

AGENDA & NOTES

LANDFILL & SOLID WASTE FEES ADVISORY COMMITTEE

Wednesday August 16, 2023

Via Zoom online

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 list other DNR staff:

Alicia Zewicki, Dustin Sholly, Jim Delwiche, Marcus Hellenbrand (Air Program), Tony Peterson, Phil Fauble, John Morris, Michael Schmit, Paul Neumann

Public Attendees:

Kari Rabideau, Chad Doverspike, Julie Ketchum, Lisa Ziehlke, Darienne McNamara, Rick Meyers, Erik Kobach WEC Energy Group, John Trast, Matt Robinson, Melissa Wenzel, Susan Mooney

9:30 a.m.	Meeting Start – Welcome SharePoint site reminder, options for feedback <ul style="list-style-type: none">• DNR reviews feedback, as provided• Changes sent out since last meeting on SharePoint• Today covering proposed changes for chs. 506 & 520• October 18, 2023 meeting discussions chs. 507 & 508, 512 if time allows• January 10, 2024 meeting discuss chs. 512, 514, and 516
DNR updates 30 minutes	Overview of administrative code work done since June meeting: draft edits to NR 506; other updates Notes: Highlight of items put in spreadsheet (on SharePoint) of current updates – (via the ‘current’ tab of spreadsheet): <ul style="list-style-type: none">• Added definition of ‘underdrain’• Added option for native see mix• Submit monitoring well changes for feasibility – no exemption needed• Samples for previous geotechnical investigations do not need to be retained for future expansions• Private water supply well sampling – reworded for clarity. Submit results within 60 days if no exceedances are noted during sampling. Submit results within 10 days for any private well that has an exceedance.• Added 1 option for an alternative liner (1-foot compacted subbase, 3 feet clay (normal spec), drainage layer (no change).

- Added option for a performance based alternative final cover (similar to CCR alternative final cover option)
- TENORM waste
 - Added section for TENORM waste (includes definition of TENORM)
 - ‘Ultra-low-level’ radioactive replace with TENORM
 - Set a ‘de minimis’ level of radioactivity, below which additional approval is not needed based on EPA guidance
 - Mostly elevated concentrations of radium (usually naturally occurring)
 - Includes protective placement of TENORM waste (keep away from sidewalls, bury right away)

Open Comments:

TENORM Waste

Question: For areas that have high radium in groundwater – are they anticipated to generate waste above the ‘de minimis’ levels? How does this new requirement help in general?

Response: For water supplies with elevated levels of radium in ground water, it depends how water is being treated. There are two main treatment methods for naturally occurring high levels of radium: 1) treatment filters are washed and the radium is diluted and removed in the waste water, 2) the utility is using a filter media that targets radium removal, the media material can concentrate the radium to a point that it needs specialized disposal. Drinking water treatment systems that use lime softening can have filter material ranging from 15-20 pCi/L, while radium targeting filters can concentrate radium up to the 100s of pCi/L.

Question: Will high levels of radium not be allowed?

Response: For most water supply utilities with lesser radium concentrations, the filter media should be able to be meet the lowest standard of 5 pCi/g so no additional approvals will be needed. This lower limit is the same as groundwater standard for radium of 5 pCi/L, but high enough to exclude most natural soil concentrations of 2-3 pCi/L. Levels that exceed 5 pCi/L will still need written permission – no current standard for ‘high’ levels contamination beyond that threshold are specified. Adding TENORM sets a standard for levels of radium concentrations that need further evaluation and approval. The protective measures proposed should be effective for safe management of the majority of the elevated radium waste material.

Underdrain

Question: Is it DNR’s intent to look at the underdrain system as below the disposal unit or as part of the disposal unit? Can this be clarified?

Response: The intent is to be below the disposal unit. Can attempt to add clarification.

High Groundwater Table

Question: – Ambiguity to the CCR requirements for the seasonal high groundwater table 10-foot separation requirement. Is there a standard way to calculate seasonal high groundwater table? Over a specific time span?

Response: The DNR typically sees sites collect monthly elevations, similar to siting a green field site. Intent is to design for the ‘worst case’ scenario.

Private Water Supply Wells

Question: For 507.26 water supply well submittal for CCR sites, there can be confusion between the end of the sampling period and completing sampling and analysis. These can potentially conflict and start different clocks.

Response: The DNR can consider adding language to clarify the confusion.

Alternative Final Cover/Liner

Question: Alt final cover –The CCR language includes a term called ‘infiltration layer’. This layer is meant for a low permeable layer, why do we call it that if it’s meant to prevent infiltration? Can we change the name to reduce confusion?

Response: Name was chosen to reflect language used by EPA.

