



September 11, 2023

File Ref: FID 113063390  
Dane County  
LIC

Meagan Albon  
ISO/Compliance Manager  
114 North Main St  
Cottage Grove, WI 53537

SUBJECT: Notice of Substantial Completeness and Preliminary Determination  
Hydrite Chemical Co., Cottage Grove, WI  
EPA ID #WID000808824  
DNR License Licenses #3200, #4437, and #6006

Dear Ms. Albon:

The Department of Natural Resources (department) has reviewed the revised application, including a Feasibility and Plan of Operation Report (FPOR) dated December 23, 2022 and received by the department on December 27, 2022, from Hydrite Chemical Co. (Hydrite) located within the Village of Cottage Grove WI, at 114 N. Main Street, Cottage Grove, WI 53527, for completeness and technical adequacy. As discussed with Hydrite at an in-person meeting on March 3, 2023, additional information is needed for this revised FPOR to be conditionally approved for a longer term. However, the department has determined that the application is sufficient to issue a renewed operating license under s. NR 670.010(3), Wis. Adm. Code, based on the conditions of the existing license, for an 18-month period, while the additional information is being developed by Hydrite and reviewed by the department.

The department has also made the following preliminary determinations, for the purposes of this renewed operating license:

1. An environmental impact statement will not be required under s. 289.25, Wis. Stats.
2. The needs criteria of s. 289.28, Wis. Stats., have been met.
3. The water quality standards for wetlands of ch. 103, Wis. Adm. Code, have been met.
4. To conditionally approve the license application.

The preliminary determination and conditions of approval are attached to this letter.

The department will now accept public comments on the preliminary determination as required by s. 289.25(3), Wis. Stats., and s. NR 670.410, Wis. Adm. Code. Comments will be received for 45 days following the publication of a Class 1 notice on the department's website at: <http://dnr.wi.gov/topic/Waste/Comment.html> (under the tab named "Hazardous Waste"), which is planned to occur no later than September 13, 2023. This public notice will also be published in the Wisconsin State Journal on or about September 13, 2023. In addition, an announcement of the opportunity for public comment will be broadcast over radio stations 94.9 WOLX and 105.5 WMMM. The department is also providing copies of the public notice to entities identified in s. NR 670.410(3)(a), Wis. Adm. Code on or about the same dates, which include:


- The applicant (Hydrite)

- Federal and state agencies with jurisdiction over wildlife resources, the advisory council on historic preservation and state historic preservation officers, including any affected Indian tribe (DNR's Bureau of Natural Heritage Conservation, Wisconsin Historical Society, and U.S Fish and Wildlife Service).
- Persons on the facility mailing list developed by the department.
- The clerk of any unit of local government having jurisdiction over the area where the facility is proposed to be located (the clerks of the Village of Cottage Grove and Dane County).
- Each state agency having any authority under state law with respect to the construction or operation of the facility (the Department of Agriculture, Trade and Consumer Protection, Department of Health Services, and Wisconsin Emergency Management).
- The main public library in each affected municipality. There is no library in the Village or Town of Cottage Grove; the nearest public library is the Madison Public Library – Pinney Branch on Cottage Grove Rd., which is also located in Dane County.

The public notice will announce that the administrative record, the preliminary determination, and the fact sheet are available for review. The notice will state that the department will receive comments within 45 days of issuance of the public notice and will specify this date (which is expected to be on or about October 28, 2023). After the public comment period ends, the department will consider all comments received during the public comment period before issuing a final determination. Any comments received during the public comment period will also be reviewed to determine if there is significant public interest in this project to warrant an informational hearing under s. 289.26, Wis. Stats. or s. NR 670.412, Wis. Adm. Code, or to determine if the criteria of s. 289.27, Wis. Stats, have been met to require a contested case hearing.

Please note that this is a preliminary determination and is subject to change based on comments and additional information received by the department. 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



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

cc: Jim Maderski, Hydrite  
Ben Petrus, WDNR  
Jonathan Stoffer, WDNR  
David Panofsky, WDNR  
Norberto Gonzales, USEPA Region 5

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

**PRELIMINARY DETERMINATION  
regarding the  
LICENSE RENEWAL APPLICATION  
for**

**Hydrite Chemical Co.  
Village of Cottage Grove, WI  
EPA ID #WID000808824  
DNR License Licenses #3200, #4437, and #6006**

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### **FACILITY SUMMARY**

#### **Facility Name, Site Operator and Address**

Hydrite Chemical Co.  
Joseph J. Weishar, Vice President of Operations, 608-839-8100, [joe.weishar@hydrite.com](mailto:joe.weishar@hydrite.com)  
114 N. Main Street  
Cottage Grove, WI 53527

#### **Facility Owner**

Hydrite Chemical Co.  
17385 Golf Pkwy  
Brookfield, WI 53045

#### **Facility Location**

County: Dane  
City/Town/Village: Village of Cottage Grove  
Legal Description: NW 1/4 of the NE 1/4 of Sec 16, T7N, R11E  
Lat/Long: Latitude: 43.077483 Longitude: -89.199779

#### **Facility Contacts**

Dan Wojciechowicz, General Manager of Process, 608-208-4317, [Dan.Wojciechowicz@Hydrite.com](mailto:Dan.Wojciechowicz@Hydrite.com)  
Angie Gilmore, EHS Regional Manager Cottage Grove East, 608-839-8182,  
[Angie.Gilmore@Hydrite.com](mailto:Angie.Gilmore@Hydrite.com)

#### **Environmental Compliance Contacts**

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Jen Misiewicz, Environmental Manager, 262-373-9971, [Jen.Misiewicz@Hydrite.com](mailto:Jen.Misiewicz@Hydrite.com)

**Affected Municipalities (as defined in s. 289.01, Wis. Stat.)**

Village of Cottage Grove  
Dane County  
Town of Cottage Grove

**SUMMARY OF LICENSED UNITS**

Hazardous Waste Container Storage (License #6006): Hazardous wastes are stored in the CE100 Warehouse. The licensed container storage capacity of the CE100 Warehouse is 110,000 gallons, which is equivalent to 2,000 55-gallon drums.

Hazardous Waste Tank Treatment (License #4437): Hazardous Waste Tank Treatment (License #4437): Hazardous wastes are blended for fuel in two, above ground, unpressurized, stainless steel hazardous waste storage tanks (Hydrite position numbers 401 and 402). Each of these tanks has a capacity of 19,750 gallons.

Hazardous Waste Tank Storage (License #3200): Hazardous wastes are stored in ten above ground, unpressurized, stainless steel hazardous waste storage tanks (Hydrite position numbers 212, 213, 214, 215, 218, 219, 220, 221, 241 and 242). Each of these hazardous waste storage tanks has a capacity to store 6,650 gallons, for a total capacity of 66,500 gallons.

**LICENSING PROCESS**

Wisconsin laws 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, or dispose of hazardous waste unless the activity is exempted or excluded. Licensed facilities may be issued approvals for up to ten years and must submit a new application, often referred to as a 10-year renewal application, before this period expires. Under ch. NR 670, Wis. Adm. Code, the application is required to include a feasibility and plan of operation report (often referred to as an FPOR) and Part A application information.

The following steps typically occur in reissuing a hazardous waste license:

- a. The applicant must submit a new application at least 180 days prior to the expiration date of the active approval.
- b. After the department determines that an application is complete and notifies the applicant, the department issues preliminary determinations regarding the following:
  - The need for an environmental impact statement per s. 289.25(1), Wis. Stats.;
  - The needs criteria of s. 289.28, Wis. Stats.;
  - Compliance with the water quality standards for wetlands of ch. 103, Wis. Adm. Code; and
  - Whether or not to conditionally approve the FPOR per s. NR 670.406(1), Wis. Adm. Code.
- c. When issuing the preliminary determinations, the department publishes public notices per s. 289.25(3), Wis. Stats, and s. NR 670.410, Wis. Adm. Code.

