

## AGENDA & NOTES

### LANDFILL & SOLID WASTE FEES ADVISORY COMMITTEE

Wednesday October 18, 2023

Hill Farms State Office Building, Room N108, 4822 Madison Yards Way, Madison, WI 53705

Or attend by [Zoom link](#) or by calling 312-626-6799, meeting id 86427020823#

**Committee Members Present:**

- Tim Curry  Tyler Field  Bryant Esch  Doug Genthe  Aaron Janusz  Jeff Maxted  
 John Oswald  Gregory Parins  Betsy Powers  Robin Schmidt  Pat Stevens  
 Jim Tinjum  Mark Torresani  John Welch

**DNR Staff Present:**

- Brad Wolbert  Kate Strom Hiorns  Joe Lourigan  Ann Bekta  Tyler Sullivan  
 Tess Brester  Malena Grimm  Duncan Moss  Bart Sponseller Other DNR staff: Jackie Marciulionis, Michael Schmit, David Buser, John Morris, Matt Bachman

**Public Attendees:** Chad Doverspike (Brown County), Brent Bohn, Julie Ketchum (WM), Andrea Lorenz (Foth), Kari Rabideau (GFL), Scott Suder (Paper Council) – attending for Pat Stevens

9:30 a.m.	<p>Welcome</p> <p><b>SharePoint site reminder, options for comments and feedback</b></p> <p><b>Notes:</b></p> <ul style="list-style-type: none"><li>• Try to have rules ‘finished’ by January – please submit feedback prior to then. After January meeting, will need to do economic analysis.</li><li>• Spreadsheet on SharePoint has description of changes and is updated. Draft board order may be sent out by January meeting. Keep working from spreadsheets. Some full chapters are posted on SharePoint right now. Can chat between now and January if there are questions. <b>Anyone can request additional meetings to discuss specific topics/concerns.</b></li></ul>
NR 520 solid waste fees, OFR, capacity determination follow up  45-60 minutes	<p>Q &amp; A with committee Economic impact analysis</p> <p><b>Highlights to proposed changes to ch. NR 520 so far:</b></p> <p><b>Long-Term Care and Closure</b></p> <ul style="list-style-type: none"><li>• Added definition to closure of a landfill – includes receiving a long-term care license. Sites need to have either an active license or a long-term care license at all times. The DNR acknowledges that not all sites apply for licenses.</li><li>• If a site is done receiving waste, but doesn’t close, what step can DNR take to manage landfill?</li><li>• The DNR would begin the stepped enforcement process.</li><li>• There is a gap between applying for release of closure funds and receiving the closure funds. DNR acknowledges this time gap. Can something be done to ‘fill in’ this time gap like an acknowledgement so money doesn’t need to be set aside anymore?</li><li>• Is clarification needed to specify that this is specifically for MSW landfills?</li><li>• Does there need to be a timeframe to stop accepting material? Ch. 520 says 60 days, does DNR need to reference back to that language?</li></ul> <p><b>Remaining Capacity in Tonnage Reports</b></p>

- At the end of ch. 520 for annual tonnage reports, there is a requirement for remaining capacity reported. How are these capacities being verified by the regulated community? How specific should these be provided?
- Difference at sites that have decomposable vs non-decomposable wastes (settlement)?
- Can these sites report ‘no change’ if required to do annual surveys? Include last year’s survey if no change.
- What is ‘no change’? Based on capacity difference between years?
- Need accurate information for sites going through siting process.
- Require more frequent surveys when site is in last 5 years of site life?
- Have annual survey ‘unless an alternative timeline is approved by the department’
- Hesitant to define accuracy based on different survey methods that have different accuracies.
- What about when a site is filling below grades? Do they need it then?

#### **Waste Program End of Year Balance Carry Over**

- NR 520.04 states: “If, for 3 consecutive fiscal years, the end of year account balance is greater than 20% of the expenditure level of the program revenue account authorized in s. 20.370 (4) (dg), Stats., the department shall...” do rulemaking to change fees. DNR has a policy to have a balance carry over of 25% for most appropriations. Thoughts on having a higher carry over balance in code? Group is ok with changing 20% to 25% to match overall DNR policy.
- Has the DNR had issues with this in the past?
- Not exceeding the 3 years. Have been close due to vacancies. Needed to invest in projects (digitization/waste study) to spend balance down. Open to spending money to keep balance down. Financial side of DNR gets uncomfortable when less than 25% is carried over. 20% goes against general DNR policy for other agencies.
- Don’t want to force a decision to spend money to get balance down.
- Other DNR programs have same general principal – in case of emergency – (27 pay period [oddity]). Program has an extra balance in end of year carry over in case of this. Staff retire and take lump sum payout (20-30k in one payment) can be hard for program to fund in one lump sum.

#### **Owner Financial Responsibility**

- Net Worth Test – “*Net worth to closure, long-term care and corrective action cost ratio*” shall include costs for all facilities, not just facilities in WI. Cost of compliance unrelated to closure, long-term care, corrective action does not need to be included (clarified in statute).
- Calculations – projected inflation shall equal inflation from ~~last year~~ average of past 5 years. Projected interest shall equal projected inflation + ~~2%~~ ?
- Escrow/trust investments – restriction of ~~\$100,000~~ \$250,000 in cash and CDs. DNR looking into other allowances (bonds?).
- Group had questions but in general supported these changes.

