



February 28, 2024

File Ref: FID 252195350
RACINE COUNTY
LIC

Sixto Ortiz
Senior Manager, Corporate Environmental Protection
WM Waste, Inc.
21211 Durand Avenue
Union Grove, WI 53182-9711

SUBJECT: Notice of Completeness and Preliminary Determination to Conditionally Approve the Feasibility and Plan of Operation Report; WM Waste, Inc., Town of Dover, WI
EPA ID # WIR00000035; Container Storage License #3102

Dear Mr. Ortiz:

The Department of Natural Resources (department) has reviewed the Feasibility and Plan of Operation Report (FPOR) dated February, 2023 from WM Waste, Inc. (WM Waste) located within the Town of Dover, WI, at 21211 Durand Avenue, Union Grove, WI, for completeness and technical adequacy. The report was received by the department on March 14, 2023. The department has determined that the FPOR is complete and contains the minimum information required by chs. NR 660-673, Wis. Adm. Code.

The department has also made the following preliminary determinations:

1. That an environmental impact statement will not be required per s. 289.25, Wis. Stats.;
2. That 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; and
4. To conditionally approve the FPOR.

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

Please note pursuant to s. 289.24(4), Wis. Stats. that you are required to immediately provide a complete copy of the submitted FPOR dated February, 2023 to the clerks of the affected local municipalities and the main public library in each affected municipality, as defined in s. 289.01(1), Wis. Stats. The affected municipalities are identified in the attached preliminary determination. We also request that you include, with the FPOR:

- a copy of this letter, including the attached preliminary determination and conditions of approval, and
- copies of the fact sheet and public notice, to be prepared by the department and provided separately to WM Waste.

Please confirm the completion and date of these actions via email to douglas.coenen@wisconsin.gov.

The department will now accept public comments on the preliminary determinations 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 **March 4, 2024**. This public notice is planned to be published in the Racine Journal Times and Wisconsin State Journal during the **week of March 4, 2024**. In addition, an announcement of the opportunity for public comment is planned to be broadcast over two local radio stations on or about **March 5, 2024**. The department is also providing copies of the public notice to entities identified in s. NR 670.410(3)(a), Wis. Adm. Code, before or during the week of **March 4, 2024**. These entities include:

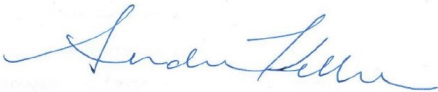
Preliminary Determination, WM Waste, February 28, 2024

- The applicant (WM Waste)
- 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 Dover and Racine County).
- Each state agency having any authority under state law with respect to the construction or operation of the facility (none identified)
- The main public library in each affected municipality. The department has identified these municipalities and related libraries to be:
 - Town of Dover, Village of Union Grove, and Village of Yorkville: Graham Public Library (1215 Main St, Union Grove, WI)
 - Racine County: Racine Public Library (75 Seventh Street, Racine, WI)

The public notice will announce that the FPOR, 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 expected to be on or about **April 18, 2024**). 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 sufficient 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 in connection with a request for 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 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: Mark Noel, WM Waste
Steve Smolko, WM Waste
Brooks Ray, CK Associates
Jonathon Stoffer, WDNR
Ben Petrus, WDNR
Angela Carey, WDNR
Norberto Gonzales, U.S. EPA Region 5

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

**PRELIMINARY DETERMINATION
regarding the
FEASIBILITY AND PLAN OF OPERATION REPORT
for
WM WASTE, INC.
Town of Dover, Wisconsin
21211 Durand Avenue, Union Grove, Wisconsin
EPA ID #: EPA ID # WIR00000035
LICENSE # 6027; Storage of Hazardous Waste in Containers**

GENERAL FACILITY INFORMATION

Facility Name, Site Operator and Address

WM Waste, Inc.
21211 Durand Avenue
Union Grove, WI 53182-9711

Contact persons: Sixto Ortiz
Senior Manager, Corporate Environmental Protection
WM Waste, Inc.
sortiz4@wm.com

Steven Smolko
Operations Manager
WM Waste, Inc.
ssmolko@wm.com

Property Owner

WM Waste, Inc.

Facility Location

Town of Dover
NE 1/4 of the NE 1/4 of Sec 36, T3N, R20E
Latitude: 42.681663 Longitude: -88.075241
Southwest of the corner of Durand Ave. (State Hwy. 11) and Haag Drive

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

Town of Dover
Racine County
Village of Union Grove (east of the facility)
Village of Yorkville (east of the facility)

Licensed Storage Capacity

Hazardous Waste Container Storage; License #3102
96,675 gallons of container storage (in containers of less than 330 gallons)
440 cubic yards of container storage (in roll-off containers)

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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, and 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 reissuance or 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 outlines the key steps 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 and announces public notices per s. 289.25(3), Wis. Stats, and s. NR 670.410, Wis. Adm. Code.
- d. The applicant must distribute 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 in the hazardous waste licensing process.

The Wisconsin hazardous waste regulatory program is generally modeled after the federal program adopted under the 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 two-phased process for the licensing of solid waste facilities, including hazardous waste facilities, and establishes submittal, review, and public involvement processes. These phases involve a feasibility report followed by 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 combined 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).

After its review process of an FPOR is complete, then the department issues preliminary determinations regarding completeness, the need for an environmental impact statement, the need for the facility, and the feasibility of the facility, and which includes any conditions of approval. The preliminary determination is made available for public comment as prescribed in subch. L of ch. NR 670, Wis. Adm. Code, and ss. 289.25 to

289.32, Wis. Stats.

The final determination is often referred to as the “plan approval” or “approval”, as these terms are used (for example) in s. 289.29, Wis. Stats., (for feasibility reports), and s. 289.30, Wis. Stats., (for plans of operation). The final determination (approval) and its conditions becomes 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.

FACILITY DESCRIPTION

Much of the background information presented in this section was obtained from previous department approvals and WM Waste’s license application.

Site Description

The site is located on the south side of State Trunk Highway 11 (Durand Avenue) within the Town of Dover, Racine County, Wisconsin, just west of the Village of Union Grove, Wisconsin. The facility is located within 1,500 feet of the municipal boundaries of the Village of Union Grove (toward the east), and the Village of Yorkville (towards the east-southeast).

The site is surrounded by agricultural land to the north, light industry to the south and light industrial/residential land to the east and west. Commercial development increases to the east along Durand Avenue toward Union Grove. The estimated population around the facility is approximately 1,900 within one (1) mile, and 8,100 within three (3) miles. The site rises slightly from south to north and is characterized by relatively flat topography. The elevation of the site is approximately 835 feet MSL.

The existing licensed facility consists of four (4) enclosed buildings with roofs and brick/metal walls and concrete floors, in addition to a paved outdoor roll-off box container storage area under roof that is enclosed by a security fence. The enclosed buildings are known as the West Building, the East Building, the South Building, and the Administrative Building. The areas used for the hazardous waste management facility are enclosed within a fence and wall system to prevent unauthorized access onto the subject site and warning signs are posted.

Run-off generated by precipitation on the areas within the fenced/walled area is directed to the stormwater system, which drains to the stormwater pond on the western portion of the facility. Stormwater discharges are covered by the Wisconsin Tier 1 Stormwater General Permit (WPDES Permit WI-S067849-5) and the facility’s Storm Water Pollution Prevention Plan (SWPPP).

Sanitary wastewaters at the facility are discharged into a holding tank and transported offsite for treatment and disposal.

Facility Licensing History

The facility previously operated under the names U.S Technology, Inc., Mercury Waste Solutions, Inc., Mercury Waste Solutions, LLC, and WM Mercury Waste, Inc. On April 4, 1996, the Department issued a letter to U.S Technology, Inc. (USTI) which stated that USTI’s retorting of certain types of wastes would qualify for the legitimate recovery and reclamation exemption from hazardous waste treatment licensing requirements. On May 31, 1996, Mercury Waste Solutions, Inc. (MWS) filed a notice of hazardous waste activity and informed the Department that USTI had been purchased by MWS.

MWS initially operated the facility without a storage license but had difficulties complying with the NR 600 requirements due to difficulties in scheduling, the size of economical shipments and operational breakdowns. To facilitate the continued recycling of mercury, MWS requested on October 16, 1997 a variance from the

hazardous waste storage facility licensing requirements, while MWS pursued a hazardous waste storage facility operating license. The variance allowed MWS to store 181 55-gallon containers of hazardous waste in a defined area on-site. The variance was initially approved on April 3, 1998, and a variance extension was issued on May 25, 1999. The variance extension expired on June 30, 2000.

To obtain a hazardous waste operating license, a facility is required to submit a Feasibility and Plan of Operation Report (FPOR). On May 24, 1997, MWS submitted a FPOR to the department for a hazardous waste small storage facility license (181 55-gallon containers). On September 22, 1998, MWS submitted a revised FPOR report for a licensed hazardous waste container (45,595 gallons) and tank (5,000 gallons) storage facility. After receiving and reviewing additional FPOR information, the FPOR was approved on May 15, 2000 and the initial hazardous waste storage license issued on July 6, 2000 for a term of 10 years.

On January 8, 2010, the department received a FPOR from MWS for the storage and treatment of hazardous waste in containers and tanks. The FPOR requested to relicense and expand the storage capacity of the existing licensed hazardous waste management units and to license the treatment of hazardous waste in tanks. On August 30, 2010, the department issued a Class 1 Plan Modification regarding a change in name and ownership from Mercury Waste Solutions, LLC to WM Mercury Waste, Inc. (WMMWI). After receiving and reviewing additional FPOR information, the department approved the FPOR on August 18, 2011. The hazardous waste storage and treatment licenses were issued on August 29, 2011 for a term of 10 years.

On August 21, 2020, WMMWI informed the department that operation of the retort ovens had been suspended but that it intended to continue hazardous waste container storage and tank treatment operations. On November 12, 2020, the facility name was changed to WM Waste, Inc. (WM Waste). In early 2021, WM Waste notified the department of its intent to close the licensed tanks used for hazardous waste storage and treatment.

On February 25, 2021, the department received a FPOR dated February 8, 2021 from WM Waste that requested relicensing for the storage of hazardous waste in containers. After the department issued a Notice of Incompleteness (NOI) dated May 26, 2021, WM Waste and the department exchanged drafts of revised FPOR sections to address the NOI items, and WM Waste submitted an FPOR dated June 28, 2022. After the department requested additional information on December 20, 2022, WM Waste submitted a revised FPOR dated February, 2023, which is the subject of this preliminary determination.

The facility is located on three separate land parcels. Two have historically been owned by the facility licensee. In December 2022, WM Waste, Inc. purchased the third parcel from Durand Properties, L.L.C. On April 10, 2023, the department issued a Class 1-1 license modification for this ownership change.

On May 5, 2023, WM Waste submitted a closure documentation report for four storage and treatment tanks (Treatment Tank #1, Treatment Tank #2, Storage Tank #1, and Storage Tank #2) in Unit S-15 that had been used for managing condensate liquids for the retort ovens. On August 31, 2023, the department approved a Class 1-1 license modification for this closure.