- d. After the application is declared complete, the applicant distributes the license application as required by s. 289.24(4), Wis. Stats.
- e. 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.
- f. Within 60 days after the close of the comment period, the department issues a final determination of feasibility per ss. 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 s. 289.28(3), Wis. Stats.
- g. 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 s. 289.30(6), Wis. Stats.
- h. The department issues an operating license per s. 289.31, Wis. Stats. 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 additional details regarding hazardous waste licensing that are specific to Wisconsin:

The Wisconsin hazardous waste regulatory program is generally modeled after the federal program adopted under the Resource Conservation and Recovery Act (RCRA) 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. Wisconsin’s hazardous waste program has been authorized by U.S. EPA to implement the hazardous waste facility regulatory program.

Chapter 289, Wis. Stats., lays out a minimum two-phased process for the 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 and 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. Wisconsin’s FPOR-based licensing process for hazardous waste facilities is subject to the applicable requirements of chs. 289 and 291, Wis. Stats., and ch. 670, Wis. Adm. Code. The FPOR is equivalent to the “Part B Application” called for in the federal RCRA program (40 CFR 270.14).

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

In this case, Hydrite has submitted a timely application as required under s. NR 670.051, Wis. Adm. Code. Based on the department’s initial review, the application is sufficiently complete for the purposes of ss. NR 670.010 (3), NR 670.051 and NR 670.403, Wis. Adm. Code. However, additional information is needed for the FPOR to be conditionally approved in an effective and holistic manner for a longer term. This preliminary determination proposes conditions to require Hydrite to provide this additional information in a modified FPOR, after which a license renewal for a longer term will be considered.

## **FACILITY DESCRIPTION AND BACKGROUND**

The background information presented in this section was obtained from previous department approvals, Hydrite's license application, and additional information provided by Hydrite.

### **Background**

Hydrite Chemical Co. (Hydrite) is a chemical manufacturing company (NAICS Code 32518) established in 1929 with company headquarters located in Brookfield, Wisconsin. Hydrite's chemical manufacturing expertise is in chemical distribution, food and dairy sanitation, food ingredients, organic processing, liquid sulfur salts, water treatment, foam control and compliance management. Hydrite has facilities in nine locations in the United States, which includes four locations in Wisconsin: La Crosse, Milwaukee, Oshkosh, and Cottage Grove. The La Crosse plant specializes in acids, alkali solvents, as well as paper and pulp chemicals. The Milwaukee plant performs chemical distribution and defoamer manufacturing. The Oshkosh plant performs bleach and aqua ammonia manufacturing. The Hydrite facility in Cottage Grove specializes in the manufacturing of flammable solvents and the storage, treatment, and recycling of hazardous wastes.

The Cottage Grove Main Street facility is located across the street from 150 Progress Drive, an adjacent but separate Hydrite-owned facility that acts as a 10-day facility for waste transfer and product production. The Progress Drive facility is not within the scope of the licenses issued for the Main Street facility.

Prior to 1950, the site was located near a cheese factory and the parcel west of Main Street was agricultural land. Since 1950 the site has been used for the storage and/ or reclamation of solvents. From 1950 to 1970, the site was owned and operated by North Central Chemical Company (NCC). In 1970, Hydrite acquired the Cottage Grove facility when it was purchased from NCC. In 1976, Hydrite built a recycling facility at the Cottage Grove facility. In 1986, the Cottage Grove facility became Avganic Industries, Inc. (Avganic) and was a wholly owned subsidiary of Hydrite. In 1992, the ownership of the Cottage Grove facility was transferred back to Hydrite.

The Village of Cottage Grove is in Dane County, just east of Madison, WI, and has an approximate population of eight thousand people. The Village is surrounded by the Town of Cottage Grove, which includes a mixture of farms, wetlands, rural subdivisions, scattered residences, commercial properties, and rural family businesses.

The Town of Cottage Grove is bordered by the City of Madison, the Village of Cottage Grove, and the towns of Blooming Grove, Sun Prairie, Deerfield, and Pleasant Springs. The Town is bisected by CTH N, which interchanges with I-90 and I-94 to the north and US Hwy 12/18 to the south. Many residents in Cottage Grove commute to the Madison area for employment. Most of the Town of Cottage Grove is within the Monona Grove School district, but portions of Cottage Grove also fall in the Deerfield, Sun Prairie, Marshall, Stoughton, and McFarland school districts.

### **Physical Environment**

The topography around the Cottage Grove facility is relatively flat, while the surrounding area is characterized by numerous long ridges or oval-shaped hills (drumlins) aligned in a northeast-southwest orientation. Between the hills are slightly concave lowlands, often poorly drained, and occupied by marshes and wetlands. The surface water flows primarily to a drainage ditch located on the eastern side of the large hill southeast of the facility. Water flows into the ditch from a drainage tile system; water in the

ditch flows into Koshkonong Creek at a location about one mile east of the facility. Koshkonong Creek drains much of eastern-central Dane County and is a tributary to the Rock River. The second nearest flowing stream is Door Creek, a tributary of the Yahara River. Door Creek is located about 4,000 feet west of the site.

Soil near the facility is mapped as Virgil Silt Loam and McHenry Silt Loam. Both allow moderate to low chance for water to infiltrate the soil. The area is characterized by glacial till underlain by dolomite and sandstone bedrock at depths ranging from 52 to 86 feet below the land surface.

The depth to groundwater ranges 10-15 feet below the land surface but varies from one foot northwest of the plant to 40-45 feet southeast of the plant. Annually the water table fluctuates 2 to 4 feet with a hydraulic gradient of 0.01-0.001 ft/ft. A groundwater divide appears to occur about one-half mile west of the site but the groundwater pumping in central Dane County has likely caused the divide to shift eastward. The Hydrite site is underlain by a layer of unconsolidated deposits (40 to 90 feet), which overlies bedrock. First, however, is a layer of fill (up to ten feet in depth) that has been brought in to elevate and even out the soil foundation under the production and storage areas. The unconsolidated material under the fill layer consists of up to five feet of silty clay till (Horicon Formation). Sand and gravel outwash deposits are found beneath the Horicon till. This unconsolidated layer serves as an aquifer beneath the Hydrite facility. The uppermost bedrock unit at the Hydrite site is the St. Peter Sandstone, which primarily consists of sandstone with interbedded conglomerates, siltstone, and shale. The St. Peter Sandstone is approximately fifty feet thick beneath the site, although it disappears about a half mile south of Hydrite. Beneath the St. Peter Sandstone is the Prairie du Chien Group, which is principally a hard dolomite. The Prairie du Chien layer is estimated to be 25 to 35 feet thick beneath Hydrite. A second major aquifer is found beneath the Prairie du Chien Group. At the deepest known levels, an ancient layer of sandstone is found that may be 660 to 1100 feet thick. These layers of sandstone are primarily composed of sandstone with shale, siltstone, and dolomite. Groundwater flow in the major aquifers is primarily to the southeast of the Hydrite facility. The two major aquifers are not isolated from each other; the dominant vertical flow is generally downward, although local geological or meteorological conditions can cause ground water to flow upward.

### **Facility Hazardous Waste Activities**

Hydrite's facility is involved in the reclamation of non-chlorinated hydrocarbon solvents. The storage and treatment of hazardous waste at this site is subject to the facility standards of NR 664 and the licensing requirements of NR 670.

Hazardous wastes are stored in containers and in bulk before they are treated or recycled. Container storage is currently licensed for 2,000 55-gallon drums, with a total capacity of 110,000 gallons. Licensed tank storage includes ten storage tanks with a total capacity of 66,500 gallons capacity.

