

Program Guidance – Evaluating the Reuse Potential of Air Pollution Control Wastes, WA-1768

Summary of Response to Public Comments

Thank you to the individuals that provided comments and feedback on the Department of Natural Resources (Department) proposed program guidance titled “Evaluating the Reuse Potential of Air Pollution Control Wastes”. The Department received 2 comments via e-mail during the public comment period which extended from when the guidance was initially posted on February 16, 2015 until March 9, 2015 (21 days). The final guidance will be posted on March 12, 2015.

The comments and the Department’s response and changes to the guidance are summarized below:

1. Kari Rabideau of Advanced Disposal Services suggested some additional language be added to the section “**Disposal in Landfills**” on page 6 of the proposed guidance to clarify that acceptance of air pollution control (APC) wastes must be done in accordance with the approved Solid Waste Acceptance Plan (SWAP) for the landfill. We agree and, while we did not specifically reference those plans, we did refer to them in the context of having the materials evaluated by the DNR for compatibility prior to accepting them for disposal. We have added some language to this section of the guidance specifically referencing the SWAPs to make sure our intentions are clear.
2. Lynn Morgan, on behalf of Waste Management of Wisconsin (WMWI), submitted comments and suggested edits specific to various sections of the guidance document. Our response to each item is listed below:
 - Contrary to the opening statement of the comment letter, the intent of this guidance is not to achieve consistency with the US Environmental Protection Agency’s (EPA) December 19, 2014 final rule on the disposal of coal combustion residuals (CCR), although it does cover similar issues. A section referencing these new rules was included in the guidance only as an informational item for potential APC generators and DNR reviewers.
 - In keeping with the previous statement, we do not feel it is necessary for this guidance to be modified to make the language consistent with federal requirements. Based on our understanding of the federal rule, the DNR is not responsible for enforcing the requirements imposed on CCR disposal or management under the new federal rule.
 - **Recycling Options**, page 5, subtitle 4. WMWI notes that the restriction of no more than 6 inch thick alternate daily cover lifts does not apply if an alternate application is approved by the DNR at that landfill. We will add “...unless otherwise approved by the DNR,” to the sentence to make that point clear.

- **Recycling versus Disposal**, page 6. WMWI notes some confusion regarding the definitions of “long-term care” and what defines a “landfill”. “Long-term care” has the definition provided in s. 289.01(21) Stats. meaning the routine care, maintenance and monitoring of a waste facility following closure of the facility. To clarify the landfill definition, we will replace “and also” with “and/or” to make the meaning more clear.
- **Disposal in Landfills**, page 6. WMWI questions the necessity of this paragraph in a guidance that emphasizes reuse. We feel that it is important to re-iterate that these APC wastes may be incompatible with other municipal solid wastes in the event that a generator requests use of APCs as alternate daily cover (one form of reuse). We have clarified and strengthened the language of this paragraph in response to Comment #1, above, which should also address WMWI’s concerns.

If you have any questions, please contact Philip Fauble at (608) 267-3538 or PhilipFauble@wisconsin.gov

Fauble, Philip N - DNR

From: Kari Rabideau <kari.rabideau@advanceddisposal.com>
Sent: Tuesday, February 24, 2015 2:19 PM
To: Fauble, Philip N - DNR
Cc: Doug W. Coenen
Subject: Draft Publication - Evaluating the Reuse Potential of Air Pollution Control Wastes

Mr. Fauble-

Good afternoon,

Advanced Disposal Services would like to forward the following comment for consideration relative to the draft publication, "Evaluating the Reuse Potential of Air Pollution Control Wastes".

On page 6, Disposal in Landfill

...especially if they exceed 5 percent of the waste volume. *Acceptance of such waste should be in accordance with NR506.09, and as outlined in the landfill's department approved Special Waste Acceptance Plan (SWAP).* Potential adverse effects should be evaluated by the assigned DNR engineer before air pollution control wastes are accepted for disposal, *if not otherwise addressed in the SWAP*, or for alternate daily cover at engineered municipal solid waste landfills.

We appreciate your consideration.

Thanks,

Kari A Rabideau | Environmental Project Manager



Advanced Disposal Services Hickory Meadows Landfill, LLC

W3105 Schneider Road | Hilbert | WI 54129

T: 920-853-8553 | F: 920-853-3513 | M: 920-427-9363 | E: kari.rabideau@advanceddisposal.com

Connect with us: AdvancedDisposal.com [Facebook](#) [YouTube](#)



Clean & Green: Please consider the environment before printing this e-mail



WASTE MANAGEMENT

W132 N10487 Grant Drive
Germantown, Wisconsin 53022
Contact:
262/250-8711
LMorgan@wm.com

March 3, 2015

Comments Regarding Draft Guidance for “Evaluating the reuse Potential of Air Pollution Control Wastes”

The draft guidance appropriately strives for consistency with U.S. EPA’s December 19, 2014 final rule placing direct, self-implementing standards on beneficial use and disposal of coal combustion residuals (CCR). Waste Management offers the following suggestions to further align the guidance with EPA’s rule and state policy.

Low Hazard Exemption Requirements/p. 4 – It would be helpful to state the primary requirement for an exemption under s. 289.43(8), a demonstration that an exemption is warranted “in light of the potential hazard to public health or the environment.”

Recycling Options/p. 5, item 3 -- Burning CCR as supplemental fuel would be subject to the legitimacy criteria and approval letter process set forth in EPA’s Non-Hazardous Secondary Materials Rule, <http://www.epa.gov/solidwaste/nonhaz/define/index.htm>. Note that although evaluation of the chemical constituents of a material to be burned as a product, not a waste, is based on comparison to the composition of the type of coal used at the facility using the waste-derived fuel, the composition of the supplemental fuel will need to undergo the review required under the EPA rule to assure comparability.

Recycling Options/p. 5, item 4 -- The 6” limit for alternate daily cover under NR 538.10(4), applies only if the generator and landfill are relying on beneficial reuse exemptions under NR 538.12, not if the Department has approved use of the material as ADC under a low-hazard exemption. Administrative rules require landfill operators to use cover sufficient to minimize vectors and nuisances, but not less than 6”. A 6” limit is difficult to monitor and achieve when applying a material over the uneven surface of an active area.

Recycling Options/p. 5, item 5 – The use of CCR as geotechnical fill is subject to volume limitations when used for non-roadway purposes (Pre-Publication Notice, pp. 166, 176).

Recycling versus Disposal/p. 6 – This section states that if placement as fill requires engineering controls *and also* long-term care, the placement is considered a landfill rather

than reuse. It's not clear whether "long-term" care means monitoring, maintenance of engineered structures, financial assurance or some other ongoing obligations. Replacing "*and also*" with "*or*" would make it clear that if a proposed reuse entails either engineering controls or long-term care, it is by definition a landfill.

Disposal in Landfills/p. 6 – This paragraph may understate the importance of ensuring compatibility of individual CCR streams with waste types, volumes and monitoring at MSW landfills. DNR appropriately requires DNR engineer evaluation of placement of CCRs in MSW landfills. In any case, it's not clear why a paragraph regarding landfill disposal is necessary in a reuse guidance. It may be better to strike the paragraph altogether.