Facility Operational History

Mercury retorting operations were conducted at the site from 1994 until 2020. The intent of those operations was to recover metallic mercury from various mercury contaminated waste streams. The mercury recovery units included four stationary retort furnaces, one continuous-feed retort furnace and a four-tank treatment system used for mercury contaminated liquids generated from the retort units. The mercury recovered at the site was considered a product and sold to customers, or placed into off-site storage. The retort furnaces were regulated under the legitimate recycling exemption of NR 661.02(3)(c) and did not require a hazardous waste treatment license. The mercury retort units, and the tank storage/treatment system for condensate generated in the retort process, were located in the West Building.

Various parts of the facility have been used for licensed hazardous waste container storage, including smaller containers (i.e., less than 330 gallons) and larger roll-off containers.

Historically, the northern side of the South building housed roll-off and other containers of outgoing materials, such as retort oven ash, retorted phosphor powder and low-level mercury debris. It was also used for the storage of Universal Waste batteries. The East Building was used for lamp storage, recovered mercury storage, storage for trays of retorted ash, mercury purification, and as a maintenance shop.

PROPOSED FACILITY

Historically, the primary operation of the facility has been operated as a mercury recycling operation, using mercury retorting, along with container storage and tank storage/treatment. The mercury retort units, which ceased operating in mid-summer 2020, have been removed from the site, and according to WM Waste the areas in which they were located have been decontaminated. The four licensed treatment tanks used primarily for storing and treating mercury-containing condensation liquids from the retort units were removed and Unit S-15, which contained these tanks, has been clean-closed. On August 31, 2023, the department approved a Class 1-1 license modification for the closure of Unit S-15 (Treatment Tank #1, Treatment Tank #2, Storage Tank #1, and Storage Tank #2).

Going forward, WM Waste intends to operate a commercial hazardous waste storage facility that stores various hazardous and universal wastes in licensed container storage areas prior to transshipment to off-site, appropriately permitted/licensed facilities for treatment and/or disposal. Compatible hazardous waste debris may also be consolidated prior to offsite shipment. No other hazardous waste will be consolidated.

The West Building includes and is proposed for continued use of licensed hazardous waste container storage areas S-1, S-2, S-3, S-7, and S-8. The location and dimensions of these units will not change from the previous license. Curbing will be added to S-3, S-7, and S-8 such that each unit will have adequate secondary containment as depicted in Figures 16-3, 16-7, and 16-8, respectively, in the FPOR. Storage area S-8 will be used for the consolidation of hazardous waste debris.

The loading dock near the southeast corner of the West Building will continue to be used for the receiving of inbound hazardous waste containers and the shipping of outbound hazardous waste containers and associated container staging operations. The former mercury retort/recycling area that was located in the West Building will be used for universal waste storage.

The East Building includes licensed hazardous waste container storage areas S-4 and S-5. The locations and horizontal dimensions of these units will not change from the previous license. Curbing will be added to S-4 and S-5, as depicted on Figures 16-4 and 16-5, respectively, in the FPOR, to ensure that each unit will have adequate secondary containment for the proposed maximum storage quantity. The East Building also includes a less than 90-day hazardous waste container accumulation area for hazardous wastes generated by the facility. The East and West Buildings are connected by an enclosed hallway.

The South Building was previously used to store containers of residuals from retort operations and universal waste storage for batteries which were shipped off-site. Going forward, the South Building will be used for non-licensed and non-regulated purposes.

The Administration Building is located on the western side of the facility property. This building will continue to house WM Waste maintenance operations and serve as the facility command center.

Licensed storage units S-9, S-10, and S-11, for outdoor roll-off container storage, had been incorporated into the previous license. These units were never constructed or operated and are no longer proposed.

Under the previous license, there were three licensed storage areas for roll-off containers of hazardous waste outdoors under a covered roof (S-12 through S-14). These units will be combined into one unit and named S-12. The secondary containment trenches for each of the former units will be connected, as depicted on Figure 16-9 of the FPOR, to assure that adequate secondary containment is provided.

Licensed Storage

The FPOR describes the process flow and procedures for hazardous wastes received by WM Waste, including the following steps:

- a. Waste prequalification
- b. Schedule shipment
- c. Receipt of waste, waste screening, and placement into storage
- d. Inventory management

Previously, WM Waste was licensed to store hazardous waste within 16 units at the facility; 14 of these units involved container storage and 2 involved tank storage. Also, WM Waste was licensed to treat hazardous waste in two other tank units. WM Waste no longer generates hazardous waste liquid residues from mercury retorting activities, so hazardous waste storage and treatment in tanks is no longer being licensed.

With this Approval, WM Waste is licensed for the storage of hazardous waste in containers within nine licensed units at the facility. Three previously licensed storage units (S-9, S-10, S-11) were never built or used for hazardous waste storage; three previously licensed storage units (S-12, S-13, S-14) are now combined into one storage unit (S-12). The following table shows previously licensed and newly licensed maximum storage limits.

Licensed Unit	2011 Licensed Capacity	New Licensed Capacity
Container Storage Area S-1	29,040 gallons	33,000 gallons
Container Storage Area S-2	7,535 gallons	7,480 gallons
Container Storage Area S-3	14,080 gallons	14,080 gallons
Container Storage Area S-4	15,840 gallons	14,080 gallons
Container Storage Area S-5	8,800 gallons	8,800 gallons
Container Storage Area S-6	2,200 gallons	2,035 gallons
Container Storage Area S-7	40 cubic yards	4,400 gallons
Container Storage Area S-8	140 cubic yards	120 cubic yards & 8,800 gallons
Container Storage Area S-9	120 cubic yards	0 (no longer proposed)
Container Storage Area S-10	120 cubic yards	0 (no longer proposed)
Container Storage Area S-11	120 cubic yards	0 (no longer proposed)
Container Storage Area S-12	120 cubic yards	320 cubic yards
Container Storage Area S-13	120 cubic yards	0 (no longer proposed)
Container Storage Area S-14	120 cubic yards	0 (no longer proposed)
Treatment Tank #1 (S-15)	500 gallons	Closed
Treatment Tank #2 (S-15)	500 gallons	Closed
Storage Tank #1 (S-15)	3,000 gallons	Closed
Storage Tank #2 (S-15)	3,000 gallons	Closed

Containers to be stored include containers that can be moved by hand or by forklift (with capacity of up to 330 gallons) and are stored in units S-1 through S-8. Larger roll-off containers (with capacities that may range from 10 to 40 cubic yards) that are moved by truck are designated to be stored in units S-8 and S-12.

All of the licensed storage areas are inside of buildings except for S-6, which is a pre-manufactured flammable shed for smaller containers, and S-12, which is used for roll-off containers and is covered with a roof.

Three-tiered racks are used for storage in unit S-1. For units S-2, S-3, S-4, S-5 and S-7, containers are stored on pallets within painted lines on the floor to assist in ensuring that proper aisle space is available for emergency response activities. Unit S-6 is used for flammable materials, and containers may be placed without pallets on the grated floor (which is underlain by secondary containment), outside of painted aisle space lines. Detailed controls for the stacking of containers and pallets for these units are established in the FPOR.

WM Waste's FPOR describes the storage of two basic categories of containers:

- Containers having a volumetric capacity of less than 330 gallons (such as pails, buckets, drums, barrels, totes, cubic-yard boxes, etc.) that are designed to be moved by hand or by forklift. These containers may be stored in all storage areas except for S-12.
- Roll-off containers, usually having a volumetric capacity of 10 cubic yards up to 40 cubic yards, which have metal wheels and are designed to be transported by roll-off trucks. These containers may be only stored in storage areas S-8 and S-12.

The maximum licensed capacities for each storage area are expressed in gallons (for containers with capacity of less than 330 gallons) and cubic yards (for roll-off containers).

Consolidation

Hazardous waste will not be removed from containers and placed in other containers for the purpose of consolidation or bulking, other than compatible, non-ignitable, and non-reactive hazardous waste debris. Waste may be removed from its container only if the container is in poor condition or to collect samples in accordance with the Waste Analysis Plan.

Other containers, such as small containers in lab packs, may be repacked into larger containers; however, the individual smaller containers will not be opened.

Staging

The loading dock near the southeast corner of the West Building will continue to be used for receiving inbound hazardous waste containers and shipping outbound hazardous waste containers, and associated container staging operations. Incoming containers will be segregated from outgoing containers within shipping and receiving areas; however, the exact location of incoming and outgoing container staging areas may vary.

Incoming containers will be placed into a licensed storage area within 24 hours of arrival at the facility.

Containers that are undergoing Level II analysis, or that are rejected (e.g., non-conforming containers) but not immediately shipped back to the generator or to other permitted facility, will be staged in the quarantine area located in S-3 (smaller, non-roll-off containers) or in S-8 (roll-off box containers) until the discrepancy is resolved or the waste is shipped offsite.

Secondary Containment

Secondary containment will be provided for each licensed storage area. The containment system was designed to have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Secondary containment design details and capacities are presented in Appendix 16 of the FPOR and were certified by a registered Wisconsin professional engineer.

Modified secondary containment curbing is proposed to be constructed for storage units S-3, S-4, S-5, S-7, and S-8 to increase secondary containment capacities. Separate secondary containment systems for previous storage units S-12, S-13, and S-14 are proposed to be connected to serve combined unit S-12. Appendix 16 presents these changes in secondary containment capacities.

Waste Analysis

The Waste Analysis Plan (WAP) is required by s. NR 664.0013(2), Wis. Adm. Code, to describe the procedures which WM Waste will carry out to ensure that wastes it manages are acceptable and can be properly handled, stored, and disposed. The FPOR includes WM Waste's proposed WAP in Appendix 2, using the format provided in the department's preliminary WAP Example dated February 10, 2022.

The WAP Example establishes detailed procedures for the following:

1. The procedures used for obtaining a waste characterization of each waste container prior to its approval for shipment and acceptance at the facility.
2. The frequency at which waste analysis must occur.
3. Upon waste container receipt, procedures to confirm that:
 - a. The contents conform to the approved waste characterization.
 - b. The wastes and containers match the descriptions in the shipping documents (e.g., manifest) and land disposal restriction documentation.
 - c. Containers are in acceptable condition and properly labelled.
4. Handling of discrepancies and rejected shipments.
5. The methods used to obtain a representative sample.
6. The parameters for which each waste is analyzed, the rationale for selecting these parameters, and the test methods used.
7. A quality assurance/quality control program for waste sampling and analysis.
8. Procedures to perform the waste determination and characterization for wastes shipped to other facilities.
9. Procedures to comply with the manifesting requirements for inbound and outbound shipments.
10. Recordkeeping and reporting procedures associated with these activities.

Approval conditions have been added to address important provisions contained in the WAP Example that WM Waste's proposed WAP did not incorporate.

Inspections

The FPOR includes a written program for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that are important to preventing, detecting, and responding to environmental or human health hazards. Inspections are conducted at designated frequencies, as generally described below.

- Daily (when in use) - The loading/unloading areas subject to spills
- Weekly - The container storage areas
- Monthly - Safety, security, emergency, and monitoring equipment

The inspections are conducted by trained employees and recorded on forms that note what is to be inspected and identifies potential deficiencies to be inspected for. The inspection forms are used to identify deficiencies that are identified during the course of the inspection and the corrective action taken. Records of the inspections and corrective actions are maintained for at least three years.