Two fuel blending tanks, each with a licensed capacity of 19,750 gallons, are used to treat hazardous wastes. Fuel blending is a treatment process that involves the mixture of hazardous wastes and other fuels to create a liquid fuel that meets the fuel specifications needed for a cement kiln, incinerator, or industrial furnace. As stated under #43 in the Conditions for Approval section, Hydrite shall submit a modification request to establish these tanks (401 and 402) as licensed storage tanks within 6 months of the date of this Approval.

Hydrite also conducts hazardous waste recycling (legitimate recovery or reclamation) using thin-film evaporators and distillation columns. These solvent recycling processes are exempt from hazardous



waste licensing requirements, although other hazardous waste regulations may apply (e.g. subchapters AA, BB and CC of NR 664, Wis. Adm. Code).

Hydrite is proposing to renew its current hazardous waste storage and treatment licenses. Hydrite is not proposing to construct or expand its hazardous waste storage and treatment activities.

Hazardous wastes and other used solvents are delivered to the facility by truck. Some of these materials are delivered in smaller containers (generally 55-gallon drums) and stored indoors until they are treated or recycled. Deliveries also occur in bulk containers (tanker trucks), and these materials are stored in tanks until they are treated or recycled. Hazardous waste generated off-site is tested in Hydrite's on-site laboratory to determine if the waste stream is in conformance with the approved waste stream.

The entire facility associated with the hazardous waste operations is surrounded by a chain link fence. The hazardous waste operations are located at least two hundred feet from the property line, except for the property line of the railroad corridor that runs between two sections of property owned by Hydrite.

### **Hazardous Waste Storage in Containers: License# 6006**

The storage of hazardous waste in containers occurs in the CE 100 Warehouse, which is within an enclosed building. The dimensions of the CE 100 Warehouse are approximately 200' by 80'. The CE 100 Warehouse floor is constructed of 4000 psi concrete reinforced with 6" x 6" No. 6 wire mesh, is maintained to be free of cracks, and has an impervious coating to prevent hazardous wastes from migrating into the concrete.

The secondary containment system for the CE 100 Warehouse consists of six-inch high curbs or ramps at all the wall openings. Empty, the total secondary containment has a capacity of 80,671 gallons. The CE 100 Warehouse and process building is fitted with an automatic fire suppression sprinkler fire protection system. The secondary containment system is sufficient to contain a release of 10% of the licensed capacity stored in the building and water from the fire suppression system.

Drums stored within the licensed hazardous waste storage area are separated from other drums by using pallets and designated storage aisles. Hydrite maintains at least three feet of aisle space between rows of palletized drums, and drums are stacked to a limit of three high. The facility conducts a minimum of weekly visual inspections of the CE100 Warehouse, looking for evidence of leaking containers, signs of corrosion or deterioration that would threaten the integrity of the system, proper labeling, adequate aisle space, and other key requirements. Inspections results are reviewed to determine if repairs or other corrective actions are required.

### **Hazardous Waste Storage in Tanks: License #3200**

The storage of hazardous waste in licensed tanks occurs in contained outdoor tank farms that include secondary containment curbing. The 200-tank farm includes multiple product and waste tanks, including ten above ground carbon steel hazardous waste storage tanks (Hydrite position numbers 212, 213, 214, 215, 218, 219, 220, 221, 241 and 242). Each of these hazardous waste storage tanks has a capacity of 6,650 gallons. The tanks are operated at atmospheric pressure and are provided with a minimum of one, two-inch diameter vent pipe fitted with a flame arrestor, a vent to the thermal oxidizer, and a conservation vent. The thermal oxidizer is regulated by Hydrite's Air Pollution Control Operation permit.

The licensed storage tanks in the 200-tank farm are distinguished from other tanks by being labeled with a flammable liquid diamond and the wording "Hazardous Waste" and "Crude Recycle Solvent." They also

have their own individual transfer lines to avoid mingling of unintended materials. In the event of a major tank repair, the tank may not be returned to service until Hydrite obtains a certification by a qualified professional engineer that demonstrates that the repaired system will prevent releases for the rest of its intended lifespan.

The secondary containment system for the 200-tank farm consists of steel reinforced concrete slabs, walls that are coated with a polyurethane sealant, and sufficient capacity to contain the largest tank volume and precipitation from a 25-year, 24-hour storm event.

Hydrite conducts a daily visual inspection of the licensed tank systems, looking for evidence of leaking equipment, signs of corrosion or deterioration, cracks or other defects in the secondary containment system, and other key requirements. Inspections results are reviewed to determine if repairs or other corrective actions are required.

### **Hazardous Waste Treatment: License# 4437**

In a letter dated June 13, 2006, the department informed Hydrite that the previous recycling exemption for fuel blending would no longer be allowed under the new hazardous waste rules which went into effect on August 1, 2006. Fuel blending became a regulated treatment activity subject to the licensing requirements under chapter NR 670, Wis. Adm. Code. On October 27, 2008, the department issued a class 2 plan modification to Hydrite to conduct licensed fuel blending activities.

Wastes from manufacturing processes, off-specification products, still bottoms from the onsite distillation processes, and other wastes that are not suitable for recycling are sampled as outlined in Hydrite's approved Waste Analysis Plan. If the analysis shows the waste meets certain BTU values and other set parameters, it can be blended into a supplemental fuel used primarily by cement kilns. Fuels blending activities occur in two licensed treatment tanks contained in an outdoor tank farm that includes secondary containment curbing. The 400-tank farm includes multiple product tanks and two aboveground treatment tanks (Hydrite position numbers 401 and 402). Each fuel blending treatment tank has a licensed capacity of 19,750 gallons and is labeled with a flammable liquid diamond and the wording "Hazardous Waste" and "Waste Water Fuels." The tanks are equipped with top-mounted mixers to maintain any solid particulate in suspension. The fuels blended waste is shipped offsite within the 90-day accumulation time limit as Hydrite generated waste.

Some wastes accepted at the facility, or generated by the facility, are not suitable for recycling or fuels blending. Waste determinations are conducted on these wastes before they are shipped off-site to another licensed destination facility.

Note that within 6 months of the date of this approval, as stated under in the conditions of this Approval, Hydrite is required to submit a modification to establish Tanks 401 and 402 as licensed storage tanks. This requirement is consistent with U.S. EPA's position, as seen in the following documents:

- EPA RO 11207
- Federal Register, Vol. 46, No. 7, January 12, 1981, pgs. 2809-2809
- EPA RO 13577

### **Recycling Operations**

Hazardous wastes that are recycled by Hydrite include wastes received from off-site and hazardous wastes generated on-site by Hydrite's chemical manufacturing processes. Non-chlorinated liquid

hazardous wastes are processed through thin film evaporators to reclaim solvents. Some of the reclaimed solvents are further purified with distillation columns. The recovered solvents are returned to the original generator or sold for re-use.

The equipment included under the recycling exemption are distillation column 3, thin film evaporator LUWA 1 and thin film evaporator LUWA 3. Tanks 204 and 205 are 90-day LQG tanks and receive the bottoms or by-products from various processes, including the recycling of hazardous waste solvents. In the case of an emergency, other tanks that meet applicable requirements may be used. Air emissions from hazardous waste sources (drum line, thin film evaporators, distillation columns, reactors, and vacuum pot) and two tanks associated with the recycling process are controlled by a thermal oxidizer. The recycling process is exempt from licensing under s. NR 661.0006(3), Wis. Adm. Code.

### **Other Environmental Permits/Licenses/Authorizations**

#### **Solid Waste Licenses #3774 and #3775**

A Plan of Operation Approval for the storage of solid waste (non-hazardous waste) was issued by the department on February 7, 1995. This approval is for the storage of non-hazardous waste solvents. Solid waste may be stored in licensed hazardous waste storage tanks and in the licensed hazardous waste container storage area.