Question: Alt liner - Is the DNR still considering using geosynthetic clay liner (GCL) to replace clay?

Response: The DNR is not entertaining this at this time.

Question: Can the DNR provide additional information on why it is not being entertained?

Response: The GCL complicates construction which may create more problems in the future. DNR concerned with GCL’s ability to withstand freeze-thaw conditions and if it will affect resistivity testing.

Question: Would the exemption request be considered for individual sites and circumstances?

Response: The DNR would not remove this ability. Can present other options with an exemption request.

Question: Performance based liner vs final cover. Why final cover vs liner?

Response: A final cover can be fixed and replaced, see if there are issues. With a liner, we don’t have that option. The DNR is representing people of the state and environment and want to be conservative and ensure there is no leakage. Liners cannot be fixed if there are issues down the road.

Notes:

Highlights from 506 new sections:

- Early gas collection and performance of gas extraction systems to prevent odors and greenhouse emissions. Would require installation of gas collection earlier than final grades or 5 years.

- LTC requirements – put items in code for items expected to be included in estimate.
- Notification section for landfill fires and leachate release
- Annual reporting requirements – took typical conditions of approval and made it code (will not apply to CCR landfills). This may be a change for industrial sites.

Open Comments:

Early Gas Collection

Question: How will persistent nuisance odors be measured? Is this language subjective and interpretative? How to include in code as a better-defined item to eliminate subjectiveness.

Response: Discussed internally how we define this. This would be if we’re getting a lot of calls, or we are noting odors during inspections. Wouldn’t be targeting specific individuals with concerns on the landfills. More specifically targeting smells that can’t be fixed with daily cover.

Wording Suggestion Discussion: “that cannot be corrected by early gas collection”. “may require”. “in cases where landfill has not taken action or actions are not working”. “trigger SEM event”. “has not taken corrective actions or corrective actions have not been successful”.

Action Item: Send suggestions for wording this proposed section.

Question: Can the DNR better define what restricting access looks like for LTC requirement?

Answer: This can be evaluated in the LTC section.

Question: Notification requirements – Can you define leachate release. Spills vs a leachate release through liner.

Response: Meant to encompass leachate that gets outside of landfill limits into storm water features. Not include leachate from the bottom of the landfill (like liner leak or underdrain system). Will need to check with Remediation and Redevelopment program for definition of a spill.

Question: Addition of requirement for reevaluation (testing) of special wastes. Rationale of adding this?

Response: Meant for special wastes for MSW landfills and special waste plan. DNR is aware of situations where waste streams change and landfill doesn’t know and may not be able to accept the waste (e.g., waste becomes a hazardous material). This change is not meant for CCR landfills.

Question: Does this apply to high volume industrial waste?

Response: Not intended to apply unless a site takes too much and wants to retest.

	<p>Question: Clarification on diameter for leachate collection system testing. Discussed early on in code revision process a requirement for 8-inch diameter pipe.</p> <p>Response: Code was changed to have wording of 6-inch <u>inside</u> diameter pipe</p>
<p>Overview of Environmental Management Account and Waste Program Funding</p> <p>60 minutes</p>	<p>Paul Neumann, Section Chief – DNR Bureau of Management & Budget</p> <p>Michael Schmit and Kate Strom Hiorns, Waste and Materials Management Program</p> <p>Notes:</p> <p>Background information on funding DNR overall and Waste and Materials Management (WMM) Program– Who has control over what accounts/statute and code requirements.</p> <ul style="list-style-type: none"> • Presumption that we all find it a good thing to have a functional WMM program. Want to have program in place that moves waste from homes to place that will not harm environment. The DNR needs to make sure we can have sustainable source of funding. • Funding of WMM is complex and not all about solid waste (recycling/hazardous waste). Need to raise revenue to run WMM program. • As times goes on and revenues stays flat, costs increase and this is a problem. The DNR can’t continue to provide high level of service for regulated community and public with this trend. No way to account for inflation/cost of doing business. <p>Presentation by Paul Neumann</p> <p>How is DNR funded:</p> <ul style="list-style-type: none"> • 9th in terms of size of budget, complex funding • Funding pie chart \$1.22 billion– majority is from conservation fund (49.3%); general public revenue (GPR) (18.1%) • Program revenue 5.3% - Environmental fund 9.8% <p>How is the WMM Program is funded:</p> <ul style="list-style-type: none"> • 49.4% from environmental fund • 24.2% from program revenue <p>Where do tipping fees go?</p> <ul style="list-style-type: none"> • Max fee/ton \$12.997 • Environmental fund – statute (environmental repair, well compensation, recycling, industrial waste, groundwater fees) • Wis. Dep. of Admin. – solid waste siting board fee (289) • DNR solid and hazardous waste license surcharge fee 520.04 <p>Environmental fund overview:</p> <ul style="list-style-type: none"> • Made up of environmental management account (recycling/solid water management/air management/brownfields) – nonpoint account (nonpoint source pollution [ag/urban]) • \$81.2 million of fund

- 79.6% is from tipping fees

How are tipping fees spent?