Preparedness and Prevention

The FPOR describes how the WM Waste facility has been designed and is operated to minimize the possibility of fire, explosion, or unplanned sudden and non-sudden releases of hazardous waste constituents, and addresses the following topics:

- Fire/explosion prevention and response
- Spill minimization and response
- Maintaining and testing emergency equipment
- Communication and alarm systems
- Minimum aisle spaces (at least two feet)
- Arrangements with emergency response authorities and providers
- An emergency generator for continued operation of essential systems during a power outage
- Employee training regarding spill prevention, containment, response, and clean-up
- Remote monitoring of the facility

The FPOR includes an integrated contingency plan (ICP) that addresses the requirements of the hazardous waste Contingency Plan requirements and the Spill Prevention, Countermeasure and Control (SPCC) requirements. The ICP presents systematic procedures to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. The ICP identifies the emergency coordinator (EC) and enables the EC to act quickly and efficiently to mitigate the effects of an incident.

Training

The FPOR includes a training program for all WM Waste employees that includes classroom-based and on-the-job training. Training is conducted by qualified instructors. Trainees complete training in specific modules, based on their duties, to enable them to perform their assigned duties in a safe and compliant manner. Training records are maintained at the facility.

Closure Plan and Financial Assurance

The FPOR includes a closure plan that describes how hazardous waste and hazardous waste residues will be removed from containment systems, and how remaining equipment or structures that remain at the facility after closure will be decontaminated. A closure cost estimate of \$1,129,777 (in 2022 dollars) is also provided. The cost estimate is certified by a registered professional engineer, and represents costs that would be incurred by a third-party to implement the closure plan, at the time when the extent and manner of the facility's operation would make closure the most expensive.

WM Waste is required to maintain financial assurance to assure that funds are available for implementation of the closure plan, in the event the licensee is unwilling to or incapable of properly closing and decontaminating the facility.

Corrective Action and Financial Assurance

Releases of mercury to air, soil, surface water and sediment have occurred in the past, in indicated in Appendices 13, 14, 20 and 21 of the 2023 FPOR. The final determination dated August 29, 2011 required periodic sampling and analysis of soils, surface water and sediments in its conditions 59 and 61.

- Based on the results of this soil sampling during 2020, WM Waste submitted a Notification of Hazardous Substance Discharge dated December 2, 2022 to the department's Remediation and Redevelopment (R&R) program. (Later reports suggested that the suspected source of the elevated concentrations in these samples was spillage of approximately one gallon of carbon media that occurred during the last GAC changeout event on September 26, 2018, near the west side of the West Building, and that WM Waste was not aware of the release prior to the 2020 sampling event).
- Based on the notification, the department established BRRTS case 02-52-586974.

- After WM Waste personnel performed excavation and removal of contaminated soil in December, 2020, WM Waste submitted a Request for No Further Action Letter dated February 15, 2021.
- The department issued a No Further Action Not Recommended Letter Dated July 14, 2021, indicating the need to further define the degree and extent of contamination and to conduct further remedial action if necessary.
- WM Waste's consultant, Tetra-Tech, responded by submitting a Site Investigation Work Plan (SIWP) dated October 15, 2021.
- The department sent a Review of Site Investigation Work Plan Letter dated March 9, 2022, which agreed with the proposed sampling from the SIWP, while recognizing that upon receiving results additional sampling may be necessary to define the extent of impacted media.
- On October 25, 2022, Tetra-Tech submitted a report that provided the results of several rounds of soil sampling that occurred during the periods of April through August, 2022, and of water samples from the retention pond collected in May, 2022. The report proposed further excavation of soil adjacent and surrounding portions of the previously performed soil excavations and confirmatory sampling, to occur during October or early November 2022.
- On January 27, 2023, WM reported that it had undertaken remedial activities in November 2022, and planned to submit a remedial action report in 2023.
- On July 20, 2023, Tetra-Tech submitted a Remedial Action Documentation Report and an NR 726 Case Closure Request.
- On November 13, 2023, the department issued a letter, Subject: Case Closure under Wis. Admin. Code ch. NR 726 Not Recommended.

In addition, sediment sampling performed by WM Waste has yielded results indicating that a mercury release (or releases) has occurred, and that restoration of the environment is needed.

The department has determined, in accordance with s. 291.37, Wis. Stats., that that a release from a solid waste management unit has occurred, and that WM Waste must perform corrective action and provide financial assurance for corrective action. Conditions regarding corrective action and financial assurance for corrective action have been included in this approval. Conditions requiring continued environmental monitoring are also included.

Environmental Impact Analysis

Section NR 670.014(2)(x)2., Wis. Adm. Code, requires the FPOR to include information to enable the department to determine if an environmental impact statement (EIS) is required under ss. 289.25 and 1.11, Wis. Stats., is needed. The FPOR concludes that an EIS is not required, based on the following:

- a. WM Waste has ceased retorting operations and is eliminating previous hazardous waste treatment. Proposed operations are limited to container storage.
- b. An EIS was not required when the facility was initially licensed in 2010 and during the 2011 license renewal.
- c. The facility already exists and is not proposing an expansion nor significant changes.
- d. Section NR 150.20(2)(a)7s., Wis. Adm. Code, identifies the 10-year renewal process as an Integrated Analysis Action for which an EIS is not required.

Approval of a hazardous waste FPOR and associated licensing is an integrated analysis action under s. NR 150.20(2)(a)7s., Wis. Adm. Code, which does not require a separate environmental analysis process. WM Waste is not proposing to materially change its operations in a manner expected to result in increased potential impacts to the community or the environment. Also, as discussed below, environmental justice considerations indicate

that additional outreach is not warranted at this time. Therefore, further environmental analysis is not warranted, and an environmental impact statement under s. 1.11, Wis. Stats., is not required.

Environmental Justice Analysis

EPA has published the web-based Environmental Justice (EJ) screening tool called EJScreen (at <https://www.epa.gov/ejscreen>). It is based on nationally consistent data and an approach that combines environmental and demographic indicators in maps and reports. The EJ indexes help users screen for potential EJ concerns. To do this, the EJ index combines demographic and socioeconomic indicators with a single environmental indicator.

The FPOR included environmental justice screening information, including a EJScreen report for the area within a 3-mile radius, and a summary of steps it has taken to minimize community impacts. The department separately reviewed EJ Screen results as of April 20, 2023 for radii of 1-, 2-, and 3-miles. The 2-mile radius results for EJ Indexes and Socioeconomic Indicators are presented below. None of the State percentiles for the twelve EJ indexes exceed the 80 percentile thresholds 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 socioeconomic indicator data are below USA averages. This information, together with the proposed reduction in operations as described above, suggests that additional EJ outreach (beyond the notices and announcements being provided in accordance with ch. 289, Wis. Stats., and NR 670, Wis. Adm. Code) is not warranted at this time.

EJScreen Report (Version 2.11)
2 miles Ring Centered at 42.680921,-88.075504
WISCONSIN, EPA Region 5
Approximate Population: 6,528
Input Area (sq. miles): 12.56
 WM Waste

Selected Variables	Percentile in State	Percentile in USA
Environmental Justice Indexes		
Particulate Matter 2.5 EJ Index	77	50
Ozone EJ Index	80	62
Diesel Particulate Matter EJ Index*	64	41
Air Toxics Cancer Risk EJ Index*	65	24
Air Toxics Respiratory HI EJ Index*	53	14
Traffic Proximity EJ Index	46	35
Lead Paint EJ Index	58	50
Superfund Proximity EJ Index	49	44
RMP Facility Proximity EJ Index	71	61
Hazardous Waste Proximity EJ Index	67	54
Underground Storage Tanks EJ Index	51	42
Wastewater Discharge EJ Index	58	38

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

Selected Variables	Value	State		USA	
		Avg.	%tile	Avg.	%tile
Socioeconomic Indicators					
Demographic Index	24%	24%	65	35%	40
Supplemental Demographic Index	13%	12%	66	15%	51

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People of Color	15%	19%	60	40%	32
Low Income	25%	27%	51	30%	46
Unemployment Rate	2%	4%	36	5%	30
Limited English Speaking	0%	1%	0	5%	0
Less Than High School Education	10%	7%	72	12%	56
Under Age 5	6%	6%	57	6%	55
Over Age 64	16%	17%	49	16%	54
Low Life Expectancy	18%	19%	45	20%	39

The department will perform the following outreach actions to make the community aware of this proposed licensing activity, how to learn more about the project, and to announce that written comments will be accepted for 45 days:

- a. A public notice and fact sheet will be posted on the department’s website at: <http://dnr.wi.gov/topic/Waste/Comment.html>. This will also include links to key application documents.
- b. A public notice will also be published in the Racine Journal Times and Wisconsin State Journal.
- c. An announcement of the opportunity for public comment will be broadcast over radio station **WXYZ**.
- d. The public notice will be provided to:
 - Persons on the facility mailing list developed by the department.
 - The clerks of the Village of Dover and Racine County.
 - Graham Public Library (1215 Main St, Union Grove, WI).
 - Racine Public Library (75 Seventh Street, Racine, WI).
 - 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 and Wisconsin Historical Society, and U.S Fish and Wildlife Service).

Need

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. WM Waste’s licensed hazardous waste facility has been operational since 2000 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 WM Waste’s continued commercial activities.

NR 664 Subchapter AA, BB and CC Standards

Subchapter AA standards apply to air emissions from process vents for equipment handling hazardous wastes with organic concentrations of at least 10 parts per million. Because WM Waste does not propose to use this equipment, subchapter AA standards do not apply.

Subchapter BB standards apply to air emissions from equipment that contains or contacts hazardous waste with organic concentrations of at least 10 percent by weight. Because WM Waste does not propose to use this equipment, subchapter BB standards do not apply.

Subchapter CC standards apply to air emissions from containers of more than 26 gallons in capacity used to manage hazardous wastes containing an average organic concentration of greater than or equal to 500 ppmw at the point of waste origination. WM Waste proposes to implement Level 1 controls for these containers. Level 1 controls involve assuring that the container meets applicable DOT standards and providing for proper container covers/closure devices to minimize air emissions. WM Waste does not propose to open or consolidate containers that would require Level 2 controls and does not propose to accept containers that would require Level 3 controls.

Other Waste Activities

The FPOR identifies the following other waste-related activities that occur, or may occur, at the facility:

- a. Household hazardous waste collection and transshipment
- b. Hazardous waste generator activities
- c. Large quantity handling of universal wastes
- d. Solid waste storage
- e. Bulking/consolidation of debris
- f. RCRA-empty drum handling (containers emptied of hazardous waste debris)

An on-site laboratory in the East Building will be utilized for Level I analysis of incoming waste as well as compatibility testing of debris that will be consolidated. Samples collected for analysis will be managed as facility generated waste (i.e., profiled and managed accordingly) or placed back into the container from which they were collected.

According to the FPOR, WM Waste does not anticipate operating a 10-day transfer facility, conducting exempt treatment (such as elementary neutralization), handling hazardous secondary materials, handling wastes that are conditionally exempted due to recycling or reclamation, handling continued use materials, processing solid wastes, exporting hazardous waste or accepting used oil from off-site. WM Waste does not plan to conduct manufacturing, material processing activities or other activities not related to incoming waste management that may involve hazardous waste generation. WM Waste does not intend to use the drum crusher depicted on Figure A-4 of the FPOR.

WM Waste is not a transporter of hazardous waste and does not anticipate conducting trucking terminal activities that generate hazardous waste. All hazardous waste will arrive at the site in containers transported by third-party transporters. WM Waste does not intend to clean out trucks or containers.