A Plan of Operation Approval for the processing of solid waste (non-hazardous waste) was also issued by the department on February 7, 1995. This approval is for the processing of non-hazardous waste solvents.

#### **Air Pollution Control Operation Permit: Permit No. 113063390-P23**

The Air Pollution Control Operation Permit was issued by the department's Air Management Program on May 21, 2019. Hydrite certifies that all hazardous waste storage tanks and fuel-blending tanks are equipped with air emission controls in accordance with the requirements of applicable Clean Air Act (40 CFR part 60) and 40 CFR part 63 Subpart DD requirements. The Air Pollution Control Operation Permit expired on April 19, 2022. A timely and complete application for renewal was submitted to the department. The existing sources covered by the operation permit will continue to operate until the renewal application has been fully acted upon by the department.

#### **DATCP Tank Registration**

The facility's outdoor/aboveground tanks, which store hazardous liquids, are DATCP registered. This can be found via the link below by searching for "Dane County" and "114 North Main Street". [https://mydatcp.wi.gov/Home/ServiceDetails/4a171523-04c7-e611-80f6-0050568c4f26?Key=Services\\_Group](https://mydatcp.wi.gov/Home/ServiceDetails/4a171523-04c7-e611-80f6-0050568c4f26?Key=Services_Group)

#### **WPDES Permit**

This is a general permit to discharge under the Wisconsin Pollutant Discharge Elimination System. This permit became effective on May 31, 2021. The permit is applicable to point source discharges of contaminated storm water.

### **Corrective Action**

On June 30, 1989, the EPA issued the federal portion of the Resource Conservation and Recovery Act (RCRA) Part B permit for Hydrite. The Part B permit required a corrective action plan for the facility,

including a RCRA Facility Investigation, Corrective Measures Study and Corrective Measures Implementation. Later, EPA granted Wisconsin authority for corrective action-related licensing. In the Part B permit, EPA identified a number of Solid Waste Management Units (SWMUs) at Hydrite from which releases of hazardous wastes or hazardous materials have or may have occurred.

Corrective action requirements were established in a series of partial settlement agreements between Hydrite and the State of Wisconsin beginning in 1996. Effective November 3, 2017, the State of Wisconsin and Hydrite entered into a Final Settlement Agreement that set forth a 6-year workplan to obtain the necessary site data to complete a Corrective Measures Study and determine a long-term site management plan. Due to pandemic-related travel restrictions, this timeframe was extended in 2020. The University Consortium for Field-Focused Groundwater Contamination Research, in coordination with Hydrite and its consultants, will prepare a comprehensive written report to address an evaluation of remedial action alternatives. Hydrite expects this to be presented to the State in 2025.

Current corrective action activities at the site generally include the implementation of the site monitoring plan, the operation of hydraulic barrier systems, and research activities conducted by the University Consortium. Condition 92 of the department's approval dated January 9, 2013, required corrective action financial assurance to be established in the amount of at least \$3,850,000.

#### **Owner Financial Responsibility**

Hydrite's approved FPOR and the approval dated January 9, 2013 established cost estimates for closure and corrective action and financial assurance requirements for these amounts. Hydrite must also maintain a pollution liability insurance policy for sudden environmental releases of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

#### **Environmental Impact Statement**

The department has preliminarily determined that an environmental impact statement (EIS) under s. 289.25, Wis. Stats. is not required, based on the following:

- a. Section NR 150.20(2)(a)7s., Wis. Adm. Code, identifies the license renewal process as an Integrated Analysis Action for which an EIS is not required.
- b. An EIS was not required when the facility was initially licensed in 1980 and during subsequent license renewals.
- c. The facility already exists and is not proposing an expansion nor significant changes.

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.

#### **Environmental Justice Considerations**

EPA has published the web-based Environmental Justice (EJ) screening tool called EJScreen (at <https://www.epa.gov/ejscreen>). EJScreen is an environmental justice screening and mapping tool that utilizes nationally consistent data to highlight places that may have higher environmental burdens and vulnerable populations. The EJ indexes help users screen for potential EJ concerns. EJScreen presents percentiles for each EJ index for areas within a specified radius of the facility.

- The EJ index is a number that combines environmental and demographic information for an area around a facility. There is an EJ Index for each environmental indicator, which can highlight low-income/ minority residents nationwide that have a higher environmental indicator score on average

than the rest of the US (or State) population. The EJ Index can help identify communities that may have a high combination of environmental burdens and vulnerable populations.

- EJScreen puts each indicator or index value in perspective by reporting the value as a percentile. A percentile in EJScreen indicates what percent of the U.S. (or State) population lives in a census block group that has a lower value. This means that 100 minus the percentile tells us roughly what percent of the U.S. population (or State) has a higher value. Thus, the higher the percentile, the more likely it is that the area around the facility is an EJ area for further evaluation, when compared to other parts of the U.S. or State.

The department reviewed EJScreen results from April 12, 2023, for 1 and 3 mile radii around the facility. The EJ indexes help users screen for potential EJ concerns. None of the State percentiles for the twelve EJ indexes exceed the 80% threshold generally recommended to warrant further EJ analysis, as discussed in guidance published by USEPA (see “Technical Guidance for Assessing Environmental Justice in Regulatory Analysis - April 2016, and Environmental Justice Mapping and Screening Tool,” EJScreen Technical Documentation - October 2022). The EJ Screen report below presents this information for the 1-mile radius around the Hydrite facility.

Selected Variables	State Percentile	USA Percentile
<b>Environmental Justice Indexes</b>		
Particulate Matter 2.5 EJ index	49	25
Ozone EJ index	36	23
Diesel Particulate Matter EJ index*	35	18
Air Toxics Cancer Risk EJ index*	16	7
Air Toxics Respiratory HI EJ index*	11	4
Traffic Proximity EJ index	23	16
Lead Paint EJ index	15	22
Superfund Proximity EJ index	39	28
RMP Facility Proximity EJ index	51	39
Hazardous Waste Proximity EJ index	45	33
Underground Storage Tanks EJ index	37	31
Wastewater Discharge EJ index	6	5

EJ Indexes - The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines data on low income and people of color populations with a single environmental indicator.

**Need**

Section NR 670.014(2)(x)3., Wis. Adm. Code, requires the FPOR to include information to enable the department to make a determination on the need for the proposed facility or expansion as required under s. 289.28, Wis. Stats. Hydrite’s licensed hazardous waste facility has been operational since promulgation of the initial set of federal hazardous waste rules in 1980 and is not proposing any new construction or additional capacity. The FPOR provides information sufficient to determine that there is a need for the facility to store hazardous waste as part of its continued commercial activities.

**Compliance with Plans or Orders**

Hydrite is not proposing to construct a facility. Therefore, s. 289.34, Wis. Stats. (addressing ownership of or interest in any solid waste facility or hazardous waste facility in Wisconsin that is not in compliance with a plan approved, or an order issued, by the department) does not apply.