#### **WA Program Fee Increases (plan review, surcharge fees)**

- For fee increases, need information for economic impact of change.
- How do the fee increases relate to the 20-25% carry over balance?
- The fee increases are program revenue – the 20% limitation is on that account. Increase fees too much, will have extra money that can’t be spent.

	<ul style="list-style-type: none"> <li>• How will the DNR manage that?</li> <li>• If the carry over balance is greater than 20% for 3 years, the WA Program needs to present to Natural Resource Board and propose adjustment in fees. Would require rule change.</li> <li>• Statute requires DNR to recover all fees for plan review.</li> <li>• How did the DNR come up with proposed increase in plan review fees?</li> <li>• Averaged staff salaries and hours used for plan review. Does not include review from other DNR programs or supplies.</li> <li>• <b>Specifically with feasibility, TAC would like to see hours DNR spends on review.</b></li> <li>• Even if submittals and reports are from a professional engineer (PE), DNR is reviewing all to ensure compliance with code/statute.</li> <li>• DNR did a mini analysis of staff time and cost for CCR rule, the cost of DNR to review plans is much higher than plan review fees. Plan review fees for this are mocked on this same analysis.</li> <li>• Concern for passing cost onto consumers? Businesses are customers as well.</li> <li>• Current proposed surcharge fee increase is estimated to minimally impact consumer.</li> <li>• Increase in surcharge fees vs plan review fees. Can do either or combo of both.</li> <li>• DNR is understaffed due to budget constraints. Increase in fees would help DNR continue to provide timely plan review. Increase on current staff salaries is good, but costs the WA Program a whole position to fund the salary increases. Need to fund positions to attract qualified staff.</li> <li>• Tipping fees are put in a general account and are used by multiple DNR programs. Not considered a ‘stable’ source of funding for WA Program. WA Program cannot change this. Could request changes in distribution of this money from Legislature, but would be requesting every two years amongst other statewide priorities.</li> </ul>
Break – 15 minutes	
<p>NR 507 and 512 discussion</p> <p>60+ minutes</p>	<p>Overview of administrative code work done since August meeting</p> <p>507 Environmental Monitoring</p> <p><b>Highlights to 507:</b></p> <ul style="list-style-type: none"> <li>• Proposing to remove chemical oxygen demand and use dissolved oxygen concentration for papermill sludge sites, add molybdenum for coal ash waste to non-CCR wells. – (Concerns with adding molybdenum, DNR will discuss with WI Utilities Association. Shared concerns with implementing this at non-CCR wells due to differences in state and federal requirements. DNR should consider consistency between state and federal programs.)</li> <li>• Proposing baseline groundwater monitoring at all wells inside and outside a proposed landfill footprint.</li> <li>• Can DNR include provision about not calculating PALs/ACLs during Plan of Op for those wells inside footprint?</li> <li>• Remove requirement for exemptions for information provided on historic forms.</li> <li>• Proposing leachate head notification that mimics gas probe notifications for when head level is above 1 foot – notify and submit corrective action.</li> <li>• Revised 507 tables – revised current table for updates. Added leachate recirculation table. Created table for gas monitoring - policy put in a table format.</li> </ul>

	<ul style="list-style-type: none"> <li>• Minimize dual reporting between Air Program and Waste Program.</li> <li>• <b>*TAC stated they have comments on proposed 507 tables* Send comments to DNR to review.</b></li> <li>• Modified language for submitting data at the end of a sampling period. Changed to be more consistent with EPA language.</li> <li>• Do delays in lab processing and confirmation sampling affect this new language? Consider revising for clarity.</li> <li>• Can the DNR eliminate the requirement to send private well letters if the site is already doing so or if the private well is owned by the facility?</li> <li>• No – Private well notification letters are a requirement of Wis. Stats. DNR is required to send letters regardless of whether the facility is already doing so. Both the well owner and the occupant of the property using the well is required to receive a notification letter.</li> <li>• Discussion on where to put Wisconsin Unique Well Number (WUWN) on groundwater monitoring wells. Should be somewhere in a permanent location and not on a feature that can be swapped like caps.</li> <li>• Can a site recalculate PALs/ACLs?</li> <li>• Yes, if the site can demonstrate that background conditions have caused changes. Example nitrate impacts from agriculture use.</li> </ul> <p><b>Emerging Contaminants:</b></p> <ul style="list-style-type: none"> <li>• Sites are not sampling for emerging contaminants because of the need to publish the data.</li> <li>• What would DNR hope to gain from this data?</li> <li>• Attempt to understand the potential risk of emerging contaminants and groundwater quality. Data help DNR understand current conditions. Are current landfill liners preventing these from getting into groundwater? Not knowing is not the same as knowing there are not impacts.</li> <li>• How would DNR distinguish between background concentrations and impacts from the landfill?</li> </ul> <p><b>512 Feasibility Reports – minor changes</b></p> <ul style="list-style-type: none"> <li>• Specific section eliminating items required in ch. 512 for vertical expansions only.</li> <li>• Will discuss 512 at next meeting.</li> </ul>
Public participation 10 minutes	Open time for comments from any attendees <ul style="list-style-type: none"> <li>• None.</li> </ul>
Plans for 10/19/23 – January 2024  15 minutes	Next focus areas for DNR drafting: <b>Next Meeting:</b> <ul style="list-style-type: none"> <li>• Discuss 514 and 516 changes.</li> <li>• Trying to have as much done as possible for January meeting.</li> </ul>
Next Meeting Date	January 10, 2024 via Zoom
12:30 p.m.	Meeting adjourned