

Memorandum of Understanding

between

the Department of Natural Resources (DNR) and the Department of Transportation (WisDOT)

for

Regulation of Salt Storage Facilities

WHEREAS, both DNR and WisDOT have regulatory responsibility regarding salt storage facilities; and

WHEREAS, in some cases their respective regulatory responsibilities may overlap with or impact each other's responsibilities; and

WHEREAS, DNR and WisDOT desire to establish a process to cooperatively manage such overlap and impacts to the benefit of the State of Wisconsin and the citizens therein; and

WHEREAS, such process will create efficiencies and enhance timeliness of managing such work.

NOW THEREFORE, DNR and WisDOT enter into this Memorandum of Understanding (MOU) for cooperation regarding regulatory responsibilities as set forth below.

Purpose

The purpose of this MOU is to clarify the cooperative framework and process between the DNR and WisDOT for the coordinated regulation of salt storage facilities throughout the state. The DNR and WisDOT acknowledge the authorities, roles, and responsibilities of both agencies in the regulation of salt storage facilities, and recognize the mutual benefits gained by implementing the cooperative tenets of this MOU, including ensuring compliance with all applicable regulatory requirements to protect waters of the state, and improve governmental efficiency and ensure consistent implementation.

Agency Authority and Regulatory Roles

Under s. 85.17, Wis. Stats., WisDOT is responsible for regulating the construction and maintenance of highway salt storage facilities that store bulk quantities of salt intended for application on both public and private roadways, parking areas, and driveways to prevent contamination of waters of the state. Chapter TRANS 277 Wis. Adm. Code implements these statutory provisions. TRANS 277 establishes the siting criteria, structural and operational measures for salt storage facilities, inspection requirements and outlines response actions and remedial measures that can be taken when notified by the DNR that a facility's operations have led to exceedances of groundwater standards under ch. NR 140, Wis. Adm. Code or adverse impacts to surface waters.

Under ch. 160, Wis. Stats., DNR is responsible for the development of groundwater quality standards to protect public health and welfare and the environment. These groundwater standards are contained within ch. NR 140, Wis. Adm. Code, and are used by all state agencies, including DNR and WisDOT, in their regulatory programs to the extent the regulated activities may have an impact on groundwater and surface waters.

Under ch. 283, Wis. Stats., and chs. NR 216 and 151, Wis. Adm. Code, DNR is responsible for regulating storm water discharges associated with construction sites, industrial facilities, and municipalities

(permitted municipal separate storm sewer systems or MS4s) to waters of the state. Salt storage facilities regulated by the WisDOT under TRANS 277, may also be regulated as industrial storm water discharges. For salt storage facilities owned or operated by permitted municipal separate storm sewer systems, municipalities develop a storm water pollution prevention plan (SWPPP) for the salt storage facilities and integrate the plans into the municipality's storm water management plan.

DNR also has authority to require investigation and environmental remediation per the Wisconsin Spill Law (ch. 292, Wis Stats.) when there is a discharge of a hazardous substance to the environment.

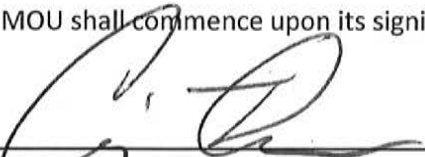
Framework for Collaboration and Cooperation

DNR and WisDOT agree to the following:

- **Trans 277:** WisDOT is the lead agency for requiring the structural design, construction, and maintenance of highway salt storage facilities, conducting compliance inspections and follow-up actions, as necessary, to ensure compliance with standards under TRANS 277. See WisDOT Highway Maintenance Manual (HMM) 06-20-35 for specific actions under TRANS 277.
- **DNR Technical Assistance:** WisDOT may request technical assistance from DNR for any issue or subject relating to this MOU. See HMM 6-20-35 for details regarding coordination.
- **NR 216:** When a salt storage facility is subject to storm water regulation under NR 216, DNR will work cooperatively with WisDOT to ensure parallel provisions of TRANS 277 are satisfied and not in conflict with any design or operation plans. See HMM 6-20-35 for details regarding WisDOT coordination with DNR.
- **Investigation and Remediation of Contamination:** DNR will be the lead agency for requiring environmental clean-up or restoration due to chloride contamination from salt storage facilities under ch. 292, Wis. Stats., and corresponding regulations.
- **Information Sharing:** Both agencies will maintain open lines of communication on regulatory matters associated with salt storage facilities. DNR and WisDOT will each identify a point of contact for the agencies to communicate and share information on regulatory matters concerning this MOU, including:
 - DNR will report to WisDOT when it has information to believe a salt storage facility is not in compliance with the requirements of TRANS 277.
 - DNR will notify WisDOT when an application for permit coverage or notice of modification of a SWPPP has been received for a salt storage facility.
 - WisDOT will report to DNR when it has information to believe noncompliance with the requirements of TRANS 277 has the reasonable potential to cause contamination of surface water or groundwater.

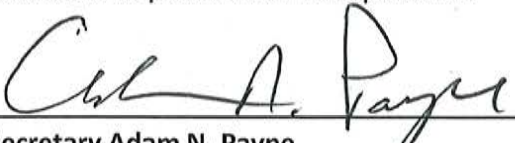
- Consistent with TRANS 277.05, WisDOT will forward to DNR any reports received by WisDOT concerning a salt storage facility as a potential source of contamination of surface water or groundwater.
- **Enforcement:** Both agencies will utilize their respective enforcement authority, as necessary, to ensure compliance with regulatory requirements and to protect surface and groundwater. When enforcement action (i.e., notice of noncompliance or violation, issuance of a directive, order, or citation, etc.) is taken against a salt storage facility, the agency taking enforcement action will notify the other agency of the action.
 - Section 85.17, Wis. Stats., grants WisDOT authorization to enforce violations of law contained within s. 85.17, Wis. Stats., and rules promulgated under the authority of s. 85.17, Wis. Stats., including TRANS 277, through the use of special orders directing and requiring compliance with applicable requirements, issuance of civil forfeitures, and injunctive relief.
 - Sections 283.89 and 283.91, Wis. Stats., grant DNR authorization to enforce violations of law contained within ch. 283, Wis. Stats., and rules promulgated under the authority of ch. 283, including chs. NR 216 and NR 151, Wis. Adm. Code through issuance of civil forfeitures, criminal action, and injunctive relief.
- **Annual Meeting:** Representatives from DNR and WisDOT will meet annually, following the winter season, to review the agencies' cooperative efforts under the MOU with a focus on maintaining and improving communication and coordination and ensuring compliance with regulatory requirements.
- **Interagency Liaison Procedures:** The cooperative framework of this MOU is separate and distinct from the Interagency Liaison Procedures contained in the Cooperative Agreement between DNR and WisDOT. However, when opinions or interpretations differ, the WisDOT/DNR interagency liaison process will be utilized.
- **Amendments:** Any revisions to this MOU shall be made in writing and signed by both parties.

This MOU shall commence upon its signing by both parties and continue until revoked by either Party.



 Secretary Craig Thompson
 Wisconsin Department of Transportation

3/22/23
 Date



 Secretary Adam N. Payne
 Wisconsin Department of Natural Resources

3/14/23
 Date