## FINDINGS OF FACT

### **The department finds that:**

1. Hydrite Chemical Co. (Hydrite) owns and operates a hazardous waste storage and treatment facility at 114 N. Main St., Cottage Grove, Wisconsin.
2. On August 18, 1980, Avganic Industries, Inc. (Avganic), a predecessor to Hydrite, filed a notice of hazardous waste activity. A notification form was submitted, and the facility was identified as a large quantity generator.
3. On August 25, 1983, a hazardous waste storage interim license was issued by the department.
4. On April 8, 1985, the facility submitted a document titled “*Certification Regarding Potential Releases from a Solid Waste Management Units (SWMUs)*”. The document indicated that releases of hazardous wastes had occurred from multiple solid waste management units at the facility.
5. On January 1, 1986, Avganic was made a wholly owned subsidiary of Hydrite through corporate restructuring.
6. On April 22, 1988, the department issued a conditional exemption determination to the hazardous waste licensing requirements for fuel blending. This conditional exemption was further modified on April 13, 1993, and May 25, 1993.
7. On May 17, 1988, the department issued to Avganic a conditional approval of the FPOR to store 231,000 gallons of hazardous waste in containers and 80,000 gallons of hazardous waste in tanks.
8. On June 30, 1989, U.S. EPA issued the Federal portion of the Resource Conservation and Recovery Act (RCRA) Part B permit for the facility. The Part B permit required a corrective action plan for the facility to address previous releases of hazardous wastes or hazardous materials, to include a RCRA Facility Investigation, Corrective Measures Study and Corrective Measures Implementation.
9. On September 18, 1992, the department issued an approval acknowledging the transfer of ownership from Avganic to Hydrite.
10. On July 19, 1995, the department provided Hydrite with a preliminary determination to modify Hydrite’s plan of operation approval to include state hazardous waste corrective action requirements.
11. On November 20, 1995, the State of Wisconsin filed suit against Hydrite, regarding alleged releases of hazardous substances to the environment which caused injury to natural resources, including groundwater and property in which the State had interest, located in and around the Hydrite facility. Since then, the State and Hydrite have entered into a series of partial settlement agreements regarding investigation and remediation activities, leading to a final settlement agreement on November 3, 2017.
12. On May 9, 1996, the department issued a final determination for the addition of corrective action requirements.
13. On January 31, 2002, the department issued to Hydrite a conditional approval of the FPOR to store wastes not to exceed 231,000 gallons in containers and 66,500 gallons in tanks.

14. On October 27, 2008, the department issued to Hydrite a conditional approval to fuel blend.
15. On November 18, 2010, the department issued a call-in letter to Hydrite requiring them to either pursue relicensing by submitting FPOR or notify the department of its intent to close the facility.
16. On November 10, 2011, the department received a FPOR from Hydrite dated November 7, 2011, for the storage and treatment of hazardous waste in containers and tanks (2011 FPOR). The FPOR requested to relicense the storage and treatment facility.
17. On January 17, 2012, the department issued a Notice of Incompleteness (NOI) to Hydrite for the November 7, 2011, FPOR.
18. On May 1, 2012, the department issued a clean closure determination of the South Warehouse Container Storage Area for a closure request from Hydrite dated January 27, 2012.
19. After the January 17, 2012, NOI, Hydrite submitted several documents to clarify or supplement the 2011 FPOR.
20. On January 9, 2013, the department issued a final determination to conditionally approve the hazardous waste feasibility and plan of operation report for Hydrite Chemical Co. submitted on November 10, 2011, and amended on June 4, 2012; July 14, 2012; and August 7, 2012. This determination also required Hydrite to maintain financial assurance for corrective action.
21. On January 18, 2013, the department issued license renewals for a 10-year term, having an expiration date of January 18, 2023.
22. With a letter dated February 21, 2013, Hydrite submitted a clean copy of the FPOR, in response to Condition 11 of the January 9, 2013, final determination,
23. On November 3, 2017, the State of Wisconsin and Hydrite entered into the Final Settlement Agreement regarding continued site cleanup and remediation activities.
24. The department acknowledged or issued Class 1 license modifications on the following dates. Most of these modifications involved routine updates to Hydrite's standard operation procedure documents that were incorporated into the FPOR.
  - a. 09/11/2014
  - b. 01/20/2015
  - c. 03/31/2015 (two separate modifications with this date)
  - d. 07/02/2015
  - e. 09/09/2015 (two separate modifications with this date)
  - f. 02/11/2016 (three separate modifications with this date)
  - g. 05/25/2016
  - h. 12/21/2016 (two separate modifications with this date)
  - i. 06/14/2017
  - j. 08/29/2017
  - k. 10/03/2017
  - l. 10/20/2017
  - m. 11/06/2017
  - n. 05/08/2018
  - o. 06/11/2018

- p. 10/10/2018
- q. 01/22/2019
- r. 04/08/2019
- s. 07/08/2019
- t. 10/08/2019
- u. 02/06/2020
- v. 05/07/2020
- w. 11/05/2020

25. The department issued a call-in letter dated February 21, 2020, notifying Hydrite to submit a 10-year reissuance application including a new FPOR.
26. On July 18, 2022, Hydrite submitted a new FPOR consisting of over 100 separate digital files.
27. On September 28, 2022, the department issued a Review Status Update that provided preliminary review comments, emphasizing the value of a single-PDF submittal to allow for efficient FPOR review. The department also provided other formatting requests, and initial technical comments on a limited number of FPOR topics.
28. On October 21, 2022, after further discussions with Hydrite, the department issued a letter, subject “Reformatting Request,” reiterating the need for a single-PDF to allow for efficient FPOR review.
29. On December 27, 2022, Hydrite submitted a single-PDF digital file of the FPOR (dated Dec. 23, 2022).
30. On June 2, 2023, the department issued a letter describing details of a phased license renewal process requested by Hydrite.
31. On August 3, 2023, a draft of this preliminary determination was provided to Hydrite for review and comment. The department received comments back from Hydrite via email on September 5, 2023. These comments were considered in the development of this preliminary determination.
32. On September 11, 2023, the department preliminarily determined that:
  - Pursuant to ss. NR 670.010 (3), NR 670.051 and NR 670.403, Wis. Adm. Code, the FPOR is substantially complete. As such, the department requests more information before issuance of a longer-term license.
  - Pursuant to s. 289.25(1), Wis. Stats., an environmental impact statement is not required.
  - The proposed facility conforms to water quality standards for wetlands pursuant to ch. NR 103, Wis. Adm. Code.
33. The department intends to publish a Class 1 public notice on the department’s website at <http://dnr.wi.gov/topic/Waste/Comment.html> no later than September 13, 2023. On or about this same date the notice will be published in the Wisconsin State Journal and is planned to be advertised via radio announcements on local radio stations 94.9 WOLX and 105.5 WMMM. Pursuant to s. NR 670.410(3)(a), Wis. Adm. Code, the notice will also be provided to applicable federal and state agencies, persons on the facility mailing list, local governments clerks, and local libraries. These notices are to inform the public that the application documents, the preliminary determination, and the fact sheet are available for review and comment by the public. The 45-day public comment period is expected to end on or about October 28, 2023.



## 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 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. Pursuant to ss. NR 670.010(8) and NR 670.051, Wis. Adm. Code, if the licensee intends to continue operating the hazardous waste facility after this term ends, the licensee must submit, at least 180 days before the end of the term, a new operating license application. Pursuant to s. NR 670.010(3), Wis. Adm. Code, the 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.
3. 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.
4. 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 673, Wis. Adm. Code.
5. The department has the authority pursuant to s. NR 670.032(2)(b), Wis. Adm. Code, to establish license conditions as the department determines necessary to protect human health and the environment.
6. 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.
7. 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.
8. Permits 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.
9. 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 reissuance of a hazardous waste storage license. In accordance with s. NR 150.20(2)(a)7s., Wis. Adm. Code, the review process for the issuance of a license for an existing 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.

## PRELIMINARY DETERMINATION

The department has preliminarily determined that the proposed project meets the applicable requirements of ch. NR 103, Wis. Adm. Code, concerning water quality standards for wetlands, as is required in s. NR 103.08(1), Wis. Adm. Code.

The department has preliminarily determined that a separate environmental impact report or environmental impact statement for this licensing action is not required pursuant to s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code.

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

The department has preliminarily determined that this facility is feasible pursuant to s. 289.29, Wis. Stats, and has preliminarily determined that it will conditionally approve the application pursuant to s. NR 670.406(1), Wis. Adm. Code.