FINDINGS OF FACT

The department finds that:

1. On April 4, 1996, the Department issued a letter to U.S Technology, Inc. (USTI) which stated that USTI's retorting of certain types of wastes would qualify for the legitimate recovery and reclamation exemption pursuant to s. 625.06, Wis. Adm. Code, which would exempt the retorting operations from the hazardous waste treatment licensing requirements.
2. On May 31, 1996, Mercury Waste Solutions, Inc. (MWSI) informed the Department that USTI, owned by U.S. Environmental, had been purchased by MWSI.
3. On May 31, 1996, MWSI filed a notice of hazardous waste activity. A notification form was submitted and the facility was identified as a large quantity generator. On May 24, 1997, MWSI submitted a Feasibility and Plan of Operation Report (FPOR) and the Part A application for a small container storage facility. On September 22, 1998, MWSI resubmitted the FPOR for container and tank storage above the small storage limit.
4. On October 16, 1997, MWSI submitted a request for a variance from the hazardous waste licensing requirements. On March 9, 1998, MWSI submitted the variance licensing fee of \$2,400 and established a financial assurance mechanism with the Department to cover the closure cost for the facility. On April 3, 1998, MWSI received from the Department a one-year conditional approval for a variance from the hazardous waste management storage facility licensing requirements. On May 25, 1999, MWSI received from the Department a variance extension determination allowing continued storage until June 30, 2000.

5. On April 3, 1998, the department issued a variance allowing MWSI to store up to 181 fifty-five (55) gallon containers of hazardous waste until April 3, 1999. The variance was issued to allow MWSI to store mercury containing wastes prior to treating the waste to reclaim the mercury.
6. On September 22, 1998, MWSI submitted a FPOR for the storage and treatment of hazardous waste in containers and tanks.
7. On May 25, 1999, the Department issued a variance extension allowing continued storage of 181 fifty-five (55) gallon containers of hazardous waste until June 30, 2000.
8. On July 6, 2000 and August 31, 2000, the Department issued hazardous waste operating licenses to MWSI to allow hazardous waste storage and treatment in the following units. On July 26, 2000, U.S. EPA Region 5 issued a federal RCRA permit to cover the federal portion of the MWSI hazardous waste license. The licenses have a duration of 10 years.
 - a. Drum Storage Area: 560 fifty-five (55) gallon containers or equivalent (30,800 gallons).
 - b. Oven Batch Storage Area: 136 fifty-five (55) gallon containers or equivalent (7,480 gallons).
 - c. Roll-off Container Storage Area: Twenty (20) cubic yard (4,039 gallons) container.
 - d. Treatment Tank #1: 500 gallons.
 - e. Treatment Tank #2: 500 gallons.
 - f. Storage Tank #1: 3,000 gallons.
9. On December 22, 2000, the Department issued to MWSI a temporary authorization determination regarding the inclusion of corrective action in its hazardous waste operating license. Chapter NR 664, Subch. F Wis. Adm. Code covers releases from solid waste management units. Releases of hazardous waste or hazardous waste constituents have occurred from solid waste management units located at the MWSI facility.
10. On August 30, 2006, the Department issued a letter to MWSI indicating that universal waste destination facilities are subject to full hazardous waste regulations, including applicable licensing requirements. On September 15 and November 13, 2006, MWSI submitted temporary authorization requests to store universal waste in previously unlicensed areas of the facility, specifically, hazardous waste lamps and mercury-containing equipment.
11. On January 10, 2007, the Department issued a six (6) month temporary authorization conditional approval to allow MWSI to store universal waste lamps and waste mercury containing equipment in containers.
12. On May 29, 2007, the Department issued a Class 1 Plan Modification approval for a name change from Mercury Waste Solutions, Inc., to Mercury Waste Solutions, LLC (MWS). On May 23 and June 7, 2007, the Department received information, including a revised Part A Permit Application Form, updated liability insurance information and updated closure financial assurance information, associated with MWS's name change.
13. On January 7, 2009, the Department issued a call-in letter to MWS requiring it to either pursue relicensing by submitting an FPOR or notify the Department of its intent to close the facility.
14. On June 18, 2009, the Department issued a Case Closure letter to MWS for completing corrective action activities. The Case Closure letter stated that the facility property has residual soil contamination and that the contaminated soil must be properly managed should the contaminated soil be excavated or removed. Corrective action activities were conducted at the site from December 2001 to June 2009.
 - a. On August, 24, 2001, MWSI notified the Department that facility operations impacted the soils around the facility with mercury.
 - b. On December 14, 2001, the Department issued a Class 2 Plan Modification regarding the inclusion of RCRA Corrective Action in the MWSI hazardous waste operating license.

- c. On January 28, 2004, the Department received a plan from MWSI to investigate the facility for mercury contamination.
 - d. On February 16, 2007, the Department received a report dated February 13, 2007 from MWSI entitled “*Remedial Design of Response Action*”.
 - e. On March 7, 2007, the Department approved with comments MWSI’s February 13, 2007, report entitled “*Remedial Design of Response Action*.”
15. In September 2010, Cardinal Environmental Inc. collected soil samples from various locations around the facility and at the following properties: 4601 Haag Drive, 21209 Durand Avenue, and 21255 Durand Avenue.
 16. On January 8, 2010, the Department received a FPOR from MWS for the storage and treatment of hazardous waste in containers and tanks. The FPOR requested to relicense and expand the storage capacity of the four existing licensed hazardous waste management units. These units include the storage of up to 36,575 gallons in the two container storage areas (S-1 and S-2), the storage of up to 40 cubic yards in a roll-off box storage area (S-7) and the storage and treatment and of 7,000 gallons in four (4) tanks (S-15). In addition, the FPOR requested to expand the hazardous waste licensed storage areas to include an additional 40,920 gallons in four existing unlicensed container storage units and 880 cubic yards (177,737 gallons) in seven roll-off storage areas to be constructed.
 17. On March 4, 2010 and February 16, 2011, the Department issued solid waste exemption conditional approvals to store and process nonhazardous wastes for the purposes of reclaiming elemental mercury. The approvals allowed MWS to store nonhazardous waste in areas that are licensed as hazardous waste storage or treatment units.
 18. On April 29, 2010, the Department issued a Notice of Incompleteness (NOI) to MWS for the January 8, 2010, FPOR. The Department requested a response to the NOI within 45 days. MWS submitted revisions to the FPOR on June 10, 2010. On October 8, 2010, the Department issued a second NOI to MWS for the January 8, 2010, FPOR. The Department requested a response within 45 days. WMMWI submitted FPOR revisions on November 24, 2010, March 7, 2011, and March 10, 2011.
 19. On August 30, 2010, the Department issued a Class 1 Plan Modification regarding a change in name and ownership from Mercury Waste Solutions, LLC to WM Mercury Waste, Inc. (WMMWI).
 20. The department issued a final determination dated August 18, 2011 that conditionally approved WMMWI’s FPOR. On August 29, 2011, the department issued renewals of License # 6027 (for storage of hazardous waste in containers) and License # 6028 (for treatment of hazardous waste in tanks) for a term to expire August 29, 2021. A number of Class 1 and Class 1-1 license modifications have been issued since the 2011 final determination.
 21. On October 30, 2018, WMMWI informed the department via telephone that mercury retort operations had been paused as a business decision. After additional evaluations, in August of 2020, WMMWI decided to permanently cease retorting and decommission the retorting equipment, and reported it had engaged a professional industrial cleaning firm to decontaminate the facility. This was followed in 2021 by WM Waste initiating closure activities for the licensed tank units that had been primarily used for the storage and treatment of mercury-containing condensation liquids from retorting operations.
 22. The department issued a call-in letter dated February 21, 2020, notifying WMMWI to submit a 10-year reissuance application including a new FPOR. The following FPOR submittal and review activities occurred after the call-in letter:

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- a. WM Waste submitted a new FPOR dated February 8, 2021, which was received by the department on February 25, 2021.
 - b. Per s. NR 670.432(2), Wis. Adm. Code, notice of receipt of the FPOR was provided to local governmental jurisdictions and other agencies, and was published in the Racine Times-Journal on April 12, 2021.
 - c. The department issued a notice of incompleteness (NOI) in a letter dated May 26, 2021.
 - d. WM Waste exchanged email correspondence regarding the issues raised in the NOI.
 - e. WM Waste submitted a revised FPOR dated June 28, 2022.
 - f. The department issued a request for additional information dated December 20, 2022.
 - g. WM Waste submitted a revised FPOR dated February 2023, which was received by the department on March 14, 2023.
23. On February 22, 2021, WMMWS submitted a revised EPA Form 8700-12 to change the name of the owner/operator of the above facility from WM Mercury Waste, Inc. to WM Waste, Inc.
24. On April 10, 2023, the department issued an approval for a Class 1-1 license modification concerning WM Waste's December 12, 2022 purchase of one of the parcels of the facility's land in December 2022, previously owned by Durand Properties.
25. On August 31, 2023, the department approved a Class 1-1 license modification for the closure of Unit S-15 (Treatment Tank #1, Treatment Tank #2, Storage Tank #1, and Storage Tank #2).
26. On November 13, 2023, the department issued a letter, Subject: Case Closure under Wis. Admin. Code ch. NR 726 Not Recommended regarding WM Waste's request for case closure of BRRTS case 02-52-586974.
27. On December 29, 2023 and January 5, 2024, a draft of the preliminary determination was provided to WM Waste for review and comment. The department received comments back from WM Waste via email on January 30, 2024. These comments were generally minor and were considered in the development of this preliminary determination.
28. On February 28, 2024, the department determined that the FPOR to be complete in accordance with s, NR 670.403, Wis. Adm. Code.
29. On February 28, 2024, the department determined that the proposed facility conforms to water quality standards for wetlands pursuant to ch. NR 103, Wis. Adm. Code.
30. The department intends to publish a Class 1 public notice will be on the department's website at <http://dnr.wi.gov/topic/Waste/Comment.html> no later than **March 4, 2023**. Per s. NR 670.410(3)(b), Wis, Adm. Code, and on or about this same date, the notice is planned to be published in the Racine Journal Times and Wisconsin State Journal **during the week of March 4, 2024** advertised via radio announcements on two local radio stations **on or about March 5, 2024**. Pursuant to 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 FPOR, the preliminary determination, the initial environmental assessment, and the fact sheet are available for review and comment by the public. The 45-day public comment period will end on or about **April 18, 2024**.

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 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 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, a separate additional environmental analysis is not required for this proposal.

PRELIMINARY DETERMINATION

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

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

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

Based on the Findings of Fact and Conclusions of Law, the department hereby proposes to conditionally approve the “FEASIBILITY AND PLAN OF OPERATION REPORT, WM Waste, Inc., 21211 Durand Ave., Union Grove, Wisconsin, EPA ID No. WIR000000356,” dated February 2023 and submitted with a letter dated March 14, 2023, subject to compliance with ch. 291, Wis. Stats., chs. NR 660 through NR 679, Wis. Adm. Code, and the following conditions.

With this action and in accordance with s. NR 670.050(1), Wis. Adm. Code, the department intends to issue an operating license renewal for a fixed term to end 10 years from the date of this conditional approval.

CONDITIONS OF APPROVAL

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

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

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

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

“FPOR” means the Feasibility and Plan of Operation Report dated February, 2023 and submitted with a letter dated March 14, 2023, and any modifications approved in writing by the department.

