NOTICE OF DECISION

The Commissioner of the Indiana Department of Environmental Management (IDEM) has issued a Hazardous Waste Management Operating Permit Renewal to Heritage Environmental Services, LLC (HES) located in Indianapolis, Indiana. The permit will allow HES to continue to operate a hazardous waste treatment and storage facility.

To view the Hazardous Waste Management Permit, go to www.IN.gov/IDEM, and from the Online Services drop-down menu, select “Virtual File Cabinet” and then click on the Virtual File Cabinet link. After checking the “I’m not a robot” box, enter the document number in the upper right-hand corner of the document search page.

Permit Conditions 82885834
Permit Attachments:
A 82885505  B 82885507  C 82885832  D 82885508  E 82885511
G 82885512  H 82885513  I 82885514  J 82885516

A Response to Comments has been prepared for comments received during the public comment period. The Response to Comments is enclosed for your information.

Any aggrieved party has the right to appeal this decision pursuant to IC 4-21.5-3-7 (see enclosure). The Petition for Administrative Review and the Petition for Stay must be submitted to the Office of Environmental Adjudication within 15 days of your receipt of this notice.

If you have questions regarding this notice, please contact Ms. Paula Bansch at (317) 232-3243 or pbansch@idem.IN.gov.

Sincerely,

Rebecca Eifert Joniskan
Rebecca Eifert Joniskan, Chief
Permits Branch
Office of Land Quality

PJB/gjo
Enclosures
What if you are not satisfied with this decision and you want to file an appeal?

Who may file an appeal?
The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a "Petition for Administrative Review" to request an "administrative hearing".

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved and adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Environmental Adjudication (OEA) was established by state law – see Indiana Code (IC) 4-21.5-7 – and is a separate state agency independent of IDEM. The jurisdiction of the OEA is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OEA, your appeal may be considered by an Environmental Law Judge.

What is required of persons filing an appeal?
Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).

The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a "Petition for Administrative Review" (appeal), you may wish to specifically request that the action be "stayed" (temporarily halted) because most appeals do not allow for an automatic "stay". If, after an evidentiary hearing, a "stay" is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not "stayed" the IDEM-approved activity will be allowed to continue during the appeal process.
Where can you file an appeal?
If you wish to file an appeal, you must do so in writing. There are no standard forms to fill out and submit, so you must state your case in a letter (called a petition for administrative review) to the Indiana Office of Environmental Adjudication (OEA). Do not send the original copy of your appeal request to IDEM. Instead, send or deliver your letter to:

The Indiana Office of Environmental Adjudication
Indiana Government Center North, Room N103
100 North Senate Avenue
Indianapolis, IN 46204

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal (petition for administrative review) must be received by the Office of Environmental Adjudication in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:
1) Delivered in person to OEA, by the close-of-business on the eighteenth day (if the 18th day falls on a day when the Office of Environmental Adjudication (OEA) is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OEA is open), or
2) Given to a private carrier who will deliver it to the OEA on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
3) For those appeal requests sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
4) Faxed to the OEA at 317-233-9372 before the close-of-business on the 18th day, provided that the original signed "Petition for Administrative Review" is also sent, or delivered, to the OEA in a timely manner.

What are the costs associated with filing an appeal?
The OEA does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. However, OEA does charge a fifteen cent ($0.15) per page fee for copies of any documents you may request. Another cost that could be associated with your appeal would be for attorney's fees. Although you have the option to act as your own attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

What can you expect from the Office of Environmental Adjudication (OEA) after you file for an appeal?
The OEA will provide you with notice of any prehearing conference, preliminary hearings, hearings, "stays," or orders disposing of the review of this decision. In addition, you may contact the OEA by phone at 317-233-0850 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with OEA other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OEA is not allowed to discuss a case without all side being present. All parties to the proceeding are expected to appear at the initial prehearing conference.
RESPONSE TO COMMENTS
RCRA DRAFT PERMIT RENEWAL
HERITAGE ENVIRONMENTAL SERVICES, LLC
INDIANAPOLIS, INDIANA
IND093219012

INTRODUCTION

The public comment period for the Heritage Environmental Services, LLC (HES), Draft Permit Renewal began on September 27, 2019, with a public notice in the Indianapolis Star and a mass mailing to interested parties. The notice and announcement requested comments regarding the Draft RCRA Permit Renewal. The public comment period ended on November 12, 2019.

This Response to Comments is issued pursuant to 329 IAC 3.1-13-13, which requires that the Indiana Department of Environmental Management (IDEM) shall:

1. briefly describe and respond to all significant comments on the Draft Permit;

2. specify which provisions, if any, of the Draft Permit have been changed, and the reasons for the change; and

3. explain the right to request an adjudicatory hearing on the permit as specified in IC 4-21.5.3.5 (see Notice of Decision).

RESPONSE TO PUBLIC COMMENTS

No comments were received from the public.

RESPONSE TO FACILITY COMMENTS

HES submitted the following comments in accordance with the public comment procedures. The comments are described in the following sections along with the IDEM's response and any changes made as a result of the comments.

1. Comment
   Permit Condition 1.D.1, Page 10
   Please correct the typographical error "mustl" to "must"

Response
IDEM concurs.

Change
As requested.
2. **Comment**  
Permit Condition I.D.3, Page 10  
Please change the first sentence to read: "The duration of this permit shall not exceed the expiration date shown on Page 1 of the Permit, except...,”

**Response**  
IDEM concurs, with the deletion of ‘...of the Permit...’.

**Change**  
As requested.

3. **Comment**  
Permit Condition I.H.6, Page 16  
This section of the permit states, “Except as noted in the regulations, until closure is completed and certified by the owner/operator and a qualified professional engineer, the Permittee must maintain at the facility the most recent version of the following documents required by this permit.” Under Item 6., the requirements of the operating record specified at 40 CFR Part 264.73 have varying requirements some of which do not require the information to be maintained until closure of the facility. Heritage requests the addition of the phrase ‘which are more particularly described in Attachment B of the permit’ to clarify the operating record requirement for the facility.

**Response**  
IDEM concurs with the issue presented, and recognizes Attachment B may not be the only place varying requirements may exist, either now or in the future. Therefore, the phrase, “and any attachment to this permit”, has been added in to the first paragraph of Permit Condition I.H.

**Change**  
Permit Condition I.H., “Except as noted in the regulations, and any attachment to this permit, until closure.....”

4. **Comment**  
Permit Condition II.A.1, Page 18  
Heritage requests that the paragraph be deleted from the permit. Imports and exports of hazardous waste from/to foreign sources was significantly changed and the requirement specified in Section II.A.1 referencing 40 CFR Part 264.12(a) and 329 IAC 3.1-9 are no longer a regulatory requirement as a result of federal regulatory changes that became effective in late 2016. Heritage proposes the following language to accommodate the revised regulation:
(1) If the Permittee is arranging or has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H from a foreign source, the Permittee must submit the following required notices when applicable to the EPA:

(a) In accordance with 40 CFR 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, where the Permittee, if acting as the importer, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in 40 CFR 262.84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(b) In accordance with 40 CFR 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three (3) working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three (3) years. The Permittee may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility’s account on EPA’s Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. The Permittee may not be held liable for the inability to produce the documents for inspection under this section if the Permittee can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA’s Waste Import Export Tracking System (WIETS), or its successor system for which the Permittee bears no responsibility.