Based on the Findings of Fact and Conclusions of Law, and as part of this preliminary determination, the department hereby preliminarily and conditionally approves the feasibility and plan of operation report for Hydrite Chemical Co. that was conditionally approved by the department on January 9, 2013 (the Approved FPOR, as defined below), as amended by subsequent license modifications, subject to compliance with chs. 289 and 291, Wis. Stats., chs. NR 660 through NR 679, Wis. Adm. Code, and the following conditions.

With this conditional approval, and in accordance with s. NR 670.050(1), Wis. Adm. Code, the department intends to issue an operating license renewal for a term to end eighteen (18) months after this approval, unless extended in accordance with the terms of this approval.

### **CONDITIONS OF APPROVAL**

Licensee is subject to the provisions of the following sections, which constitute conditions of its operating license.

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

“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 generated at the facility separate from its handling of wastes received from off-site (such as by painting equipment or maintaining vehicles) and managed outside of the licensed hazardous waste storage areas.

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

“Approved FPOR” means the feasibility and plan of operation report for Hydrite Chemical Co., that was conditionally approved by the department on January 9, 2013 (and subsequently submitted to the department on February 21, 2013 in response to condition 11 of the January 9, 2013 final determination), as amended by subsequent license modifications. The “Approved FPOR” includes documents submitted by Hydrite, after November 7, 2011 and before January 9, 2013, to augment, modify or clarify the FPOR dated November 7, 2011.

“Licensee” means Hydrite Chemical Co.

“The department’s designated inspector” means the person assigned to perform hazardous waste inspections at the Licensee facility, and “the department’s designated hazardous waste plan review staff person” means the person assigned to review hazardous waste license modifications for the Licensee facility. Licensee 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 Approved FPOR and the requirements of chs. 289 and 291, Wis. Stats., chs. NR 660 to 673, Wis. Adm. Code, and the conditions of this Approval. The Approved 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 Approved FPOR.
2. All prior hazardous waste approvals and hazardous waste modifications issued by the department relating to the hazardous waste storage and treatment facility, other than those regarding corrective action, are hereby nullified or superseded by this Approval.
3. Nothing in this Approval shall relieve Licensee of the legal obligation to comply with applicable federal, state, and local regulatory requirements.
4. 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 Approved 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.
5. Notwithstanding s. NR 670.004(1), Wis. Adm. Code, Licensee shall comply with 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.
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 areas 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 and maintain 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 Part A application form in Appendix A of the Approved 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 Approved 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 Approved 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 solvent 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. 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, a printed copy, or select printed pages, maps, or sections.
- 14. Areas used for staging, storing, handling, loading and/or unloading containers, and areas used for loading, and unloading tank systems, shall be designed and maintained to provide sufficient secondary containment to prevent the discharge of waste (and any other material mixed with the waste, such as precipitation) into the soil, surface water, or groundwater that could be created due to spills or releases.
- 15. Electrical equipment shall be intrinsically safe and meet the standards of the most recent edition of NFPA 70, the National Electrical Code (NEC).

### **Transitional Licensing Conditions**

- 16. This Approval authorizes the Licensee to operate for 18 months after the issuance date, unless extended in writing by the department. The department may extend this date in accordance with ss. NR 670.041 to NR 670.042, Wis. Adm. Code, if the extension is not due to the fault of the Licensee and is warranted to allow reasonable time for the Licensee to properly address department review comments and recommendations in developing the revised FPOR.
- 17. Unless otherwise approved by the department, within 3 months of receipt of review comments issued by the department regarding the December 23, 2022 FPOR, licensee must submit a response that addresses each comment, includes a revised FPOR, and includes a “crosswalk” that, for each comment, indicates the specific location in the FPOR or response where the comment was addressed. For department review comments on the revised FPOR, or any subsequent iteration of the FPOR or a section of the FPOR submitted by licensee, licensee must submit a response providing the same information, by the date specified by the department.
- 18. The Licensee is required to submit a revised and complete FPOR no later than 9 months from the date of this Approval, unless extended by the department.

### **Standard Licensing Conditions**

- 19. Licensee shall obtain annual licenses under s. NR 670.427, Wis. Adm. Code, to continue operating the licensed units.
- 20. In the event Licensee plans to implement changes or activities that are not consistent with the Approved 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.
- 21. Minor administrative changes to the Approved 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.
- 22. 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., if a complete application is submitted, the conditions of an expired operating license continue in force until the department issues a final determination.

**Storage Conditions**

23. 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.

Unit ID	Unit Type	Location	Capacity
CE100	Container Storage	CE 100 Warehouse	110,000 gallons (2,000 fifty-five (55) gallons equivalents)
212	Tank Storage	200 Tank Farm	6,650 gallons
213	Tank Storage	200 Tank Farm	6,650 gallons
214	Tank Storage	200 Tank Farm	6,650 gallons
215	Tank Storage	200 Tank Farm	6,650 gallons
218	Tank Storage	200 Tank Farm	6,650 gallons
219	Tank Storage	200 Tank Farm	6,650gallons
220	Tank Storage	200 Tank Farm	6,650gallons
221	Tank Storage	200 Tank Farm	6,650 gallons
241	Tank Storage	200 Tank Farm	6,650 gallons
242	Tank Storage	200 Tank Farm	6,650 gallons

24. 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 in the licensed storage area, such as qualifying hazardous secondary materials or continued use material (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 waste approval packet number.
  - f. Quantities for containers shall be the container capacity (not the contents of the container).
25. 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 a licensed storage unit, unless otherwise approved by the department. 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.
26. Containers of hazardous waste with a capacity of more than 330 gallons (such as tankers, tanker trailers, roll-offs) shall not be stored at the facility for more than 24 hours, unless otherwise approved by the department.



27. Aisle space for containers in storage shall be at least three (3) feet. Additionally, sufficient aisle space shall be maintained in container storage and staging areas, and in areas of licensed tank systems:
  - 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.
28. Sufficient lighting and access shall be maintained in all storage areas to allow for inspections of the storage area, containers, container labels and markings, tanks, ancillary equipment, and secondary containment structures.
29. 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.
30. Lines shall be clearly marked (e.g., painted), and maintained to be readily visible, on the floor of the licensed container storage, to distinguish the location of containers in storage from the aisles. Containers and pallets shall be stored within the lines and not infringe on any aisle space.
31. 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.
32. 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.
33. 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.
34. Licensee shall not stack containers when the stacking would compromise the stability or structural integrity of the container or pallets.
35. Licensee shall not stack containers on top of other containers more than three-high. When stacking containers:
  - a. Containers of equal or larger size shall be stored on any lower level.
  - b. Except for containers with a capacity of greater than twenty (20) gallons that are stacked on the top level, pallets shall be used to separate each level; and
  - c. Containers shall be centered, level and stable.
36. Containers shall be closed except when adding or removing wastes.
37. 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.
38. 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.

39. Containers of non-hazardous solid waste received from off-site that are 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".
40. 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 waste approval packet number.
41. 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.
42. Licensee shall manage emptied containers in a manner that prevents leakage of, or emissions from, any remaining waste or residuals from the container.
43. Within 6 months of the date of this Approval, Licensee shall submit a Class 1-1 license modification request to establish Tanks 401 and 402 as licensed storage tanks. This request must address all the applicable requirements of Subchapter J or NR 664, Wis. Adm. Code. The tank system certification, closure cost estimates, and secondary containment calculations must be certified by a registered professional engineer.

#### **Treatment and Recycling Conditions**

44. Licensee shall limit fuel blending to tank position numbers 401 and 402.
45. Personnel that design, perform or support treatment activities shall be properly qualified and trained in accordance with the applicable requirements of chs. NR 600-679, Wis. Adm. Code, the Approved FPOR and the conditions of this Approval.
46. Licensee shall operate the recycling units at the facility in a manner that prevents discharges from the recycling units from negatively impacting the facility, human health, and the environment.