“Licensee” means WM Waste, Inc.

“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 FPOR, the requirements of chs. 289 and 291, Wis. Stats., chs. NR 660 to 673, Wis. Adm. Code, and the conditions of this Approval. The FPOR and these conditions are made a part of any operating license which may be issued for the facility based upon this Approval. The Approval conditions, Wisconsin Statutes or the Wisconsin Administrative Code shall take precedence over any less stringent provisions contained within the FPOR.
2. Nothing in this conditional Approval shall relieve Licensee of the legal obligation to comply with applicable federal, state, and local regulatory requirements.
3. The conditions applicable to all operating licenses set out in s. NR 670.030, Wis. Adm. Code, apply to this facility and are hereby incorporated by reference and made a part of this Approval and of any operating licenses and other approvals which may be issued for the facility. The following additional conditions augment the referenced conditions in s. NR 670.030, Wis. Adm. Code, and also apply and are made part of this Approval.

- a. Regarding s. NR 670.030(5), Wis. Adm. Code: Proper operation and maintenance shall also include effective and accurate inspections, timely and effective actions to correct deficiencies, effective training, and supervision of all personnel that direct or support operational workers, effective contingency planning, and effective emergency response.
 - b. Regarding s. NR 670.030(11), Wis. Adm. Code: All reports submitted by Licensee pursuant to NR chs. 664 or NR 670, Wis. Adm. Code, or this Approval and its conditions shall be certified in the manner described in s. NR 670.011, Wis. Adm. Code. All submittals containing technical data, such as engineering computations, analyses and studies, design drawings, and design specifications, and similar documents involving the technical application of engineering knowledge or principles 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 s. NR 670.030(12)(k), Wis. Adm. Code: If Licensee becomes aware that there was a failure to disclose relevant facts in any reports, plans, or other documents submitted, or that incorrect information was submitted to the department, Licensee shall promptly notify the department of such facts and/or correct information and of its plans to cease or modify its operations or activities as may be appropriate. If the facts or information affect the FPOR or this Approval, Licensee shall promptly submit a license modification request under s. NR 670.042, Wis. Adm. Code, but no later than 30 days of becoming aware of the issue.
4. Notwithstanding s. NR 670.004(1), Wis. Adm. Code, Licensee shall comply with all the requirements of all applicable regulations in chs. NR 600 to NR 679, Wis. Adm. Code, unless an alternative to a specific requirement is specifically identified in this Approval.
 5. If any provision in the FPOR is inconsistent with another provision in the FPOR, Licensee shall conform to each provision or obtain approval of a license modification to clarify the provision(s). If the provisions are contradictory, Licensee shall conform to the more stringent provision, as judged by the department.
 6. Licensee shall install and maintain suitable bonding and grounding systems in all areas of the facility where a static discharge could result in a fire or explosion that could impact the licensed storage 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 activities.
 7. Licensee shall operate the facility in a manner that prevents discharges or emissions from the facility from negatively impacting the safety of the facility, the health and safety of personnel at or near the facility, and the environment.
 8. The only hazardous wastes that shall be accepted from off-site at the facility are the hazardous wastes identified on the most recent Part A application form included in Appendix A of the FPOR. Other hazardous wastes may only be accepted or stored after receiving written approval from the department following a license modification request under s. NR 670.042, Wis. Adm. Code, which contains a revised Part A application. Licensee will not accept wastes that are identified in the FPOR as wastes that will not be accepted.
 9. All waste storage activities shall be confined to the areas and limited to the processes specified in the FPOR.
 10. When Licensee relies on any of the exclusions or exemptions in ss. NR 661.0004 and NR 661.0006, Wis. Adm. Code, Licensee shall maintain documentation in the operating record for at least 3 years that demonstrates that the exclusion or exemption applies and is met. This condition includes but is not limited

to excluded scrap metals, hazardous secondary materials, solvent contaminated wipes, oil filters, samples, airbag waste, continued use materials and recyclable materials.

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. Within 14 days of the date of the document, Licensee shall submit to the department's designated hazardous waste plan review staff person:
 - a. any modified versions of the authorization documents in Appendix V of the FPOR;
 - b. any newly issued authorization documents by any authority identified in Appendix V of the FPOR;
 - c. any other permit, license or construction approval identified in s. NR 670.013(11), Wis. Adm. Code; and
 - d. notification that any such document was applied for.
13. No treatment or disposal activities requiring a license under ch. NR 670, Wis. Adm. Code, shall occur without a license modification. No retorting or thermal treatment of hazardous waste or other materials, including but not limited to wastes and materials exempted or excluded under ss. NR 661.0004 to NR 661.0006, Wis. Adm. Code, shall occur without a license modification.
14. Prior hazardous waste determinations, approvals, conditions, and licenses issued by the department under ch. NR 670, Wis. Adm. Code, are hereby superseded by this Approval, except for corrective action requirements and previous approvals regarding partial closures.
15. The department may require the submittal of additional information if, in the department's opinion, circumstances and/or developments warrant further review of the license and its conditions. In this case, Licensee shall provide the requested information in a timely manner.
16. Licensee shall conduct facility operations in a manner so as to minimize noises in the evening and nighttime hours which may be a nuisance to neighboring residences. In the event that nuisance noises are reported either to Licensee or to the Department, Licensee shall attempt to work cooperatively with the complainant(s) to mitigate the noises.

Licensing Conditions

17. In the event Licensee plans to implement changes or activities that are not consistent with the FPOR or this Approval, Licensee shall acquire a license modification in accordance with s. NR 670.042, Wis. Adm. Code, prior to implementing the change.
18. Minor administrative changes to the FPOR that would not materially affect the quality of decision-making, waste handling procedures, or recordkeeping, and do not increase risk of impacts to human health or the environment, shall not require a license modification. The licensee may seek department concurrence that the changes represent minor administrative changes that do not require a license modification. Licensee shall notify the department's designated inspector and designated hazardous waste plan review staff person of such changes, maintain records of any changes, and maintain a current version of the FPOR and all appendices.
19. 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 act as described in s. NR 670.051(3), Wis. Adm. Code.

Notwithstanding ss. 289.24(3), 289.26(5), 289.29(4), and 289.30(6), Wis. Stats., the conditions of an expired operating license continue in force until the department issues a final determination.

20. Licensee shall obtain annual licenses to continue operating the licensed units.

Storage Conditions

21. Licensee shall not use the following licensed storage areas until Licensee obtains the department’s written approval of an as-built report prepared by a qualified professional engineer to the department, certifying that the storage area was constructed in substantial compliance with the FPOR. The as-built report shall include construction observations, drawings, computations, photos, and other information needed to demonstrate that the storage areas meet the secondary containment provisions described in the FPOR:

- a. S-3
- b. S-4
- c. S-5
- d. S-7
- e. S-8
- f. S-12

22. 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” and “cubic yards” shall refer to the capacity of any and all containers, independent of the actual volume of the contents within any container.

<u>Area (Unit)</u>	<u>Maximum Quantity</u>
S-1	33,000 gallons (e.g., 600 55-gallon container equivalents)
S-2	7,480 gallons (e.g., 136 55-gallon container equivalents)
S-3	14,080 gallons (e.g., 256 55-gallon container equivalents)
S-4	14,080 gallons (e.g., 256 55-gallon container equivalents)
S-5	8,800 gallons (e.g., 160 55-gallon container equivalents)
S-6	2,035 gallons (e.g., 37 55-gallon container equivalents)
S-7	4,400 gallons (e.g., 80 55-gallon container equivalents)
S-8	8,800 gallons (e.g., 160 55-gallon container equivalents)
S-8	120 cubic yards (e.g., 3 40-cubic yard roll-off containers)
S-12	320 cubic yards (e.g., 8 40-cubic yard roll-off containers)
 Facility Totals	 92,675 gallons (e.g., 1,680 55-gallon container equivalents) plus 440 cubic yards (e.g., 11 40-cubic yard roll-off containers)

23. The identity, location, and quantity of all stored hazardous wastes shall be known and recorded using an inventory system throughout the entire storage period. The facility’s inventory system shall be maintained so that its information is up to date. For each hazardous waste storage unit, Licensee shall be able to create and provide, when requested by the department, reports from the system that identify the following information for any day within the previous 3 years:

- a. Hazardous waste quantities (total and by container, in gallons);
- b. Non-hazardous waste quantities (total and by container, in gallons);
- c. Non-waste containers, such as qualifying hazardous secondary materials and continued use materials (total and by container, in gallons);
- d. Total quantities (total and by container, in gallons);
- e. For each container, the unique waste inventory number that can be used to identify the manifest number, manifest line number, and the profile (WIP) number.

- f. Recorded quantities for containers shall represent the container capacity (not the estimated contents of the container).
24. 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 area. This time limit shall apply for all days, including holidays, weekends, or any other times, regardless of whether the facility or licensed units is or is not active or operating. This time limit may be extended only as explicitly allowed by this Approval or if otherwise approved by the department. If proper implementation of the approved Waste Analysis Plan warrants an extension to this period (such as when further follow-up with the generator is necessary because the waste does not match the description on the waste profile or manifest), the waste container shall be:
- Clearly labelled with the word “Non-Conforming,” the date of arrival at the facility, and a unique tracking number that can be used to quickly identify the manifest number, manifest line number, and the profile (WIP) number; and
 - Safely isolated and contained in a safe and secure location within a licensed storage area.
- In no case shall the extended time period exceed 14 calendar days unless approved by the department in writing.
25. Containers placed in the staging area (identified as the shipping and receiving area on Figure A-4 of the FPOR) to prepare them for outbound shipment to another facility may remain in this area until loaded onto an outbound truck by the end of the day following the day they were initially staged, and shall be segregated from other containers (such as arriving containers).
26. Aisle space for containers in storage shall be at least two feet. Additionally, sufficient aisle space shall be maintained in storage and staging areas:
- 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;
 - in a manner consistent with the arrangements with local authorities required in s. NR 664.0037, Wis. Adm. Code; and
 - to allow for effective inspections of the storage area and containers.
27. Sufficient lighting and access shall be maintained in all storage areas to allow for inspections of the storage area, containers, container labels and markings, and secondary containment structures.
28. 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.
29. With the exception of containers placed in S-6, all waste containers in licensed storage areas shall be stored on pallets or an equivalent method (such as use of an IBC, roll-off box, 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.
30. Containers shall be placed in the storage areas so that container 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.
31. 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 be used and remain in a manner that maintains their stability and integrity.