(c) In accordance with 40 CFR 262.84(f)(4), if the Permittee has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, the Permittee must inform EPA, using the allowable methods listed in 40 CFR 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(d) In accordance with 40 CFR 262.84(g), the Permittee shall:
(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system.

(ii) If the Permittee performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA’s Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in this paragraph are defined in 40 CFR 262.81.

Response
If the Permittee accepts waste from a foreign source, it must comply with the notice requirements at 40 CFR 264.12(a). Permit Condition II.A.(1) has been revised to reference this in a general manner. Please note, the State became authorized for this rule on December 26, 2019.

Change
Permit Condition II.A.(1) has been revised to the following: Before receiving hazardous waste from a foreign source, the Permittee must provide notice to the Commissioner. 329 IAC 3.1-9, 40 CFR 264.12(a).

5. Comment
Permit Condition II.K.5, Page 21
Heritage objects to the term “properly” in the sentence as it arbitrary and the Closure Plan specifically describes the decontamination processes. Please remove the word “properly.”

Response
IDEM concurs the closure plan addresses decontamination, however IDEM also notes, 40 CFR 264.114 states, “….structures and soils must be properly
disposed of or decontaminated unless otherwise specified...” Permit Condition II.K.5. has been revised to a more accurate reflection of the rule.

Change
Permit Condition II.K.5. has been revised as follows, “When closure is completed, the Permittee must properly dispose of or decontaminate all facility equipment contaminated with hazardous waste as required by the Closure Plan.”

6. Comment
Permit Condition II.K.6, Page 21
Heritage is unaware of any regulation that contains the language provided in the second paragraph specifying the requirement for a permit modification term as well as a timeframe.

Heritage does not object to the condition in its entirety and offers the following revision:
For a partial closure, the Permittee shall submit a permit modification no later than 180 days after certification approval that removes that unit from service, replaces the unit, proposes a new unit to be permitted, or requests to the Commissioner that a time extension be granted for good cause. Administratively removing a unit from service after partial closure is considered a Class 1 permit modification in accordance with 40 CFR Part 270. Replacement of any partially closed unit will be a Class 1 permit modification in accordance with the requirements of 40 CFR Part 270.

Response
IDEM agrees to change the time frame for submitting a permit modification after a partial closure certification approval from 45 days to 180 days. Also, as to what will happen if a permit modification is not submitted, the permit language has been revised to state the permit capacity for the partially closed unit will be removed. Also, the permit language has been revised to clarify the waste codes approved for the partially closed unit will be removed or revised based on the permit modification. The permit modification class type depends on the actual modification proposed and therefore, the permit will not specify the modification class.

Change
Permit Condition II.K.6., second paragraph has been revised to, “For a partial closure, the Permittee shall submit a permit modification no later than 180 days after certification approval that removes that unit from service, replaces the unit, proposes a new unit to be permitted, or requests to the Commissioner that a time extension be granted for good cause. If a permit modification is not submitted within 180 days, the permitted capacity for the partially closed unit will be
removed. The approved waste codes for the partially closed unit will be removed or revised based on the permit modification.”

7. **Comment**
   Permit Condition III.A.1, Page 24
   On Table 1, Please add a (3) to the first column to reference Footnote 3 at the bottom of the table. It is suggested that Attachment D – Container Storage Plan be referenced in Footnotes 1, 3, 5, 8, 9, and 10 on Table 1.

   **Response**
   IDEM concurs.

   **Change**
   As requested.

8. **Comment**
   Permit Condition III.E.2.a, Page 25
   Add the word “**hazardous**” prior to the word “wastee” in paragraph III.E.2.a.

   **Response**
   IDEM concurs.

   **Change**
   As requested.

9. **Comment**
   Permit Condition III.E.2.a, Page 25
   Heritage requests that the second sentence in III.E.2.a be revised to the following: “**Incoming hazardous waste shall be placed in permitted units within 72 hours of entering the facility boundary (or contiguous property controlled by the permittee) unless the Permittee rejects all or part of the hazardous waste shipment. This timeframe may be automatically extended by the number of hours when the operating day definition shown below has not been met.**”

   **Response**
   IDEM agrees to the first sentence in the request. The second sentence will not be added to the permit. The Permittee has 72 hours; that 72 hour period begins when the waste crosses the boundary of the facility.

   **Change**
   As noted in response, the first sentence of the request has been incorporated in the permit.
10. **Comment**  
Permit Condition III.E.2.a., Page 25  
Please delete the word "load" and replace with the words "hazardous waste" in paragraph III.E.2.a.

**Response**  
IDEM concurs.

**Change**  
As requested.

11. **Comment**  
Permit Condition III.E.2.b., Page 25  
Please add the word "hazardous" after the word containerized in the first sentence of the paragraph.

**Response**  
IDEM concurs. In addition, it was added to line 4.

**Change**  
As requested, along with line 4.

12. **Comment**  
Permit Condition III.E.2.b., Page 25  
Heritage requests that the phrase, "**unless such hazardous waste is considered generator hazardous waste as described in Section III.E.2.(d)(ii)**" be added to the end of paragraph III.E.2(b). This phrase was removed from the current Heritage permit in the draft permit issued by the IDEM although the language was added to the permit with Heritage Class 1 Permit Modification IN16-6 and approved by the IDEM in August 2016.

**Response**  
IDEM has added the language "...unless such waste is considered the Permittee’s generated waste, as defined in 40 CFR 260.10 and subject to 40 CFR 262 standards." This revision addresses the on-site generated waste issue, as well as the definition of such.

**Change**  
As noted in aforementioned response.

13. **Comment**  
Permit Condition III.E.2.c., Page 25  
It is unrealistic and impractical, for Heritage to comply with the arbitrary restriction imposed in Item (c). On any given day and at any given time, Heritage could
easily have more than the volume specified at the facility in tankers (the average tanker is 5,500 gallons), roll-off boxes, box vans, dump trucks, etc. at the facility in the process of loading, unloading, sampling, steam thawing, or cleaning which renders the permitted container storage capacity at the facility essentially useless. What is the basis and reasoning for the value proposed by the IDEM in the draft permit? What specific, additional environmental protection will be accomplished by this seemingly arbitrary requirement? To constantly measure this arbitrary ceiling to assess compliance with hundreds of trucks and thousands of containers being processed at the facility on a weekly basis borders on unmanageable, for no obvious benefit to human health and the environment.

The proposed restriction is a *de facto* modification of Heritage's permitted storage capacity. In other words, Heritage will have to keep multiple permitted storage bays empty, so as to allow incoming shipments from customers and the assembling of outbound shipments to third party TSDs which are normal business practices. Heritage determined the current container storage capacity based on NOT having to count inbound, outbound, or “in process” staged materials, satellite accumulation, and 90-day accumulation against permitted storage capacity. Significant capital investments were made on that basis. Due to both space limitations and availability of capital, Heritage is not in the position to permit additional permitted storage capacity that will not be used, simply to continue the current level of business and conduct shipping and receiving at an industrial facility. Heritage operates TSDs in other states and other USEPA regions without such restrictions. Heritage is not a start-up company, but has been in business for nearly 50 years, and the Heritage facility in Indianapolis predates the effective date of the RCRA regulations.

