained in the operating record for at least ten (10) years, and submitted to the department upon request.
89. For wastes generated from the operation of licensed units and to comply with generator waste determination requirements, Licensee may rely on, as acceptable knowledge, information from the applicable WIP(s) provided by the original waste generator(s), but only if it determines, after reasonably diligent review by a properly trained, qualified and competent individual, that the generator or authorized representative has followed the waste determination requirements in s. NR 662.011, Wis. Adm. Code.
90. The facility shall utilize an independent laboratory certified or registered under ch. NR 149, Wis. Adm. Code, for all Level II, III, and IV laboratory analyses, except for those screening analyses performed in Licensee's onsite lab as described in the WAP.
91. When submitting a report required by s. NR 664.0076, Wis. Adm. Code, regarding unmanifested waste, Licensee shall identify and describe all actions it had taken prior to shipment to discourage future shipments of hazardous waste without a manifest.

### **Financial Assurance Conditions**

92. Licensee shall maintain, in the operating record, up-to-date closure cost estimates and financial proof mechanisms for closure and liability requirements as required by this Approval and by ch. NR 664, subch. H, Wis. Adm. Code. Closure cost estimates shall include applicable inflation adjustments as described in s. NR 664.0142(2), Wis. Adm. Code.
93. The proof of financial assurance dollar amount for closure action shall not be reduced until a license modification in accordance with s. NR 670.042, Wis. Adm. Code, is approved.
94. All cost estimates shall:
- a. be based on utilizing a third party (or third parties) to properly execute all closure activities;
  - b. include third party costs to manage and administer the work (e.g. project management, procurement, contract administration, invoice review and payment, etc.);
  - c. not consider cost efficiencies or special pricing for work that might otherwise be performed or facilitated by Licensee;
  - d. include a minimum 10% contingency for unanticipated or unforeseen work;
  - e. be broken out by discreet tasks and sub-tasks and include unit costs, quantities, and extended costs for each task and subtask.
  - f. The tasks and subtasks shall be easily identified within the approved closure plan, and in total shall include all work described in the approved closure plan and needed to achieve closure in accordance with subch. G of ch. NR 664, Wis. Adm. Code.
  - g. describe the basis for or source of the number of units and unit costs used in the cost estimate;
  - h. clearly indicate the year for which each unit cost is based, such that inflationary adjustments can be accurately applied; and
  - i. include a cost summary in tabular format that:
    - (i) contains separate rows for each separate cost item, or task (and subtask as appropriate). Each task/subtask name and scope of work shall be as identified and described, respectively, in the closure plan;
    - (ii) contains separate columns that identify the task name; the estimated costs for that task including units, number of units, unit costs, and extended subtotals;
    - (iii) is also provided electronically in a spreadsheet format that is unprotected;
    - (iv) as applicable, incorporates separate tables for each year, and a summary table for all years;
    - (v) clearly accounts for and presents inflationary adjustments;
    - (vi) identifies the date of the cost estimate.
95. In the event of partial closure, the estimated closure cost may not be reduced until the department approves a closure certification report, as described in s. NR 664.0115, Wis. Adm. Code, for the applicable unit(s). The unit(s) shall remain subject to all requirements in chs. NR 664 and 670, Wis. Adm. Code until such approval.

### **Closure Conditions**

96. Licensee shall follow the approved closure plan when closing all or part of the hazardous waste facility.
97. Closure confirmation samples shall be grab samples. Closure confirmation sampling must demonstrate that all areas of a unit have been successfully cleaned.
98. Field sampling methods shall follow the guidance in EPA's SW-846, "*Volume II, Field Manual*". Field sampling methods not covered by SW-846 must be acceptable to the department before they are used to close the hazardous waste storage area(s).