32. Licensee shall not stack containers when the stacking would compromise the stability or structural integrity of the container or pallets.
33. Licensee shall not stack containers on top of other containers more than two-high. When stacking containers:
 - a. Containers of equal or larger size shall be stored on the lower level, unless the containers stored on the bottom level are designed, maintained, and arranged to safely and securely support the containers stored on the upper level;
 - b. If containers with a capacity of greater than twenty (20) gallons are stacked on the upper level, pallets shall be used to separate the first level of containers from the second level; and
 - c. Containers on the upper level shall be centered, level and stable.
34. Containers shall be closed except when adding or removing wastes or when necessary to conduct waste sampling or analysis in accordance with the Waste Analysis Plan.
35. 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.
36. 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 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.
37. All non-hazardous solid waste received from off-site that is placed in a licensed hazardous waste storage unit shall be in containers that are:
 - a. Handled, stored, and managed in the same manner as required for hazardous waste; and
 - b. Clearly labeled with the words "Non-hazardous Waste."
38. 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 information profile (WIP) number.
39. For any container of waste resulting from consolidation or bulking of containers at the facility, that container's accumulation period begins on the earliest date of receipt of the contents of any of the containers so consolidated or bulked.
40. No hazardous waste treatment or disposal shall occur. The consolidation of hazardous waste from one container to another shall be limited to compatible hazardous waste debris, as described in the FPOR.
41. Licensee shall manage emptied containers in a manner that prevents leakage of, or emissions from, any remaining waste or residuals from the container.
42. Loading and unloading of containers (other than roll-off containers) to/from transport vehicles shall only occur at the west building loading dock (identified on Figure A-4 of the FPOR as the "Main Dock").
43. Unless otherwise approved in a license modification, Licensee may not store wastes having a total estimated unit cost for removal, transportation, and disposal (as this term is used in Attachment 8-1 of the FPOR),

such that the facility's total closure cost estimate would exceed the amount established the financial assurance instrument.

Compatibility Conditions

44. Licensee shall only combine wastes with other wastes or materials that are compatible.
45. 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).
46. Waste shall not be commingled with another waste or material, and shall be separated and handled in such a way to prevent and spilled or leaked waste from commingling, if the commingling might produce reactions which do any of the following:
 - a. Generate extreme heat or pressure, fire or explosions or violent reactions.
 - b. Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.
 - c. Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.
 - d. Damage the structural integrity of the storage device, structure, or facility.
 - e. Through other like means threaten human health or the environment.
47. Containers of incompatible waste shall be labelled to clearly identify any incompatibility hazard.
48. At a minimum, containers of hazardous materials required to be segregated from other materials by the U.S. DOT Hazardous Material Load and Segregation Chart in 49 CFR § 177.848 may not be placed on the same pallet and shall be physically separated to prevent commingling in the case of spillage or leakage. Notwithstanding any other methods of separation employed, containers of DOT Class 8 (corrosive) liquids may not be stored above, below, or adjacent to containers of DOT Class 4 (flammable) or DOT Class 5 (oxidizing) materials.

Transfer Conditions

49. Licensee may 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.
50. For any hazardous waste stored or placed within Licensee's facility under the provisions of s. NR 663.12, Wis. Adm. Code (10-day transfer wastes):
 - a. Containers shall be stored or placed in discrete areas, separate from licensed storage units, that were previously designated in the operating record for 10-day transfer wastes.
 - b. Containers shall meet the applicable U.S. DOT regulations on packaging hazardous materials for transportation as specified in s. NR 664.1086(6), Wis. Adm. Code, and shall be stored in a safe and secure manner.
 - c. Licensee shall clearly enter on the hazardous waste manifest the date when it is first placed in a transfer facility. Licensee shall ensure that each hazardous waste manifest is readily available in the operating record and that the container can be readily cross-referenced with the manifest.
 - d. If stored near a licensed hazardous waste storage unit, the container shall be clearly labeled or otherwise identified as holding 10-day transfer wastes.

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

Inspection Conditions

52. All observations, inspections and monitoring required by chs. NR 664 and NR 670, Wis. Adm. Code, the FPOR, and the conditions of this Approval shall be documented. This documentation shall also include the results of these observations, inspections and monitoring activities, and documentation of all corrective actions taken to remedy any condition 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 FPOR, and/or in the Approval conditions.
53. 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.
54. Personnel performing inspections and corrective/remedial actions shall be properly qualified and trained in accordance with the FPOR and the conditions of this Approval.

Training Conditions

55. All personnel shall successfully complete a training program that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of chs. NR 660-679, Wis. Adm. Code, the FPOR, and the conditions of this Approval, and to operate or maintain the facility in a safe manner. This includes all facility employees and any others (such as contractors, vendors, and temporary workers) that have duties relating to hazardous waste acceptance, storage, handling, or recordkeeping, or that execute, monitor, or supervise activities described in the FPOR. Records documenting these qualifications and this training shall be maintained as part of the operating record for at least 3 years.
56. All personnel, regardless of their position or employer, must be trained so they are familiar with the facility's contingency plan in order to properly act in response to an emergency. This includes all facility employees and any others at or near the hazardous waste storage and handling 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.
57. The FPOR's Training Plan in Attachment 7 of the FPOR supports only limited job positions currently deployed. When additional positions or functions are added, Licensee shall update the Training Matrix (Attachment 7-1 of the FPOR) to ensure that each job position is trained in accordance with the appropriate training module; and update the Job Descriptions (Attachment 7-2 of the FPOR). The Licensee may execute position changes as minor administrative changes described in Condition 18, if applicable. For other changes to the Training Plan, the Licensee shall obtain a license modification, unless another means for the change(s) is approved by the department.

Secondary Containment Conditions

58. The secondary containment systems shall be operated to prevent any migration of wastes or accumulated liquids and materials out of the system.

59. The secondary containment systems shall be operated and maintained such that spills, accumulated liquids and other materials can be promptly detected by visual means and promptly corrected.
60. 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.
61. The secondary containment systems shall be kept free of debris. Any spilled or leaked wastes shall be removed from the secondary containment system promptly upon discovery, and properly managed.
62. 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.
63. When removing or transferring waste from a container, the container, receiving unit, and all equipment (such as pumps, conveyance mechanisms, hoses, and piping) shall be stationed within an area that provides effective secondary containment for any leaked or spilled waste.
64. Licensee shall provide additional containment capability as may be needed to meet the requirements of s. NR 159.07, Wis. Adm. Code, regarding Class B Firefighting Foam.

Submittal Conditions

65. All submittals and reports required by or made pursuant to this Approval shall, unless otherwise specified:
 - a. 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.
 - d. Contain the signature and certification in s. NR 670.011, Wis. Adm. Code.
66. If requested by the department, submittals requiring the department's review or action, or 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 run through optical character recognition (OCR) software (such as Enhance Scans in Adobe Pro), to make the document a searchable and readable PDF.
 - c. The single PDF shall not be copy protected.
 - d. 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.
 - e. 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).
 - f. If requested by the department, digital files of select PDF pages shall be provided in the requested digital format.

- g. All digital files submitted to the department shall be submitted as an email attachment or via a file sharing website acceptable to the department.
 - h. If requested by the department, a printed copy, or select printed pages, maps, or sections shall be provided.
 - i. For an FPOR or modifications to an FPOR, and for other reports as appropriate, a Table of Contents shall be included.
67. For any license modification request under s. 670.042, Wis. Adm. Code that requests a modification to the FPOR, and unless otherwise approved by the department, Licensee shall include, for all FPOR pages proposed to be modified:
- a. A header that identifies the facility name, and a footer that identifies the date and the page number;
 - b. An updated revision log that identifies the type, description, and date of the revision; and
 - c. A separate digital file clearly depicting the proposed modifications (e.g., using a track changes tool).
68. To ensure the FPOR is up to date, by July 31 of each year, Licensee shall submit an updated digital file of the entire FPOR that incorporates any approved modifications, as well as minor administrative changes described in Condition 18, that took effect during the preceding one-year period from July 1 through June 30. This shall include a running record of all revisions to the FPOR. If no such FPOR changes occurred, Licensee is only required to provide notification of this fact.

Incident and Release Response/Reporting Conditions

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

The report shall be submitted by the 15th 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 is only required to provide notification of this fact.

70. Licensee shall submit a report within 15 days of any incident that results in implementation of the approved contingency plan, referred to as the Integrated Contingency Plan (ICP) in the FPOR. These incidents include, but are not limited to, the following incidents involving or affecting hazardous 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 secondary containment structure, including 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 that results in the implementation of the ICP.

The report shall contain at a minimum the information described in s. NR 664.0056(9), Wis. Adm. Code, and shall also fully describe the incident, including a description of the discovery, response activities, the root cause, and any change in facility plans or operations needed to prevent recurrence and improve response planning and capability. The report shall also include all of the applicable information required for the quarterly report required in Condition 69. The report shall be submitted to the department's designated inspector and the department's designated hazardous waste plan review staff person.

71. After any incident that results in implementation of the contingency plan, as described in Condition 70 Licensee shall promptly perform all of the following, when it is safe to do so:
- a. Take photos to visually document the incident.
 - b. Identify the employees or other individuals who have knowledge of, or were involved in the incident, perform interviews with the employees, document in writing the results of the interviews, and retain this documentation.
 - c. Retain and secure any data and other information associated with the incident.
 - d. Retain and secure any equipment and/or parts that were involved in the incident.
 - e. Retain and secure wastes or waste residues that were involved in the incident.
 - f. Within 24 hours of the incident, notify via email or telephone to the department's designated inspector and the department's designated hazardous waste plan review staff person.
 - g. Other response activities as specified in the FPOR.

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

72. 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 799, Wis. Adm. Code. Licensee shall:
- a. Within three (3) days of the notification, inform via email to the department's designated inspector and the department's designated hazardous waste plan review staff person, of any notification of a discharge pursuant to ch. NR 706, Wis. Adm. Code' along with a brief description of the discharge.
 - b. Provide copies to the department's designated inspector and the department's designated hazardous waste plan review staff person of any written or electronic correspondence with the department regarding releases reported, investigated, or remediated under chs. 700-799, Wis. Adm. Code (regarding remediation and redevelopment), within one week of the correspondence, unless otherwise approved by the department.
73. Within four months of the date of this Approval, WM shall submit the following as a Class 1-1 license modifications request. The department reserves the right to require this modification request be resubmitted or reclassified if the information is incomplete or requires further clarification.
- a. Updated versions of Appendices 20 and 21 of the FPOR. At a minimum, the updated versions should contain all sampling information and results for soils, stormwater, and sediment monitoring performed pursuant to Conditions 60 and 61 of the Final Determination dated August 18, 2011 (including but not limited to the information presented in the July 26, 2023 email from Brooks Ray of CK Associates to the department's Douglas Coenen), and the environmental monitoring requirements of this Approval.

- b. Updates to the FPOR as presented in the June 19, 2023 email from Brooks Ray (CK Associates) to the department's Douglas Coenen, regarding wetlands information.
- c. An update to FPOR Section 4.1.1.1 summarizing the closure of Area S-15, and its approval.
- d. An updated version of the entire FPOR containing these updates, and a Record of Revisions for these entries.

74. 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

75. 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, and 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 also provide a copy to the department's designated hazardous waste plan review staff person.

Waste Analysis Plan and Waste Acceptance Conditions

76. Licensee shall maintain the following records for each shipment of waste accepted from off-site.
- a. All information gathered from the generator (or their authorized representative) upon which Licensee based its decision to accept or handle the waste including but not limited to:
 - (i) Records supporting the generator's hazardous waste determination under s. NR 662.011, Wis. Adm. Code (or the equivalent information if the waste is generated outside of Wisconsin).
 - (ii) The Waste Characterization Form (see Appendix A of the Waste Analysis Plan in the FPOR).
 - (iii) Other information to describe the waste provided by the generator or developed by Licensee (such as sampling information, laboratory analytical reports, safety data sheets).
 - (iv) The information required by s. NR 664.0013(1), Wis. Adm. Code.
 - b. Information used to confirm the acceptability of the waste upon its delivery, including container inspection records, waste screening records, waste observation records, sampling information, and laboratory analytical reports.
 - 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).
 - 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. (Note that the FPOR indicates that licensee does not propose use of this equipment).
 - j. For hazardous waste, information to determine whether equipment in contact with the hazardous waste is in heavy material service or light material service, as applied in Subchapter BB of s. NR 664, Wis. Adm. Code. (Note that the FPOR indicates that licensee does not propose use of this equipment).