#### **Tank System Conditions**

47. Licensee shall inspect the following components of or near each tank system once each day that the tank systems are in use, and document the results:
  - a. Overfill control equipment (e.g., waste feed cut-off).
  - b. Secondary containment system(s).
  - c. Areas where the contents of tanks were transferred into containers.
  - d. Areas where the contents of containers were transferred into tanks.



48. Licensee shall have and maintain a high-level alarm/alert system for each hazardous waste tank to ensure that tank systems are not overfilled. If the high-level alarm system is not operational waste may not be added to the tank.
49. Within 6 months of the date of this Approval and for the components of each licensed tank system, Licensee shall submit a written tank system integrity assessment report. This submittal shall be made to the department's designated inspector and the department's designated hazardous waste plan review staff person. The assessment report shall contain:
  - a. A site map of the facility showing the location of the tank system(s).
  - b. A sketch of each tank system including ancillary equipment and connected piping and fittings. Locations of specific items inspected/assessed must be clearly indicated and cross-referenced in the report's description and results of the integrity assessment.
  - c. Description and results of the tank structural assessment, such as assessment of the foundation to prevent failure due to excessive settlement, compression, uplift, and stresses from nearby vehicle traffic and other nearby daily operations.
  - d. Description and results of the tank (shell) integrity assessment, including a description of methods used (such as external visual inspection, leak testing, internal visual, ultrasonic, magnetic particle, or radiography inspection).
  - e. Description and results of an assessment of the wastes to be stored or treated and their compatibility with the tank system.
  - f. Description and results of an assessment of ancillary equipment (such as equipment or fittings on the tank, piping, and pipe fittings such as pumps, flanges, connectors, valves) including results of leak testing or other methods used for this assessment.
  - g. Description and results of a secondary containment system assessment such as inspection for abrasions, cracks, punctures, and gaps, an assessment of the foundation to prevent failure due to excessive settlement, compression, or uplift, and an assessment of structural integrity (sufficient strength to withstand stress from static head during a release, climatic conditions, nearby vehicle traffic, and other stresses resulting from daily operation).
  - h. Description and results of an assessment of the tank system corrosion protection.
  - i. Description and results of an assessment of the tank anchoring mechanism(s).
  - j. Description and results of an assessment of the bonding and grounding system in place and an evaluation of its adequacy.
  - k. Description and results of an assessment of the spill prevention and overfill prevention controls.
  - l. Description and results of an assessment of the tank venting system(s), such as emergency vents and pressure-vacuum relief devices.
  - m. For each of these elements of the assessment, the results should clearly state that the tank system is fit for service and capable of handling hazardous wastes without release for the intended life of the system, and provide any recommendations for ongoing care, such as improvements, inspections, or operational actions.
  - n. For each of these assessment elements, recommended assessment standards published by manufacturer or trade groups such as Steel Tank Institute (STI) or American Petroleum Institute (API) shall be considered when applicable, and shall be cited. An example is the STI SP001 Standard for The Inspection of Aboveground Storage Tanks.
  - o. A recommended schedule of future tank system integrity assessments to ensure that each system will retain its structural integrity and will not collapse, rupture, or fail. The schedule for integrity assessments must cover the expected life of the tank system.
  - p. A statement by a qualified, registered professional engineer certifying the results of the integrity assessment. This certification must be according to s. NR 670.011(4), Wis. Adm. Code, and the engineer's signature, date, and stamp must be placed below the certification statement.

50. If there is substantial repair made to a tank system, the tank system may not be returned to service unless the owner or operator has obtained a written recertification by a qualified, registered professional engineer that the repaired system is fit for use and capable of handling hazardous wastes without release for the intended life of the system. This certification shall be according to s. NR 670.011(4), Wis. Adm. Code, and the engineer's signature, date, and stamp must be placed below the certification statement. The written recertification statement shall be placed in the operating record and maintained until closure of the facility. For the purposes of this condition, "substantial repair" does not include the routine replacement of fittings and ancillary equipment, but does include and is not limited to repairs involving the following situations:
- Any rupture or leak of the tank system (primary containment) or tank secondary containment system.
  - Any welding, patching, or lining of a tank wall.
  - A repair or modification requiring the tank to be taken out of service.
  - A repair or modification requiring the tank to be moved or lifted.
  - A non-routine repair of a secondary containment external liner system.

### **Compatibility Conditions**

51. Licensee shall only combine wastes with other wastes or materials that are compatible.
52. 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.
53. Wastes 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.
54. Containers of incompatible waste shall be labelled to clearly identify the incompatibility hazard.

### **Transfer Conditions**

55. Licensee shall not operate a hazardous waste transfer facility (as referenced in s. NR 663.12, Wis Adm. Code) at the facility unless it notifies the department's designated inspector and the department's designated hazardous waste plan review staff person and includes with this notification a description of the discrete area(s) to be used for this purpose.

### **Inspection Conditions**

56. All observations, inspections, and monitoring required by chs. NR 664 and NR 670, Wis. Adm. Code, the Approved 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 identified 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 Approved FPOR, and/or in the Approval conditions.
57. 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.

58. Personnel performing inspections and corrective/remedial actions shall be properly qualified and trained.

### **Training Conditions**

59. Personnel shall successfully complete a training program that teaches them to perform their duties in a way that ensures the facility's compliance with applicable requirements of chs. NR 660-679, Wis. Adm. Code 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 Approved FPOR. Records documenting these qualifications and this training shall be maintained as part of the operating record for at least 3 years.
60. All personnel, regardless of their position or employer, must be trained so they are familiar with the facility's contingency plan and can properly respond 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**

61. The secondary containment systems shall be operated to prevent any migration of wastes or accumulated liquids and materials out of the system.
62. 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.
63. 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.
64. 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.
65. 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.
66. When removing or transferring waste from a container or tank, the container or tank, 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.

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, printed pages of the submittal (either in part or in full) shall be provided to the department. 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.

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

71. Licensee shall submit quarterly reports listing all 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 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.

72. Licensee shall submit a report within fifteen (15) days of any incident that results in implementation of the approved contingency plan. 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 but not limited to those that reach or affect soil, surface water, groundwater, sanitary sewers, or 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 applicable information required for the quarterly report required in Condition 71. The report shall be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person.

73. After any incident that results in implementation of the contingency plan, as described in Condition 72 Licensee shall promptly perform all the following actions, 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 Approved 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.

74. 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:
- 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' along with a brief description of the discharge.
  - b. Within one (1) week of the correspondence, 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. 700-758, Wis. Adm. Code (regarding remediation and redevelopment), unless otherwise approved by the department.
75. 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.

#### **Air Emissions Conditions**

76. 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, or obtains, a new or modified air quality construction or operations permit, Licensee shall provide a copy to the department's designated hazardous waste plan review staff person. Licensee shall update any applicable certifications made under ss. NR 664.1030(5) and NR 664.1080(2)(g), Wis. Adm. Code, when air permits are modified, and provide these certifications to the department's designated inspector and the department's designated hazardous waste plan review staff person.

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

77. Chemical and physical samples shall be analyzed by a laboratory certified or registered under ch. NR 149, Wis. Adm. Code, for the test method used, except for field analyses for pH, specific conductance, and temperature. This does not apply to samples used only to confirm waste analysis information previously used to establish compliance with s. NR 664.0013, Wis. Adm. Code.
78. Licensee shall collect a sample from each hazardous waste container coming from off-site for analysis to help confirm compliance with s. NR 664.0013, Wis. Adm. Code.
79. Licensee shall analyze each waste in accordance with the waste analysis procedures set forth in the approved waste analysis plan.
80. Licensee shall retain records of all analytical information, including all calibration, and maintenance quality control records for laboratory instrumentation, for a period of at least three (3) years from the date the waste was analyzed.