99. Sampling methods and equipment, as well as laboratory analytical methods, shall follow the guidance in U.S. EPA's SW-846, "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition*" (see 40 CFR 260.11).
100. Licensee shall use the lowest possible analytical Method Detection Limit (MDL) for the hazardous constituents associated with listed hazardous wastes.
101. Licensee shall report all concentration data, even if it is estimated, for compounds or elements that have been positively identified in the sample. Some target analytes are present at concentrations which are above the level that can be reliably detected but below the level that they can be reliably quantified. These data are referred to as "qualified" and will be reported as a number which has been "flagged" by the laboratory. Although less reliable than data which are reported above the Estimated Quantitation Limit (EQL), these qualified data must nevertheless be evaluated carefully by the department.
102. The closure certification report shall describe in detail the evaluation of the secondary containment area. This shall address any observations of visible contamination (i.e., staining caused by waste consisting of light shadows, slight streaks, or minor discolorations), cracks, crevices, and pits in the floor and any defects of the impervious coating used on the floor. If defects are discovered in the secondary containment area that could allow waste or constituents to penetrate the secondary containment area and affect the underlying soils, soil sampling shall be performed to confirm that no such leakage has occurred.
103. The closure report shall describe in detail how the cleaning methods and the surfactants chosen are suitable for the contaminants to be removed, including at a minimum:
- If detergent washing and water rinsing are selected, the closure report must demonstrate that the detergent solution will remove the contaminants of concern. This may, for example, be demonstrated with solubility data from product specification sheets or standard chemical tables;
  - The closure report must address the length of time the cleaning solutions were in contact with the surface and whether or not scrubbing, pressure washing, or other physical efforts were needed or used to achieve decontamination. demonstration.
  - The closure report must address other relevant considerations such as the temperature of the solution, the pressure nozzle used, and the pressure applied to clean the surface.
  - The closure report must demonstrate that the volume of rinsate used for analytical testing to demonstrate decontamination did not improperly dilute the concentration of contaminants.
104. The closure report shall describe in detail the equipment used to clean the hazardous waste storage area(s), how this equipment was decontaminated and how the residues from the decontamination were handled.
105. The closure report shall include a discussion/evaluation of how waste materials (i.e., rinsate, debris, disposable equipment, etc.) from decontamination were managed and the quantities of such waste materials that were generated by the decontamination efforts. The closure report shall include waste disposal documentation (e.g., the bills of lading, uniform hazardous waste manifest, and waste profile information) as applicable.
106. The closure report shall include drawings of the hazardous waste storage area(s) that are being closed. The drawing must show, at a minimum, dimensions and other construction details, appurtenant structures and relationship to other significant points or structures on the facility property. All drawings shall provide a specified scale, legend, and north arrows.

107. The closure report shall include a description of the types and quantities of hazardous wastes and materials that were stored in the hazardous waste storage area(s). The closure report shall include a description of all known spills within the storage areas
108. The closure report shall include a photo log documenting the decontamination of the hazardous waste storage area(s) and photos showing the 'clean' hazardous waste storage area(s). Each photo shall be numbered and dated, described with the photo's location and compass direction, and include a description of what was photographed and the purpose of the photo.
109. The closure report shall describe the sampling strategy (i.e., sample collection, sample locations, number of samples collected, how the sample was collected and analytical considerations).
110. The closure report shall include a table summarizing the data reported by the lab. The table needs to include concentration data, even if it is estimated, for compounds or elements that have been positively identified in the sample.
111. The closure report shall include a discussion and evaluation of any waste spills (and clean-ups) that occurred in the hazardous waste storage area(s) and how this information was used in designing and implementing closure activities.
112. The closure certification report shall demonstrate that any residual contamination remaining in the hazardous waste storage area(s) is below regulatory or health-based standards.
113. A closure certification report is required for partial and final closure. Closure is not complete until the department approves in writing the certification report. All requirements of ch. NR 664, Wis. Am. Code and this Approval continue to apply until closure is complete.

This Approval is based on the information available to the department as of the date of approval. If additional information, project changes or other circumstances indicate a possible need to modify this Approval, the department may ask or require you to provide further information. Likewise, the department accepts proposals to modify the FPOR and approvals, as provided for in state statutes and administrative codes.

### **NOTICE OF APPEAL RIGHTS**

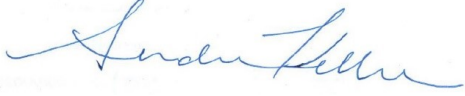
If you believe you have a right to challenge this decision made by the department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing department decisions.

Section 289.27, Wis. Stats., outlines the process for seeking a contested case hearing on this decision. Any petitions must be submitted in writing within 45 days of the publication of this notice, and must conform to the requirements in s. 289.27, Wis. Stats., and ch. NR 2, Wis. Adm. Code.

To seek judicial review of the department's decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. You have 30 days after the decision is mailed or otherwise served by the department to file your petition with the appropriate circuit court and serve the petition on the department. The petition shall name the department of Natural Resources as the respondent.

Dated: November 10, 2022

WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
For the Secretary

A handwritten signature in blue ink, appearing to read "Andrea Keller".

Andrea Keller, Chief  
Hazardous Waste Prevention & Management Section  
Bureau of Waste and Materials Management

A handwritten signature in black ink, appearing to read "Douglas W. Coenen".

Douglas W. Coenen, Waste Management Engineer  
Hazardous Waste Prevention & Management Section  
Waste and Materials Management Program