It has been Heritage’s experience that the proposed condition being imposed is also administratively burdensome, time consuming, and without any apparent benefit when taken in conjunction with specific time limitations for “staging” at the facility (also without any regulatory basis in the Indiana Administrative Code) for a company to reasonably demonstrate at a moment’s notice to IDEM representatives conformance with the requirements (especially with continually changing inventory as well as classification of said inventory necessary to conform with the proposed operating permit) while meeting the requirements for responsible waste management. Despite sophisticated state of the industry inventory management and control systems used by the company, these efforts seemingly provide little or no benefit to the company, the community, the IDEM, or human health and the environment.

The following table provides the permitted storage capacity distinguishing between facility capacity for units permitted for free liquids and units permitted for no-free liquids (many units are permitted for both and the table below splits the volume appropriately under a reasonable use scenario). The draft permit only considers container storage units and tank systems (943,737 gallons), which given Heritage’s understanding of the intent of the limitation imposed by IDEM in
the draft permit results in limitations that are unreasonable. The constructed, permitted capacity (with accompanying financial assurance) is more than two times the proposed limitation as shown on the table below. Based on past experience with IDEM representatives, Heritage is concerned that the IDEM will issue violations for improperly categorizing free liquids/paint filter pass in capacity determinations especially during the 72-hour staging time-frame between the moment a waste crosses the property line and any testing is conducted to validate whether or not a material contains free liquids. The proposed Condition III.E.2(c) is arbitrary and capricious, and without regulatory basis in the Indiana Administrative Code or federal regulation.

<table>
<thead>
<tr>
<th>Permitted and Constructed Capacity (in Gallon Equivalents)</th>
<th>Free Liquids Storage and Treatment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Container Storage Units</td>
<td>142,660</td>
</tr>
<tr>
<td>Tank Treatment and Storage</td>
<td>715,163</td>
</tr>
<tr>
<td>Containment Buildings</td>
<td>94,530</td>
</tr>
<tr>
<td><strong>Total Free Liquid Storage and Treatment</strong></td>
<td><strong>952,353</strong></td>
</tr>
<tr>
<td>No Free Liquids Storage and Treatment</td>
<td></td>
</tr>
<tr>
<td>Container Storage Units</td>
<td>72,000</td>
</tr>
<tr>
<td>Tank Treatment and Storage</td>
<td>13,524</td>
</tr>
<tr>
<td>Containment Buildings - Solids</td>
<td>680,605</td>
</tr>
<tr>
<td>Subpart X Units - Pug Mill Units Solids</td>
<td>22,620</td>
</tr>
<tr>
<td>Subpart X Units - Filter Pressos Solids</td>
<td>60,588</td>
</tr>
<tr>
<td><strong>Total Capacity (No Free Liquids)</strong></td>
<td><strong>1,801,680</strong></td>
</tr>
<tr>
<td><strong>Total Facility Capacity Permitted and Constructed Units</strong></td>
<td><strong>2,754,043</strong></td>
</tr>
</tbody>
</table>

Heritage preference is to remove paragraph III.E.2.c. However, as a good faith effort, Heritage proposes the following language to resolve this matter, which contained similar language as the permit issued by the IDEM in late 2012, appealed by Heritage in Permit Cause 13-S-J-4654, and remains unresolved.

**Excluding hazardous wastes in Paragraph III.E.2.d, no more than 2,754,043 gallons of hazardous waste containing free liquids and hazardous waste that do not contain free liquids at any given time in permitted units (tanks, container storage areas, containment buildings, or Subpart X units) and staging areas combined. All containers of hazardous waste at the facility shall be counted towards this capacity including, but not limited to, containerized hazardous waste in trucks, in trailers, on the loading docks, in permitted storage units, and in processing areas.**

**Response**

IDEM does not agree to add the proposed language, "Excluding hazardous wastes in Paragraph III.E.2.d" since those wastes are offsite wastes. Only generator hazardous wastes as defined in 40 CFR 260.10 subject to 40 CFR 262 will be excluded from the plant's permitted capacity.
IDEM agrees to revise the staging capacity based on the above table, except for the following:

(a) In the table titled *Permitted and Constructed Capacity (in Gallon Equivalents)*, a line indicating the total volume of *No Free Liquids Storage and Treatment* was omitted, and, as a result, the total volume of permitted and constructed capacity was totaled erroneously. According to the table, the correct total of No Free Liquids Storage and Treatment is 849,337 gallons. And, it follows that the total capacity indicated in the table is also incorrect.

(b) Only capacities for units currently existing at the facility will be included. Volumes for units currently out of service, not installed/constructed, or partially closed will be subtracted from the capacity allowed for staging since these units do not physically exist at the facility and, therefore, are not available to manage wastes. For example, the volume of the pug mills will not be included since they are out of service/not installed.

**Change**

Permit Condition III.E.2(c) is revised as follows:

Excluding generator wastes defined in 40 CFR 260.10 subject to 40 CFR 262 standards, no more than 952,353 gallons of liquid hazardous wastes and 849,337 gallons of no free liquid hazardous wastes shall be at the facility at any given time in all of the permitted units (i.e., tanks, container storage areas, containment buildings and Submit X units) and staging areas combined. This volume shall be reduced by the total of volume of units currently out of service, not installed/constructed, or partially closed at the facility. All containers of hazardous wastes at the facility shall be counted towards this capacity including, but not limited to, containerized hazardous wastes in trucks, in trailers, on the loading docks, in permitted storage units, and in processing areas.

14. **Comment**

Permit Condition III.E.2

Heritage requests that the IDEM add the permit condition described in Section III.E.2.d in the current permit be added to the draft permit issued by the IDEM on September 27, 2019. This section was removed from the current Heritage permit in the draft permit issued by the IDEM although the language was added to the permit with Heritage Class 1 Permit Modification INI16-6 and approved by the IDEM in August 2016.

**d) Non-Processed Hazardous Waste intended for off-site shipment.**

(i) The Permittee shall ensure that transport vehicles loaded with non-processed hazardous waste intended for shipment off-site leave the facility within 72 hours of the time the hazardous waste is first moved
out of permitted storage areas for loading onto transport vehicles, provided the transport vehicle is located outside a permitted storage area at the facility. If the shipment is cancelled, the waste must be placed back into permitted storage within the original 72-hour period. Non-processed hazardous waste means hazardous waste received from off-site in the original or overpacked containers. Non processed hazardous waste may be subsequently commingled, aggregated, consolidated or mixed with other wastes into a bulk container, but remains non-processed waste.

(ii) This permit condition is not applicable to hazardous wastes rejected under III.E.2(a), hazardous waste satellite accumulation areas, or hazardous waste generated from the following: treatment processes, a spill or release, equipment maintenance or cleaning (including cleaning of containers used for transportation during the normal course of business), laboratories, or similar processes where the Permittee is identified as the generator or offeror as defined in 40 CFR Part 260.10 subject to 40 CFR Part 262.