81. Licensee shall indicate on the hazardous waste manifest, prepared for sending waste off site, all waste codes applicable to the hazardous waste(s) when commingling, bulking or otherwise combining hazardous waste.
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 acceptable to the department.
83. Licensee shall ensure that all samples collected are representative of the waste stream from which the samples are collected.
84. Licensee shall ensure that the person(s) collecting the samples are trained in proper sample collection.
85. 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 and/or waste description forms described in the approved waste analysis plan.
    - (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 after its delivery to the facility, including but not limited to container inspection records, waste screening records, waste observation records, sampling information, and laboratory analytical reports.
  - c. For hazardous waste, any information relied on to comply with s. NR 664.0013(1)(d), Wis. Adm. Code.
  - d. For hazardous waste, the written notice to the generator required under s. NR 664.0012(2), Wis. Adm. Code.
  - e. The manifest(s) or shipping paper(s) (i.e., bill of lading).
  - f. Information regarding hazardous waste descriptions and hazardous waste analyses required by s. NR 664.0073(2)(c), Wis. Adm. Code.
  - g. Information regarding ignitable, reactive, or incompatible hazardous waste that is required by s. NR 664.0017, Wis. Adm. Code.
  - h. Information regarding free liquids and bulk and containerized liquids that is required by s. NR 664.0314, Wis. Adm. Code.
  - i. Information regarding organic concentrations that is required by ss. NR 664.1063(4) and NR 664.1050(2), Wis. Adm. Code and VO concentrations and vapor pressure required by ss. 664.1082(3)(a) and 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 NR 664, Wis. Adm. Code.
  - k. Information regarding underlying hazardous constituents and land disposal restrictions that is required by ch. NR 668, Wis. 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 from the date that the waste that is the subject of this documentation was last sent to on-site or off-site treatment, storage, or disposal. The 3-year record retention period is automatically extended during any unresolved enforcement action regarding the regulated activity or as requested by the department.

86. Personnel that perform work or make decisions to approve waste streams and/or accept waste deliveries, and administrative, laboratory and receiving personnel that support these decisions, shall be qualified, and trained to ensure compliance with applicable requirements of chs. NR 660-679, Wis. Adm. Code and the conditions of this Approval.
87. 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.

#### **Updated Closure Plan and Financial Assurance**

88. Within 3 months of the date of this Approval, Licensee shall submit a Class 1-1 license modification request including an updated closure plan and an updated cost estimate, that is certified by a professional engineer.
89. Within 4 months of the date of this Approval, while pending approval of the license modification request, Licensee shall establish financial assurance for closure in the amount of the greater of the following two amounts: (i) the updated closure cost estimate, or (ii) the previously approved closure cost estimate that has been inflated annually in accordance with s. NR 664.0142(2), Wis. Adm. Code.
90. The closure cost estimate shall be updated and submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person within 1 month of any time when Licensee becomes aware of a change in the required closure work or associated costs (other than inflationary increases) that increases the closure cost estimate by more than 5%. Proof of financial responsibility reflecting the new cost estimate shall be established within one (1) month of such an increase in the cost estimate.

#### **Corrective Action Plan and Financial Assurance**

91. Within 3 months of the date of this Approval, Licensee shall develop and submit a report (Corrective Action Plan, or CAP) that summarizes the previous work and results of the corrective action investigations and remediation completed to date and describes the remaining corrective action work as detailed below.
  - a. The CAP shall include a detailed description of all work needed to complete corrective actions and achieve case closure per ch. NR 726, Wis. Adm. Code ("Remaining Work"). The Remaining Work shall include but not be limited to: all activities required to design, implement, operate and manage corrective action and remediation work, including but not limited to corrective action system design and implementation, construction, system re-design and modifications, equipment maintenance and replacement, system operations, system testing and evaluation, component and system decommissioning, management of wastes and residuals, monitoring, laboratory and field tests, data analysis, recordkeeping, reporting, project management and administration. The Remaining Work shall also include any reasonably anticipated work to be accomplished after case closure per ch. NR 726, Wis. Adm. Code, including but not limited to continuing obligations and monitoring.
  - b. The CAP shall organize the description of the Remaining Work in a manner that identifies the tasks and subtasks used in the cost estimate.



- c. The CAP shall include a corrective action schedule with key milestones, milestone dates, and the estimated date when corrective action will be complete.
  - d. The CAP shall include a cost estimate for all Remaining Work. The cost estimate shall include reasonable, provisional costs if additional investigations or studies are needed to more fully define the corrective action scope of work and associated schedule.
  - e. The CAP and its cost estimates shall be developed, certified, and stamped by a qualified professional engineer as required in s. NR 670.014(1), Wis. Adm. Code, and as required by ch. NR 712, Wis. Adm. Code.
92. The CAP shall be submitted as a Class 1 license modification request in accordance with s. NR 670.042, Wis. Adm. Code.
93. Within 4 months of the date of this Approval, Licensee shall establish proof of financial responsibility for corrective action in at least the amount of the cost estimate included in the CAP. The department reserves the right, upon its review of the CAP and the license modification request, to require changes to the corrective actions, cost estimate and financial assurance amount.
94. The corrective action cost estimate shall be updated and submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person, within 1 month of any time when Licensee becomes aware of a change in the Remaining Work or associated costs (other than inflationary increases) that increases the corrective action cost estimate by more than 5%. Proof of financial responsibility reflecting the new cost estimate shall be established within 1 month of such an increase in the cost estimate. The department reserves the right to require the CAP and cost estimate to be updated and submitted when there are changes to the corrective action actions, requirements, or standards.

#### **Additional Financial Assurance Conditions**

95. Licensee shall maintain, in the operating record, up-to-date closure and corrective cost estimates and documentation of financial proof mechanisms for closure, corrective action and liability requirements as required by this Approval and by subch. H, NR 664, Wis. Adm. Code. Closure and corrective action cost estimates shall include applicable inflation adjustments as described in s. NR 664.0142(2), Wis. Adm. Code. The amount of financial assurance established for closure and corrective action shall be kept up to date with current cost estimates.
96. The dollar amounts used for proof of financial assurance for closure and corrective action shall not be reduced until a license modification in accordance with s. NR 670.042, Wis. Adm. Code, is approved.
97. All cost estimates shall:
- a. Be based on utilizing a third party (or third parties) to properly execute all 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 discrete tasks and sub-tasks and include unit costs, quantities, and extended costs for each task and subtask; the tasks and subtasks shall be easily identified within the closure plan (for closure costs) and the corrective action plan (for corrective action costs).
  - f. Describe the basis for or source of the number of units and unit costs used in the cost estimate;

- g. Clearly indicate the year for which each unit cost is based, such that inflationary adjustments can be accurately applied; and
  - h. 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 or CAP;
    - (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.
98. 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**

99. Licensee shall follow the approved closure plan when closing all or part of the hazardous waste facility.
100. Closure confirmation samples shall be grab samples. Closure confirmation sampling must demonstrate that all areas of a unit have been successfully cleaned.
101. 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).
102. 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*".
103. Licensee shall use the lowest possible analytical Method Detection Limit (MDL) for the hazardous constituents associated with listed hazardous wastes.
104. 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.
105. 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.

106. 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 scrubbing, pressure washing, or other physical efforts were needed or used to achieve decontamination.
  - 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.
107. 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.
108. 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.
109. 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.
110. 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.
111. 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.
112. 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).
113. 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.
114. 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.

115. 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.

116. 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. Adm. 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 Licensee 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, Wis. 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: September 11, 2023

WISCONSIN DEPARTMENT OF NATURAL RESOURCES

For the Secretary



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



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