- k. Information regarding underlying hazardous constituents and land disposal restrictions that is required by ch. NR 668, Wisc. Adm. Code, including but not limited to the notices required by s. NR 668.07, Wis. Adm. Code.
- l. All information or reports developed or possessed by Licensee regarding waste imports or wastes from a foreign source, including but not limited to information related to ss. NR 664.0012(1) and NR 664.0071(1)(c), Wis. Adm. Code, or subch. H of NR 662, Wis. Adm. Code.

This information and these records shall be cross referenced for each separate waste accepted at the facility so that the information is readily identifiable and promptly retrievable. This information and associated records shall be retained in the operating record for at least three 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 the course of any unresolved enforcement action regarding the regulated activity or as requested by the department.

77. Personnel that make decisions to approve waste streams and/or accept waste deliveries, and administrative, laboratory and receiving personnel and that support these decisions, shall be qualified and trained in accordance with the FPOR and the conditions of this Approval.
78. Licensee may only accept wastes with Waste Information Profiles (WIPs) that have been thoroughly reviewed by a properly qualified, trained, and competent person to determine that all of the following have been achieved:
 - a. The information presented in, or provided in support of, the WIP has been presented in a logical way that supports the generator's or (if applicable) authorized agent's conclusions.
 - b. The information and documentation comprising acceptable knowledge is sufficient to support the waste determination and to properly manage the waste.
 - c. The information presented in or provided with the WIP has been determined to be sufficient to reasonably demonstrate the generator's or (if applicable) authorized agent's familiarity with and competence in complying with the waste determination requirements of ss. NR 662.011(4) and (5) Wis. Adm. Code, and the information requirements of s. NR 662.011(6) Wis. Adm. Code.
 - d. Appropriate waste approval conditions to be met by the generator or (if applicable) authorized agent have been established and communicated.
79. Licensee shall ensure that the WIP includes a certification from the generator that a representative sample was collected when analytical data is used to characterize a waste. Nothing in this Approval shall diminish or otherwise affect the licensee's obligation to obtain all the information that must be known to properly treat, store or dispose of the waste, as required by s. NR 664.0013, Wis. Adm. Code.
80. Licensee shall develop an annual report by March 30 of each year that addresses cases when incoming shipments did or did not conform to their WIPs or otherwise resulted in discrepancies during the preceding calendar year, based on the results of Level I, II, and III analyses as described in sections 5.0 through 5.3 of the approved WAP. The report may be developed in lieu of the report described in section 5.4 of the approved WAP, and shall include the following information:
 - a. Identify the number of Level I analyses, Level II analyses, and Level III analyses, and the number of discrepancies found for each level.
 - b. Identify the nature and cause(s) for each discrepancy identified in Level I, II, and III analyses, and any apparent trends or commonalities.
 - c. Describe the steps taken by the facility to evaluate and resolve the discrepancies, including but not limited to and as applicable, obtaining information from the generator or its authorized representative to resolve the discrepancy, developing a new or revised WIP, and modifying the information required in the WIP and/or its approval.

- d. Identify and confirm that the Licensee has implemented measures and/or process improvements to prevent or minimize recurrence of the discrepancies and improve the quality of the information provided by generators in the future.
 - e. Include a description of any measures and/or process improvements (corrective actions) agreed to by the generator or authorized agent that describes the reason for a discrepancy and actions to be taken to prevent re-occurrence.
 - f. Include an analysis of the success of measures, process improvements, and corrective actions from the previous year's annual report.
 - g. Include a description of the following required follow-up actions and results: For any WIP found to be inaccurate through a Level I, II, or III analysis that results in a revised WIP or in modification or cancellation of a WIP approval, the facility shall review all other WIPs for wastes from that generator (including WIPs submitted by an authorized representative of that generator) for completeness, and confirm with the generator or authorized representative that the WIPs remain complete and accurate.
 - h. Be maintained in the operating record for at least 10 years, and submitted to the department upon request.
81. For wastes generated from the operation of licensed units, including wastes received, stored, and shipped off-site, and to comply with generator waste determination requirements of s. NR 662.011, Wis. Adm. Code, the Licensee may rely on, as acceptable knowledge, where applicable, information from the applicable WIP(s) provided by the original waste generator(s), but only if it determines, after a thorough and diligent review by a properly trained, qualified and competent individual, that the generator or authorized representative has followed the waste determination requirements in s. NR 662.011, Wis. Adm. Code.
82. 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.
83. For any approval of a WIP that is based in part or in whole on generator knowledge, the Licensee shall determine, after a thorough review, that the information is valid and sufficient.
84. All tests identified in the approved WAP (including parameters identified in Table 1 of the WAP as "(if applicable)" shall be performed except when the method does not apply. For example, certain methods may not apply because of the physical state of the waste (e.g., % suspended solids and pH are not required to be performed on a dry material) or because sufficient information and/or analytical data has been provided during the waste profiling process to document a method is not applicable.
85. Licensee shall retain in the operating record the WM Laboratory Corporate Governance (LCG) Program described in the WAP. In addition to the current LCG, any previous LCG version used within the prior three years shall be retained.
86. Licensee shall utilize an independent laboratory certified or registered under ch. NR 149, Wis. Adm. Code, for all Level II and III analyses, except for pH and ignitability tests performed in accordance with the WAP by Licensee's onsite lab.
87. Unless it represents a minor administrative change under Condition 18, a license modification is required prior to removal of information from the information included in the "EZ Profile" form contained in Attachment 2-1 of the FPOR's Waste Analysis Plan.

Financial Assurance Conditions

88. The FPOR's closure cost estimate of \$1,129,777 (in 2022 dollars) is the approved closure cost. The approved closure cost estimate shall be used to comply with the requirement for financial assurance for

closure in s. NR 664.0143, Wis. Adm. Code. Within one month of the date of this Approval, Licensee shall establish proof of financial assurance for closure in accordance with ch. NR 664, Wis. Adm. Code.

89. Licensee shall maintain, in the operating record, up-to-date closure cost estimates and financial proof mechanisms for closure and corrective action requirements as required by this Approval and/or by ch. NR 664, subch. H, Wis. Adm. Code. Cost estimates shall include applicable inflation adjustments as described in s. NR 664.0142(2), Wis. Adm. Code.
90. The closure or 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 point in time when Licensee becomes aware of any change (other than inflationary increases) that increases the 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.
91. 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.
92. All cost estimates shall:
 - a. be based on utilizing a third party (or third parties) to properly execute all closure activities;
 - b. include third party costs to manage and administer the work (e.g., project management, procurement, contract administration, invoice review and payment, etc.);
 - c. not consider cost efficiencies or special pricing for work that might otherwise be performed or facilitated by Licensee;
 - d. include a minimum 10% contingency for unanticipated or unforeseen work;
 - e. be broken out by discrete tasks and sub-tasks and include unit costs, quantities, and extended costs for each task and subtask.
 - f. use tasks and subtasks that are easily identified within the approved closure plan or corrective action plan, and in total shall include all work described in the approved closure plan and needed to achieve closure in accordance with subch. G of ch. NR 664, Wis. Adm. Code.
 - g. describe the basis for or source of the number of units and unit costs used in the cost estimate;
 - h. clearly indicate the year for which each unit cost is based, such that future inflationary adjustments can be accurately applied; and
 - i. include a cost summary in tabular format that:
 - (i) contains separate rows for each separate cost item, or task (and subtask as appropriate). Each task/subtask name and scope of work shall be as identified and described, respectively, in the closure plan;
 - (ii) contains separate columns that identify the task name; the estimated costs for that task including units, number of units, unit costs, and extended subtotals;
 - (iii) is also provided electronically in a spreadsheet format that is unprotected;
 - (iv) as applicable, incorporates separate tables for each year, and a summary table for all years;
 - (v) clearly accounts for and presents inflationary adjustments;
 - (vi) identifies the date of the cost estimate.
93. 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.

Corrective Action Conditions

94. Within four months of the date of this Approval, WM shall submit a revised and updated version of Section 4.28 of the FPOR (titled “NR 670.014(4) Solid Waste Management Units”). This updated section shall:
- a. Include a current listing of all Solid Waste Management Units (SWMUs) and Areas of Concern (AOCs, as defined in Federal Register, Vol. 63, No. 204, October 22, 1998, pg. 56715); this shall include all previously identified SWMUs and AOCs and, at a minimum, units S-1 through S-14, closed unit S-15, and any additional AOCs (such as the area associated with open BRRTS case 02-52-586974, and the areas of contaminated sediments).
 - b. Include the information identified in s. NR 670.014(4)(a) , Wis. Adm. Code.
 - c. Include a table that, for each SWMU and AOC, provides a summary of the information identified in s. NR 670.014(4)(a), Wis. Adm. Code.
 - d. Be submitted as a Class 1-1 license modification request.
95. Licensee shall perform investigations to determine the degree and extent of contamination as may be required under chs. NR 700-799, Wis. Adm. Code, in soils, groundwater, surface water and sediments, and to define corrective actions needed to properly remediate the contamination. In addition and more specifically, the following requirements shall be met:
- a. Licensee shall meet the requirements of case closure in the June 18, 2009 letter from the department’s Remediation and Redevelopment (RR) program for BRRTS case 02-52-305231.
 - b. Investigations shall be planned, designed, scheduled, and performed in accordance with the department’s Remediation and Redevelopment (RR) program requirements, as established in ch. 292, Wis. Stats., and chs. NR 700-799, Wis. Adm. Code, including BRRTS case #02-52-586974 and any other future BRRTS cases.
 - c. The investigations shall consider and account for all work reasonably anticipated to be necessary under ch. NR 724, Wis. Adm. Code, including development of the design report, design plans and specifications and the operation and maintenance plan of ss. NR 724.09, 724.11, and 724.13(2), Wis. Adm. Code, respectively.

The department reserves the right to require Licensee to develop cost estimates and financial assurance for completing such investigations.