Response
IDEM agrees to add the requested language with some modifications.

Change
The following is added as Permit Condition III.E.2(d)
Non-processed hazardous waste intended of off-site shipment:
(i) The Permittee shall ensure that transport vehicles loaded with non-processed hazardous waste intended for shipment off-site leave the facility within 72 hours of the time the hazardous waste is first moved out of permitted storage areas for loading onto the transport vehicle, provided the transport vehicle is located outside a permitted storage area at the facility. If the shipment is cancelled, the waste must be placed back into permitted storage within the original 72-hour period. Non-processed hazardous waste may be subsequently commingled, aggregated, consolidated, or mixed with other wastes into a bulk container, but remains non-processed hazardous waste.
(ii) This permit condition is not applicable to hazardous waste rejected under II.E.2(a), hazardous waste satellite accumulation areas or hazardous waste generated from the following: treatment processes, a spill or release, equipment maintenance or cleaning (including cleaning of containers used for transportation purposes during the normal course of business), laboratories; or similar processes where the Permittee is identified as the generator as defined in 40 CFR 260.10 subject to 40 CFR Part 262.

15. Comment
Permit Condition III.J.3, Page 26
Heritage objects to the addition of Paragraph III.J.3 to the permit which results in automatic removal of a closed container storage unit. In accordance with a settlement between Heritage and IDEM, Heritage submitted a permit modification
(INI15-1) to the IDEM that was approved by the IDEM on April 6, 2015 that removed permit condition II.J.3 from the current permit. This item was removed from the permit in partial settlement of Permit Cause 13-S-J-4654. Heritage requests that the IDEM provide the regulatory citation that represents the basis for condition III.J.3. Heritage has conducted multiple partial closures that were subsequently changed or modified (tank replacement) that do not reduce the capacity of the facility or the waste types and are part of routine facility management practice in conformance with the regulatory requirement. Partial closure may be required prior to a reconstruction or rehabilitation of a container storage area and automatically adjusting permitted capacity and waste codes for this activity is not warranted. Heritage requests that the condition be removed from the permit as permit condition II.K.6 appears to address IDEM concern embodied in the proposed permit condition.

Response
IDEM agrees to delete this condition since this is addressed in comment #6 regarding Condition II.K.6.

Change
Permit Condition III.J.3 is deleted.

16. Comment
Permit Condition IV.A.1, Page 27
Please correct the tank capacity for Tank J, Tank K, and Tank L. The volume for Tank J is 586 gallons, Tank K is 586 gallons, and Tank L is 1,513 gallons. The total volume will need to be adjusted accordingly to 728,687 gallons.

Response
IDEM agrees to revise the tank capacity. Additionally, the table in Attachment D, Tank Systems General Information, Section D-2a(2) has also been revised.

Change
The tables in Permit Condition IV.1 and in Attachment D, Tank Systems General Information, Section D-2a(2) have been adjusted to indicate the volume for Tank J as 586 gallons, Tank K as 586 gallons, and Tank L as 1,513 gallons. The values for the Total (permitted) and Total (current) has been adjusted to 732,142 gallons and 728,687 gallons, respectively.

17. Comment
Permit Condition IV.G.2, Page 30
Heritage requests that language specified in IV.G.2 be revised to the language that was agreed upon by Heritage and the IDEM to partially resolve the permit appeal for the permit issued in 2013. In accordance
with a settlement between Heritage and IDEM, Heritage submitted a permit modification (INI15-1) to the IDEM that was approved by the IDEM on April 6, 2015 modifying the permit condition. This item was modified in partial settlement of Permit Cause 13-S-J-4654. The text in the draft permit was modified from the current permit language provided below.

2. In the event of a leak or a spill from the tank system, from a secondary containment system, or if a system becomes unfit for continued use, the Permittee shall comply with 329 IAC 3.1-9 and 40 CFR 264.196. If the Permittee has repaired a tank system in accordance with 40 CFR Part 264.196(e) and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel) the tank system must not be returned to service unless the Permittee has obtained a certification by a qualified Professional Engineer in accordance with 40 CFR Part 270.11 that the repaired system is capable of handling hazardous waste for the intended life of the system prior to returning the system to service. This certification must be placed in the operating record and maintained until closure of the facility.

Response
IDEM concurs.

Change
As requested.

18. Comment
Permit Condition IV.H., Page 30
Heritage requests that the language stated in IV.H. be substituted with the following language which was agreed upon by Heritage and the IDEM to partially resolve the permit appeal and incorporated into the facility permit in a Class 1 Permit Modification (INI15-1) and approved by the IDEM on April 6, 2015 to partially settle Permit Cause 13-S-J-4654.

1. The Permittee shall inspect the tank system, in accordance with Permit Attachment F, and shall complete the items in Permit Conditions IV.H.2., 3, and 4 as part of those inspections.
2. The Permittee shall inspect the overfill controls, in accordance with the schedule in Permit Attachment F. 329 IAC 3.1-9, 40 CFR 264.195(a).
3. The Permittee shall inspect at least once each day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells). 329 IAC 3.1-9, 40 CFR 264.195(b).
4. Except as allowed under 40 CFR Part 264.195(d), the Permittee must inspect at least once each operating day:
   a. Above ground portions of the tank system, if any, to detect corrosion or releases of waste.
   b. The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system to detect erosion or signs of release of hazardous waste (e.g., wet spots, dead vegetation).
   c. The Permittee has an established work-place practice in accordance with 40 CFR Part 264.195(d) that is specified in Permit Attachment F.

5. The Permittee must document compliance with Permit Conditions IV.H.1 through IV.H.3 and place the documents in the operating record for the facility. 329 IAC 3.1-9, 40 CFR Part 264.195(h).

Response
IDEM agrees to the changes, along with an addition to document established work-place practices and weekly inspections of items in IV.H.4.a. and b.

Change
The language in Section IV.H is changed to incorporate the requested language, along with the following addition to Permit Condition IV.H.6:

6. The Permittee shall either:
   (a) Document compliance with Permit Conditions IV.H.4.a. and b. and place the documents in the operating record for the facility. 329 IAC 3.1-9, 40 CFR Part 264.195(h).

OR

   (b) Implement established workplace practices to ensure leaks are promptly identified, and inspect items in IV.H.4.a. and b. weekly. Weekly inspections and the use of the alternative inspection schedule must be documented in the facility's operating record. This document must include a description of the established workplace practices at the facility. 329 IAC 3.1-9, 40 CFR Part 264.195(d).

19. Comment
   Permit Condition IV.I.3, Page 31
   Heritage objects to a requirement to submit to the Commissioner certifications of major repair. Regulatory changes removed these requirements and the current permit does not contain this language and there is no regulatory requirement for
these documents to be provided to the Commissioner. Heritage requests that the section be revised to:

*The Permittee shall place all certifications of major repairs in the operating record which must be maintained until closure of the facility (329 IAC 3.1-9, 40 CFR Part 264.196(f)).*

**Response**  
IDEM concurs.

**Change**  
The following language has been removed from Section IV.I.3, "The Permittee must submit to the Commissioner all certifications of major repairs within 7 days after returning the tank system to use."

20. **Comment**  
Permit Condition VI.D.2, Page 39  
Please revise the cross-reference "VII.C.2.d" to "VI.C.2.d"

**Response**  
IDEM concurs.

**Change**  
As requested.

21. **Comment**  
Permit Condition VII.D, Page 41  
Heritage objects to being required to comply with a regulatory requirement that does not exist and might exist in the future. Tacit agreement to a permit condition for a regulation that does not exist is an unreasonable permit obligation. Heritage requests that the section be removed from the permit. Heritage has provided comments regarding similar requirements in permits issued by both the IDEM and the USEPA. Should such regulation be promulgated, the IDEM or EPA has the authority to initiate a permit modification incorporating the requirements of the undefined regulation in order to protect human health and the environment.

**Response**  
IDEM disagrees. HSWA provisions are self-implementing and the permittee must comply with those self-implementing provisions.

**Change**  
No change.
22. **Comment**

   Permit Condition VIII.A.3., Page 42

   Heritage objects to the last sentence in the paragraph. While Heritage is not opposed to using the Remediation Closure Guide for conducting corrective action activities as contemplated in the as a form of guidance, this generalized document in the permit obligating Heritage to implement the scope of work in its entirety without any apparent consideration of the facility operation; circumstances of the corrective action that may be required; technical issues; economics; and the risk to human, health and the environment is not appropriate. The “scope of work” contemplated by the Remediation Closure Guide could obligate Heritage to perform unnecessary activities all for the sake of administrative perfection under the corrective action program and may not be consistent with the requirements specified for the corrective action process in the permit. This sentence should be removed from the permit or language should be inserted that this document is a guideline for the Permittee and not an enforceable requirement when dealing with corrective action issues.

**Response**

The *Remediation Closure Guide* (RCG) describes selected approaches to investigation and risk-based closure of contaminated or potentially contaminated properties. Its purpose is to provide consistent application of Indiana Code (IC) 13-12-3-2 and IC 13-25-5-8.5, which form the statutory basis for risk-based cleanups in Indiana. The RCG does not promote any particular “scope of work” beyond what is necessary to quantify risk presented by releases at and from the facility. The RCG, and its companion, the *Remediation Program Guide*, along with USEPA’s *Test Methods for Evaluating Solid Waste*, serve as the bases for investigations and remediations performed for IDEM’s Corrective Action Program.

**Change**

The last sentence of Permit Condition VIII.A.3 has been changed to “*The Permittee must perform all such work in a manner consistent with relevant guidance provided in IDEM’s Remediation Closure Guide and Remediation Program Guide, as well as USEPA’s Test Methods for Evaluating Solid Waste (SW-846, 3rd edition, or most recent edition, and the most recent updates).*”

23. **Comment**

   Permit Condition VIII.D.1, Page 45

   The text within Section VIII.D.1.a and VIII.D.1.b requires clarification. Section VIII.D.1.a requires an approved work plan for interim measures and Section VIII.D.1.b indicates when performing work under VIII.D.1.a that if certain criteria are met an Interim Measures work plan may be required. Heritage suggests that
the sentence in VIII.D.1.b indicate that the IDEM may request a modification to the approved work plan.

Response
Permit Condition VIII.D.1.b will be changed to indicate IDEM may request an amendment to the Interim Measures work plan to address an immediate threat to human health or the environment.

Change
The affected paragraph has been changed to “Upon receiving this information, IDEM will determine if an amendment to the IM Work Plan is necessary. If one is necessary, IDEM will send a notice to the Permittee requiring the submission of an IM Work Plan. Within 21 days after receiving this notice, the Permittee shall submit to IDEM a work plan for approval that identifies the interim measure(s).”

24. Comment
Permit Condition VIII.D.2., Page 47
Please correct the last sentence to: The Permittee has 60 days after receipt of IDEM comments to submit a revised RFI report to IDEM.

Response
IDEM concurs.

Change
As requested.

25. Comment
Permit Condition VIII.D.3.a, Page 47
Heritage is uncertain of the relevance to the cross-reference to “Tasks Identified in Permit Condition V.F for the SWMU’s.,” as the cross reference citation does not appear related to corrective action activities in the permit.

Response
Permit Condition VIII.D.3.a contains an incorrect cross-reference.

Change
The permit has been changed to read, “Tasks Identified in Permit Condition VIII.F. for the SWMUs,...”
26. Comment
Permit Condition VIII.D.3.b, Page 48
Please remove the parenthetical ("including different risk assumptions") from the text in Section VIII.D.3.b. A stated intention for reopening a completed corrective action effort based on different risk assumption is not appropriate.

Response
Risk assessment evaluations take many factors into consideration. It is reasonable, prudent, and consistent with the national RCRA Corrective Action Program for IDEM to re-evaluate risk assumptions when, for example, the agency becomes aware of a heretofore unaccounted for exposure pathway or the toxicity of a contaminant considered in the risk assumption is significantly heightened. IDEM may reopen a previously closed investigation whenever it believes the facility's release has the potential to present risk to human health or the environment.

Change
None.

27. Comment
Permit Condition VIII.E, Page 50
Item 9 does not appear to be relevant to the permit. There are no Task Numbers I through IV or a Corrective Action Scope of Work in the permit. Please remove Item 9 and any other references to the Corrective Action Scope of work or Task Numbers from the permit.

Response
IDEM concurs.

Change
Item 9 has been removed. There are no other references to the Corrective Action Scope of Work or Task Numbers in the permit.

28. Comment
Permit Condition VIII.E, Page 51
Please revise the schedule for Items 15 and 17 to "Annually" from "semi-annually" consistent with the RCRA burden reduction initiative promulgated in 2006. The annual reporting frequency is described in 40 CFR Part 264.100(g) effective on May 4, 2006 at the federal level and adopted by the State of Indiana on September 18, 2007.

Response
IDEM concurs.
Change
As requested.

29. Comment
Proposed Permit Condition VIII.F
Please add the following language into the permit that is present in the current permit issued to the facility:

F. FORCE MAJEURE
"Force Majeure," for purposes of this Permit, is defined as any event arising from causes beyond the control of the Permittee that delays or prevents the performance of any obligation under this Permit despite Permittee's best efforts to fulfill the obligation. The requirement that the Permittee exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event as it is occurring and best efforts to address the effects of any potential force majeure event as it is occurring and following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not include financial inability to complete the work required by this Permit nor any increases of costs to perform the work.

The Permittee shall notify IDEM by calling within three (3) calendar days and by writing no later than seven (7) calendar days after any event which the Permittee contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the Permittee to minimize the delay, and the timetable by which these measures will be implemented. The Permittee shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude the Permittee from asserting any claim of force majeure for that event. The Permittee shall have the burden of demonstrating that the event is a force majeure. The decision of whether an event is a force majeure shall be made by IDEM. Said decision shall be communicated to the Permittee.