96. Licensee shall develop and submit a report that summarizes the results of the investigations and based on these results, describes the Remaining Work (as defined below) that is reasonably anticipated as needed to complete corrective actions (Corrective Action Plan, or CAP). The CAP shall be submitted within six months of the date of this Approval and shall be submitted as a Class 2 license modification request in accordance with s. NR 670.042, Wis. Adm. Code, unless the department approves a request by the Licensee per s. NR 670.042(4)(a), Wis. Adm. Code, to classify the request as a Class 1-1 modification. The department recommends that the CAP be prepared and submitted in a manner consistent with the design report, design plans and specifications and the operation and maintenance plan of ss. NR 724.09, 724.11, and 724.13(2), Wis. Adm. Code, respectively. The CAP shall describe the work using discrete tasks to facilitate and support proper cost estimates. At a minimum, the CAP shall include:
- a. A detailed description of all work needed, as of the date (“CAP Effective Date”) that is specified in the CAP, to complete corrective actions (“Remaining Work”). The CAP Effective Date shall be no more than 90 days prior to the date that the CAP is submitted. The Remaining Work shall include, but not necessarily be limited to, all activities required to design, implement, operate and manage corrective action and remediation work (including but not necessarily limited to site investigations, 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) needed to achieve case closure per ch. NR 726, Wisc. Adm. Code. The Remaining Work shall also include any reasonably anticipated work to be accomplished after such case closure including, but not necessarily limited to, confirmatory monitoring and continuing obligations per ch. NR 727, Wisc. Adm. Code.
- b. A corrective action schedule with key milestones, milestone dates, and the estimated date when corrective action will be complete.
 - c. A section called the Financial Assurance Report (“FA Report”) that includes a cost estimate for all Remaining Work. If site investigations necessary to select and design remediation activities are still needed, the cost estimate shall nonetheless consider an assumed scope of work based on best professional judgement. The FA Report and its cost estimates shall be developed, certified, and stamped by a qualified professional engineer as described in s. NR 670.014(1), Wis. Adm. Code, and certified as required by ch. NR 712, Wis. Adm. Code.
97. Within 60 days after submitting the CAP, Licensee shall establish proof of financial assurance for corrective action in at least the amount of the CAP’s cost estimate for the following 10 years, in a form acceptable to the department in consideration of the standards laid out in ss. 664.0145(1) to (5), (7) and (8), Wis. Adm. Code (“Acceptable Form”). The department reserves the right, upon its review of the CAP and the license modification request, to require changes to the Remaining Work, cost estimate and financial assurance amount.
98. By April 30 of each year following submittal of the CAP, Licensee shall submit a corrective action plan update (CAPU). If the estimated time required for corrective action to be complete exceeds 10 years, then the CAPU shall be required every other year. This report may be combined with the semi-annual or annual reports provided to the department as may be required under chs. NR 700 through 799, Wis. Adm. Code. The CAPU 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. All information should reflect conditions known as of December 1 of the previous year, unless stated otherwise (for the purposes of this approval, the “Effective Date”); however, the Effective Date must fall between October 1 and December 31 of the previous year. At a minimum, this report shall include the following:
- a. A description of corrective action activities and results, and monitoring activities and results, for the reporting period (the time between the previous two Effective Dates), including but not limited to methods, data, data analysis, and conclusions. This shall include a report on the progress and effectiveness of the corrective action program.
 - b. A description of the estimated Remaining Work as of the Effective Date, and schedule to complete corrective actions.
 - c. A summary of changes in the estimated Remaining Work from the most-recent CAP or CAPU, and an explanation of the reasons for the changes.
 - d. A financial assurance section, representing an updated FA report, including the estimated costs for the Remaining Work; this shall incorporate the adjustment for inflation using the general process and inflation factor specified in s. NR 664.0144(2), Wis. Adm. Code. The updated FA Report shall include the previous cost estimate and a detailed explanation of the reasons for any changes in the cost estimate. If inflation is utilized in the cost estimate, the general process and inflation factor specified in s. NR 664.0144(2), Wis. Adm. Code, shall be used.
99. The department reserves the right, upon its review of the CAPU or corrective action activities, to require changes to the Remaining Work, cost estimate and financial assurance amount. Examples of such changes are modifications the department deems necessary to the Remaining Work (such as additional investigations, effectiveness of remedial action options, pilot or trial treatment testing, changes in the

estimated duration of the work, and monitoring program changes), and corrections to the cost estimate's units, quantities, and unit costs. The financial assurance amount shall be adjusted within 60 days of these changes to reflect the effect of comments or requirements provided by the department.

100. Licensee shall establish maintain the proof of financial assurance for corrective action in a form acceptable to the department. If the cost estimate in the CAPU's updated FA Report increases from the previous cost estimate, the amount of the proof of financial assurance for corrective action shall be increased by June 30 of each year, in an amount equal to or greater than the cost estimate. The financial assurance amount shall consider the effect of comments or requirements provided by the department after its review of the CAPU and updated FA Report. The proof of financial assurance dollar amount for corrective action shall not be reduced until a license modification in accordance with s. NR 670.042, Wis. Adm. Code is approved.
101. The corrective action cost estimate shall be updated whenever a change in the Remaining Work or associated costs becomes known to Licensee, or is required by the department, that increases the corrective action cost estimate by more than 5%. Proof of financial assurance reflecting the new cost estimate shall be established within 60 days of any such increase in the cost estimate.
102. The proof of financial assurance dollar amount for corrective action shall not be reduced until a license modification in accordance with s. NR 670.042, Wis. Adm. Code is approved.

Environmental Monitoring Conditions

103. Until an alternate soil sampling plan is approved, Licensee shall continue to comply with conditions 59.a through 59.e of the final determination dated August 18, 2011, except that:
 - a. Sampling shall be performed annually.
 - b. All results shall be submitted in accordance with condition 105.
104. Within 60 days of the date of this Approval, Licensee shall develop and submit, for review and approval by the Department a Class 1-1 license modification that includes an alternate soil sampling work plan meeting the requirements of one of the two options below:
 - a. Option 1
 - i. Describe the proposed sampling design and sampling methods. Provide the rationale for the design and methods chosen including how decision units (DUs) were developed based on the current conceptual site model (CSM).
 - ii. Include Standard Operating Procedures (SOPs) for all field soil sampling methods, subsampling methods, laboratory preparatory and analytical methods, and any other methods utilized.
 - iii. Describe the laboratory analysis being performed and whether appropriate detection limits are achievable. Discuss any sampling or subsampling methodology that could impact the volatilization of elemental mercury and how those potential impacts will be assessed.
 - iv. Include a grid sampling design scaled for each DU to allow collection of representative samples.
 - v. Use soil sampling depth intervals of 0-6" and 6-12" below ground surface (bgs) or other intervals necessary based on surface conditions and impediments.
 - vi. Include figures depicting proposed sampling locations for each DU.
 - vii. Consider utilizing X-ray fluorescence (XRF) in the field for sampling location selection/verification.
 - viii. Sampling results for each DU may be reviewed to determine if continued sampling is

necessary. All modifications to the DUs or elimination of any DUs requires prior department approval and must be justified based on the CSM.

b. Option 2

- i. Develop a work plan that uses Incremental Sampling Methodology (ISM) and follows the Interstate Technology Regulatory Council (ITRC) Incremental Sampling Methodology guidance, dated October 2020 (<https://ism-2.itrcweb.org/>).
- ii. The detailed work plan shall explain the proposed sampling methodology and how it supports development/understanding of the CSM, and clearly identify the work plan goals and boundaries.
- iii. Utilize a minimum of 30 increments for each DU. Use soil sampling depth intervals of 0-6" and 6-12" bgs or other intervals necessary based on surface conditions and impediments.
- iv. Collect triplicates for a minimum of three DUs including those DUs where historic releases have occurred. Use the triplicate results to calculate the 95% upper confidence limit (95% UCL) of the arithmetic mean and the relative standard deviation (RSD). An RSD of 20% or less will be considered acceptable.
- v. Analyze subsampling replicates to assess potential variability resulting from the subsampling method. Analyze replicates for increments from at least three DUs including those DUs where historic releases have occurred. Discuss whether the sample processing and subsampling will be conducted in the field or the lab.
- vi. If additional depth intervals are collected, the same number of increments and triplicates apply.
- vii. Include SOPs for all field soil sampling methods, subsampling methods, laboratory preparatory and analytical methods, and any other methods utilized.
- viii. If SOPs are not available for specialized ISM sampling or subsampling methodology, incorporate a detailed plan for sample processing and subsampling, for both field and lab methodology.
- ix. Describe the analysis being used and whether appropriate detection limits are achievable. Discuss any sampling or subsampling methodology that could impact the volatilization of elemental mercury and how those potential impacts will be assessed.
- x. Include figures depicting proposed sampling locations for each DU.
- xi. Sampling results for each DU may be reviewed to determine if continued sampling is necessary. All modifications to the DUs or elimination of any DUs requires prior department approval and must be justified based on the CSM.

105. Within 30 days of completion of the field work and receipt of the laboratory data, Licensee shall submit a report that includes the following:

- a. Site name, location, and identification numbers,
- b. Consultant's name, address and contact information,
- c. Detailed description of work performed, observations, and results,
- d. Description of any deviations from the approved work plan,
- e. Figures depicting site location, site features and the sample locations for each DU,
- f. Tables illustrating the field and laboratory results, including all appropriate regulatory limits/standards and units,
- g. Laboratory name and location, sample label/ID, date of each sample, analytical methods and tested parameters, method detection limits and analytical results, holding times, QA/QC procedures used, and chain of custody documentation, and
- h. Submit a copy of the report to the department's RR Program project manager for BRRTS case #02-52-586974 (in addition to the department's hazardous waste program representatives).

106. Additional environmental monitoring (e.g. further soil sampling, sampling of sediment, sampling of surface water) shall be performed as required to meet the requirements of chs. NR 700-799, Wis. Adm. Code, and the conditions (including but not limited to the Corrective Action Conditions) of this Approval.
107. Additional environmental monitoring (e.g., further soil sampling, sampling of sediment, sampling of surface water) shall be performed as required to meet the requirements of chs. NR 700-799, Wis. Adm. Code, and the Corrective Action Conditions of this Approval.

Closure Conditions

108. Licensee shall follow the approved closure plan when closing all or part of the hazardous waste facility.
109. Closure confirmation samples shall be grab samples. Closure confirmation sampling must demonstrate that all areas of a unit have been successfully cleaned.
110. 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).
111. Sampling methods and equipment, as well as laboratory analytical methods, shall follow the guidance in U.S. EPA's SW-846, "*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition*" (see 40 CFR 260.11).
112. Licensee shall use the lowest available analytical Method Detection Limit (MDL) for the hazardous constituents associated with listed hazardous wastes.
113. 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.
114. 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.
115. The closure report shall describe in detail how the cleaning methods and the surfactants chosen are suitable for the contaminants to be removed, including at a minimum:
- If detergent washing and water rinsing are selected, the closure report must demonstrate that the detergent solution will remove the contaminants of concern. This may, for example, be demonstrated with solubility data from product specification sheets or standard chemical tables.
 - The closure report must address the length of time the cleaning solutions were in contact with the surface and whether or not scrubbing, pressure washing, or other physical efforts were needed or used to achieve decontamination.

- 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.
116. The closure certification 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.
117. The closure certification 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.
118. The closure certification 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.
119. The closure certification 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.
120. The closure report certification 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.
121. 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).
122. The closure certification report shall include a table summarizing the data reported by the lab. The table shall include concentration data, even if it is estimated, for compounds or elements that have been positively identified in the sample.
123. The closure certification 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.
124. 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.
125. A closure certification report is required for partial and final closure. Closure is not complete until the department approves in writing the certification report, which must demonstrate that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan and the closure performance standards of s. NR 664.0111, Wis. Adm. Code. The closure certification report shall include documentation supporting this demonstration and certified by a qualified professional engineer. 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 you to provide further information. Likewise, the department accepts proposals to modify the FPOR and approvals, as provided for in state statutes and administrative codes.

NOTICE OF APPEAL RIGHTS

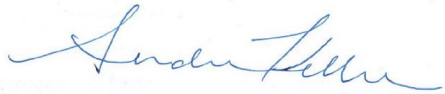
If you believe you have a right to challenge this decision made by the department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing department decisions.

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

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

Dated: _____

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