If a delay is attributable to a force majeure, IDEM shall extend, verbally or in writing, the time period for performance under this Permit by the amount of time that is attributable to the event constituting the force majeure. Any final determination by IDEM under this section shall be reviewable under IC 4-21.5. However, if the Permittee appeals an IDEM decision concerning force majeure, such appeal shall not toll the accrual of penalties during the review of that appeal.

Response
IDEM concurs.
Change
As requested.

30. Comment
Proposed Section VIII.G
Please add the following language into the permit that was present in the current permit to address issues related to corrective action activities that are prospective and cannot be determined.

G. **DISPUTE RESOLUTION**

1. **If IDEM disapproves or modifies and approves any submission required under Permit Condition VIII, IDEM shall provide the Permittee with a written notice setting forth the reasons for the disapproval, or modification and approval.**

2. **If the Permittee disagrees, in whole or in part, with any written decision concerning IDEM’s disapproval or modification and approval of any submission required by Condition VIII of the permit, the Permittee shall notify IDEM of the dispute. The Permittee and IDEM shall informally, and in good faith, endeavor to resolve the dispute.**

3. **If the Permittee and IDEM cannot resolve the dispute informally, the Permittee may pursue the matter formally by submitting a written statement of position to the Commissioner or his/her designee, within twenty-eight (28) days of receipt of IDEM’s written disapproval or modification and approval. The Permittee’s statement of position shall set forth the specific matters in dispute, the position that the Permittee asserts should be adopted as consistent with the requirements of the permit, the basis for the Permittee’s position, and shall include any supporting documentation. If the Permittee fails to follow any of the requirements contained in this paragraph, then it shall have waived its right to further consideration of the disputed issue. This action is subject to review per IC 4-21.5.**

4. **IDEM and the Permittee shall have an additional fourteen (14) days from the date of the Commissioner’s receipt of the Permittee’s statement of position to meet or confer to attempt to resolve the dispute. This time period may be extended by IDEM for good cause. If agreement is reached, the Permittee shall submit a revised submission, if necessary, and shall implement the submission in accordance with such agreement.**

5. **If IDEM and the Permittee are not able to reach agreement within the 14-day period, or such longer period corresponding to IDEM’s extension for good cause, the Permittee may submit any additional**
written arguments and evidence not previously submitted, or further explain any arguments or evidence previously submitted, to the Commissioner. Based on the record, the Commissioner, or delegate, will thereafter issue a written decision that shall include a response to the Permittee’s arguments and evidence. This written decision will constitute final agency action. This action is subject to review per IC 4-21.5.

6. Notwithstanding the invocation of this dispute resolution procedure, the Permittee shall proceed to take any action required by those portions of the submission and of the permit that IDEM determines are not substantially affected by the dispute. The activity schedule for those portions of the submission and of the permit which are substantially affected by the dispute shall be suspended during the period of dispute resolution.

Response
IDEM concurs.

Change
As requested.

31. Comment
Permit Condition IX., Page 52
Please add the hazard code “D003” to the table of hazard codes that was omitted. The hazard code is listed on the Part A filed with the permit renewal application and is in the current permit. Please delete the hazard code “K012” as it does not exist.

Response
IDEM concurs.

Change
As requested.

32. Comment
Permit Condition X.A.6 and X.A.7, Page 54
Heritage objects to the language provided in the X.A.6, X.A.7, X.B.4 and X.B.5 as the language requires clarification from the IDEM. Under sections X.A.6 and X.B.4, the Permittee is allowed to start the unit if IDEM does not object within 15 days since notification and completion of the unit and IDEM has not indicated a need for inspection. The last sentence of section X.A.6 and X.B.4, then conditions the startup of a new unit provided the conditions of X.A.7 or X.B.4 have been met. Section X.A.7 or X.B.4. then requires that IDEM “approve” the new plant capacity for the storage/treatment of wastes. The language is inconsistent and essentially renders the company unable to operate the units as
allowed in X.A.6 or X.B.4 in conformance with the permit even though the new capacity has already been approved. In the case of such units being started up, IDEM has already approved the use of the financial assurance mechanism for the facility (the “facility” is not a new facility) and the closure cost estimate (other than any inflation adjustment) is also typically approved during the permit modification process. As Heritage understands the language in 40 CFR Part 264.143(c)(7), the financial assurance must be updated within 60 days of an increase in the closure cost estimate. Heritage is uncertain why there is an approval requirement for financial assurance for constructed units in X.A.7 and X.B.5. that appears to prohibit the facility from operating in conformance with the permit after going through multiple steps of notification for an approved unit.

Heritage proposes the following language in lieu of the language in the referenced sections of the permit.

**X.A.6 If fifteen (15) days have passed since the Permittee notified IDEM in writing of the construction/installation of the unit, and IDEM has not indicated the need for inspection or additional information, the Permittee is authorized to use the unit.**

**X.A.7 The Permittee must provide financial assurance for the newly constructed unit in accordance with the closure cost estimate prior to placing the unit in service. If 15 days has passed since the Permittee provided financial assurance for the newly constructed unit, and the IDEM has not objected to the financial assurance submitted by the Permittee, then the Permittee is authorized to use the newly constructed unit.**

**Response**

IDEM agrees to the above change. However, the proposed language did not include the language about increase in the facility’s capacity which is currently in the permit. That language will be added as Permit Condition X.A.8

**Change**

**X.A.6. If fifteen (15) days have passed since the Permittee notified IDEM in writing of the construction/installation of the unit, and IDEM has not indicated the need for inspection or additional information, the Permittee is authorized to use the unit.**

**X.A.7. The Permittee must provide financial assurance for the newly constructed unit in accordance with the closure cost estimate prior to placing the unit in service. If 15 days has passed since the Permittee provided financial assurance for the newly constructed unit, and the IDEM has not objected to the financial assurance submitted by the Permittee, then the Permittee is authorized to use the newly constructed unit.**

22
X.A.8. Once the Permittee is authorized to use the unit in accordance with Conditions X.A.6 and X.A.7, the plant capacity for the storage/treatment of wastes will be increased by the following amounts:

<table>
<thead>
<tr>
<th>Unit constructed/installed</th>
<th>Increase in Plant Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tank CDU-2</td>
<td>Tanks: 2,615 gallons</td>
</tr>
<tr>
<td>Pug Mills (each)</td>
<td>Store: 56 yd³</td>
</tr>
<tr>
<td></td>
<td>Treat: 12,000 short tons/day</td>
</tr>
</tbody>
</table>

33. Comment
 Permit Condition X.B.4 and X.B.5, Page 55
 Please see Comment 32 concerning the construction of a new unit and the provision for financial assurance.
 Heritage proposes the following language in lieu of the language in the referenced sections of the permit.

X.B.4 If fifteen (15) days have passed since the Permittee notified IDEM in writing of the construction/installation of the unit, and IDEM has not indicated the need for inspection or additional information, the Permittee is authorized to use the unit.
X.B.5 The Permittee must provide financial assurance for the newly constructed unit in accordance with the closure cost estimate prior to placing the unit in service. If 15 days has passed since the Permittee provided financial assurance for the newly constructed unit, and the IDEM has not objected to the financial assurance submitted by the Permittee, then the Permittee is authorized to use the newly constructed unit.

Response
 IDEM agrees to the above change. However, the proposed language the language about increase in the facility’s capacity which is currently in the permit. That language will be added as Permit Condition X.B.6

Change
X.B.4. If fifteen (15) days have passed since the Permittee notified IDEM in writing of the construction/installation of the unit, and IDEM has not indicated the need for inspection or additional information, the Permittee is authorized to place the unit in service.
X.B.5. The Permittee must provide financial assurance for the newly constructed unit in accordance with the closure cost estimate prior to placing the unit in service. If 15 days has passed since the Permittee provided financial assurance for the newly constructed unit, and the IDEM has not objected to the financial assurance submitted by the Permittee, then the Permittee is authorized to place the newly
constructed unit in service.

X.B.6. Once the Permittee is authorized to the unit in accordance with Conditions X.B.4 and X.B.5, the plant capacity for the storage/treatment of wastes will be increased by the following amounts:

<table>
<thead>
<tr>
<th>Unit constructed</th>
<th>Change in Plant Capacity (gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CSA 16</td>
<td>32,680</td>
</tr>
<tr>
<td>CSA 17</td>
<td>145,200</td>
</tr>
<tr>
<td>CSA 18</td>
<td>33,320</td>
</tr>
<tr>
<td>CSA 19</td>
<td>32,640</td>
</tr>
<tr>
<td>CSA 20</td>
<td>130,560</td>
</tr>
</tbody>
</table>

34. Comment
Attachment C- Waste Analysis Plan
Comments to the Waste Analysis Plan are provided in Exhibit 1 to this letter without the confidential business information previously submitted to the IDEM.

Response
IDEM has accepted the Waste Analysis Plan, which was provided as part of Heritage’s November 11, 2019, comments (VFC # 82863200), with the following exceptions (Note: The page numbers listed refer to the exhibit, as submitted by Heritage):

Page C-4: Footnote 1 - “but is not limited to” is too broad in scope, and has been removed.
Page C-7: Footnote 5, reference to personnel trained per the Facility RCRA training plan in the sentence regarding review of wastestream characterization and approval information is not acceptable - if personnel are approving waste to go to the Facility, they should be trained as per the Facility training plan.
Page C-15: Footnote 9, see item above for page C-7.
Page C-19: A basis for this proposed change was not provided, and IDEM does not understand the purpose or motivation for the request. No change has been made.
Page C-30: Analysis of an increased number of containers is necessary to adequately verify the wastes are being appropriately evaluated prior to acceptance at the. The number of verification samples should reflect the number of containers received per shipment in order to ensure sampling results are representative of the received hazardous wastes. The table in Section 6.1 has
been revised to indicate that 10% of the containers must be sampled when the shipment exceeds 80 containers.

Page C-B-3: Item 5, “facility” has been reverted to “Facility”.

Change
As noted in aforementioned response.

35. Comment
Attachment F – Procedures to Prevent Hazards
Heritage does not object to the IDEM placing container storage area inspection information into newly added Sections 2.1., 2.2, and 2.3 in Attachment F that are already present in Attachment D-Container Storage Plan Section 2.8. Heritage believes that Section 2.8 in Attachment D-Container Storage Plan should be deleted to avoid differing language for the exact same activity.

Please correct the typographical error in the first sentence of Section 2.3 as “on” should be “of.”

Response
Based upon the language in Attachment D for Containers, Tanks and Miscellaneous units and Attachment F, IDEM agrees to remove Sections 2.1 and 2.3 from Attachment F. The Section 2.2 in Attachment F has been adjusted to match language from Section 2.8.2 in Attachment D-Container Storage Plan. This section will also be applicable to all units using coatings for secondary containment (e.g., tanks). The language in section 2.8.2 in Attachment D-Container Storage Plan has been removed and a reference to Section 2.2 in Attachment F has been added.

Change
Sections 2.1 and 2.3 of Attachment F are removed.
Section 2.2 of Attachment F has been modified to the following:
All the coatings applied to the applicable secondary containment systems will be inspected in detail semi-annually and after a reportable quantity (“RQ”) release, or a release exceeding coating manufacture exposure limits for any structural damage/corrosion. If an inspection shows that the integrity of the coatings is damaged (e.g., separated from joint, visibly abraded, cracked, etc.), the coatings must be repaired, or replaced with an approved coating, within fifteen (15) days of detection. The nature of the damage to the coating, including the timeframe for the repair or replacement activities, must be maintained in the facility’s operating record. The manufacturer’s specifications and chemical resistance data for coatings, other than coatings permitted in Attachment D – Container Storage Plan, Appendix CSP-F and Attachment D – Tank Storage Treatment, General Tank Information, Exhibit 4, must be submitted as an appropriate
modification for IDEM approval. Coatings must be equivalent to or an upgrade to manufacturer's specifications and performance standards when considering method of application, chemical compatibility/resistivity, and durability properties as provided in Attachment D – Container Storage Plan, Appendix CSP-F and Attachment D – Tank Storage Treatment, General Tank Information, Exhibit 4. Information about approved coatings is provided in Attachment D – Container Storage Plan, Appendix CSP-F and Attachment D – Tank Storage Treatment, General Tank Information, Exhibit 4.

If an inspection detects a crack in the concrete that has compromised the integrity of the coating, the crack must be repaired within fifteen (15) days of detection. The nature of the crack, including the timeframe for the repair or replacement activities, must be maintained in the facility’s operating record. The exact procedure for the crack repair will depend on the characteristics of the crack, but typically will involve grinding out the damaged area, filling the crack with grout, hydraulic grout, caulk or substrate in accordance with American Concrete Institute protocol or other appropriate standard for concrete crack repair. Upon completion of the crack repair, the chemically resistant coating will be repaired or replaced in accordance with the above paragraph.

All the waterstop retrofit systems installed in the applicable secondary containment systems must be inspected in detail semi-annually and after a RQ release, or a release exceeding coating manufacture exposure limits for any structural damage/corrosion. If an inspection shows that the integrity of the waterstop retrofit system is damaged (e.g., separated from joint, visibly abraded, cracked, etc.), the waterstop retrofit system must be repaired, or replaced with an approved waterstop within fifteen (15) days of detection. The nature of the damage to the waterstop retrofit system, including the timeframe for the repair or replacement activities, must be maintained in the facility’s operating record. The manufacturer’s specifications and chemical resistance data for waterstops other than the materials specified in Attachment D – Container Storage Plan, Appendix CSP-F and Attachment D – Tank Storage Treatment, General Tank Information, Exhibit 4 must be submitted as an appropriate modification for IDEM approval. Replacement waterstops must be equivalent to or an upgrade to the manufacturer’s specifications and performance standards for method of application and chemical compatibility/resistivity properties as provided in Attachment D – Container Storage Plan, Appendix CSP-F and Attachment D – Tank Storage Treatment, General Tank Information, Exhibit.

Approved waterstop retrofit systems for the permitted container and storage areas are contained in Appendix CSP-F.
Section 2.8.2 in Attachment D-Container Storage Plan was modified to the following:
Details of inspection of coatings and structures are included in Attachment F – Procedures to Prevent Hazards Section 2.2.

Information about approved coatings is provided in Appendix CSP-F.

Approved waterstop retrofit systems for the permitted container and storage areas are contained in Appendix CSP-F.

36. Comment
Attachment F – Procedures to Prevent Hazards
Heritage objects to the deletion of language currently in Attachment D – Container Storage Plan Section 2.8 that was omitted in the newly added sections of Attachment F – Procedures to Prevent Hazards Section 2.1., 2.2, and 2.3.

Response
This is addressed with the changes made for comment #35.

Change
As noted in comment #35.

37. Comment
Attachment F – Procedures to Prevent Hazards
Heritage requests that Section 2.4 of the Procedures to Prevent Hazards in the draft permit be moved to a place in the document prior to the current Sections 2.1, 2.2., and 2.3.

Response
IDEM agrees to move Section 2.4. Sections 2.1 and 2.3 are removed based on the response to comment #35.

Change
Section 2.4 of Attachment F has been moved to Section 2.1.

38. Comment
Attachment F – Procedures to Prevent Hazards, Page F-A-2
On page F-A-2, Heritage objects to the modification of the language in the Daily Tank Inspection. The alternative work practice allows for a weekly inspection that addresses the information added to the Daily Tank Inspection by the IDEM (See Item j. on Weekly Tank Inspection on Page F-A.-4). The additional language should be deleted from Page F-A-2.
Response
IDEM concurs.

Change
As requested.

39. Comment
Attachment F – Procedures to Prevent Hazards, Page F-A-2
On Page F-A-2 Daily Tank Containment Building Inspection, Item e., revise the language to:

No wastes within the one foot (1') “clean” area around all doors. Please reference Section 4.2 (DOCB-15) of the Design and Operation Information Containment Building Document (Confidential)

Response
IDEM agrees that the “clean” area is only 1 foot, but the current language does not incorporate the requirements of Section 4.2 (DOCB-15) of the Design and Operation Information Containment Building Document (Confidential) adequately. Therefore Items c., d. and e. will be replaced with language that incorporates the requirements of DOCB Section 4.2.

Change
On Page F-A-2 Daily Tank Containment Building Inspection, replace Items c., d., and e. of the Daily Tank Containment Building Inspection with the following language

c. Wastes and accumulated waste liquids are not being stored or treated in a No Storage or Treatment Area which is a five (5) foot wide aisle space/area from the building walls and openings (e.g., doors) in CBW and CBR.
d. Wastes and accumulated waste liquids may not be present, except in minimal quantities in a Buffer Area, which is a 3 to 5 feet aisle space/area from the building walls and openings in CBW and CBR.
e. Wastes and accumulated waste liquids may not be present, except minimal quantities of tracked wastes but not tracked liquid wastes in a Setback Area which is a 3-foot aisle space/area from the building walls and openings (e.g., doors) in CBW and CBR.
f. Wastes, accumulated liquids, tracked wastes, and tracked waste liquids may not be present within a Clean Area which is an aisle space/area located within 1 foot of the building openings (e.g., doors) in CBW and CBR.

40. Comment
Attachment F – Procedures to Prevent Hazards, Page F-A-4
On Page F-A-4, Weekly Tank Inspections, Heritage objects to the addition of the words “(cracks, gaps, blisters, lost adhesion, spills, stains, weeping, and
**abrasion)** under Item b. Heritage requests that the additional language be removed.

**Response**
IDEM agrees to remove the examples listed.

**Change**
The following has been removed from Page F-4-A, item b: (cracks, gaps, blisters, lost adhesion, spills, stains, weeping, and abrasion)

41. **Comment**
Attachment G – Contingency Plan, Appendix B
Heritage requests that Appendix B of the Contingency Plan in the draft permit issued September 27, 2019 be replaced with Attachment B provided by Heritage in the Permit Renewal Application in 2017. Heritage requested minor revisions to the list of emergency equipment in the permit renewal application. The mobile emergency rescue cart was removed from the Permit Renewal Application and the contents of the mobile emergency rescue cart were distributed to the Polishing Building. The hay bales in inventory were removed and the number of full bags of sand were increased from 20 to 75 to accommodate removal of the hay bales.

**Response**
IDEM utilized the Contingency Plan provided with a permit modification provided after the application submittal, which the facility presented as the current Contingency Plan. IDEM has reverted to the Contingency Plan provided with the permit renewal application and updated the emergency coordinators as noted provided by the Permittee in a subsequent permit modification.

**Change**
As noted in response.

42. **Comment**
Attachment G – Contingency Plan, Page CP-8
Please correct the heading number on page CP-8 from "4.3.1.1.1.1.1.1.1" to "5.0 IMPLEMENTATION" and update the table of contents accordingly. This change will also result in a change to the all section heading following in the document and the Table of Contents.

**Response**
As noted in comment #41, the Contingency Plan from the application was used for the final permit, therefore this issue was not present, and no change was needed.
Change
None.

43. Comment
Attachment H – Personnel Training Plan
Please modify the document to include a unique page numbering sequence in Attachment H Personnel Training Plan by retaining the page numbering system in the originally submitted Attachment H. Please retain the header configuration in Attachment H similar to the permit renewal application and with much of the draft permit. Please retain the Table of Contents for the personnel training plan.

Response
IDEM concurs.

Change
As requested.

44. Comment
Attachment I – Closure Plan-Entire Document
Please modify the document to include a unique page numbering sequence in Attachment I of the Closure Plan by retaining the page numbering system in the originally submitted Attachment I. Please retain the header configuration in Attachment I the same as the permit renewal application and with much of the draft permit.

Response
IDEM concurs.

Change
As requested.

45. Comment
Attachment I – Closure Plan, Appendix B
Please adjust Table B-1 for Tanks J, K, and L from 574, 574, and 1,482 gallons to 586, 586, and 1,513 gallons. Please update the total tank capacity on Table B-2 to 728,687 Gallons.

Response
IDEM agrees to change the volumes. Please note this change affects the closure cost estimate since the combined volume in the cost estimate was for Tanks J, K and L was based upon 2,630 gallons not 2,685 gallons.
Change
Table B-1 was updated for the capacities for Tanks J, K and L to 586, 586 and 1,513 gallons, respectively. The total tank capacity for Table B-1 and Table B-3 was updated to 728,687 gallons.

Additionally, the following compliance schedule item is added to the permit: “C. Within one-hundred eight (180) days after the issuance of this permit, the Permittee must provide an updated closure cost estimate and financial assurance to adjust for the total volume of Tanks J, K and L to 2,685 gallons.”

46. Comment
Attachment J – Corrective Action, Table J-1
Please replace the existing comment and update the comments for Tank F on Table J-1 to “RCRA Closure in March 2019”

Response
IDEM concurs.

Change
As requested.

47. Comment
Attachment J – Corrective Action, Entire Document
Please modify the document to include a unique page numbering sequence in Attachment J by retaining the page numbering system submitted for Attachment J in the Permit Renewal Application. Please retain the header configuration in Attachment J similar to the permit renewal application and many of the Attachments to the draft permit.

Response
IDEM concurs.

Change
As requested.