- FY22 expenditures \$80.9 million
- 4.2% WMM program operations

DNR Solid & Haz waste appropriation overview – tipping fee spending:

- Revenue – license fees 52.2%, 40% license surcharge fee

Take aways:

- DNR funding structure is complicated
- WMM program relies on tipping fee revenue
- Not all tipping fees are deposited in the same place
- DNR’s use of tipping fees and other revenues is controlled via spending authority levels and authorized position counts
- If positions are not filled in a timely manner, positions are lost

Open Comments:

Question: What is the status of the debt service from 70s/80s?

Response: Still paying debt service on that – starting to drop off. 20-30 years removed from initially incurred. Seen steady drop off and not as big of an obligation.

Question: Do plan review fees cover full plan review costs? Staff costs? Has this evaluation been done yet?

Response: DNR has authority to charge fees that support those activities. Required to propose these. Fees haven’t been updated since 2006. Still need to finalize potential plan review fee changes.

Question: Can the DNR set language to automatically modify fees over time?

Answer: Legislature would likely not allow this

Question: Proposing fees to support staff funding. Can you talk about this?

Answer: We have a set number of authorized positions. Legislature goes in and looks at positions that have not been filled in 18 months. Can take these positions away forever. Authorized to have positions, but do not have enough money to fund. Need to fund for future.

- General WMM program expenditures for 2006-2022
- 58% full time employee salary, 40% fringe and supplies
- Currently have 7 full time positions open
- Maintained same approximate expenditures from 2006 - 2022

Open Comments

- Can the DNR provide an example spreadsheet for generated revenues over time?

- DNR presents budget to Solid Waste Interested Parties (SWIP) every year, back to FY19, average about 3.4 million.
- Can DNR provide an example of comparison of open positions and overall DNR vacancy?
- WMM program is 17.8% vacancy, drop to 15% after filling some positions. This varies amongst programs. Vacancy rates for EM division programs, WMM program 17%, Air program 26%, Remediation and Redevelopment program 10%, Drinking Water 12%, Water Quality 8%
- Need to know how much more money the DNR needs vs trends in waste generation rates.
- Since 2006, revenue is pretty flat trend, overall revenue earned is tending to have a negative trend line right now. Can put together data on this and send to team.
- Can the WMM program change the percentage of money this program receives vs going to other programs?
- Small portion goes to Remediation and Redevelopment account, relatively flat in trends. Budgeted \$250,000 annually (uses full amount).
- Consider lowering tipping rates to attract more tonnage?
- Statutory references to fees “shall establish to recover solid waste program staff review costs.” How to restore buying power in WMM program? Need money for positions, file digitization, IT development, GIS development, waste characterization studies

Considered Options: (start date about 2026)

- 1 – Increase \$0.15 to \$0.25 for license surcharge fee for current categories of waste
- 2 - Increase \$0.15 to \$0.25 for additional categories of license surcharge fee
- 3 – change plan review, inspection, and license fees
- 4 – other ideas?

Open comments on considered options:

- Not opposed to fee increases, inflation, cost of doing business. Too much of a fee increase has a negative impact with out of state waste.
- Can a table be provided that shows salary increase change and hours needed for plan review time?
- Idea – put digitization and GIS project costs back on public – license surcharge, plan review fee increase on landfill owners.
- Tipping fees easier for consistency in playing field – plan review fees vary depending on number of plan changes needed.
- Fee changes to alternative daily cover and beneficial use materials (categories 19, 21, 22, and 23) may cause concerns because of contracts in place for using materials at landfills.
- Can the DNR reduce the requirements for needing plan review?
- Can the DNR expand the items allowed under the expedited plan modification section?

Question: Do C&D landfills have exemptions from fees?

	<p>Response: Yes, they have some exemptions. Small and intermediate C&D sites currently do not have a tonnage fee. They have an annual inspection and plan review fees. Small C&D landfills are not licensed, so that's why they have an inspection fee.</p>
Break - 10 minutes	
<p>Discussion on NR 520 solid waste fees, OFR, capacity determinations</p> <p>~45 minutes</p>	<p>Q & A with committee</p> <p>Economic impact analysis</p> <p>Notes:</p> <p>Proposed changes to ch. NR 520 (no open comments received – ran out of time)</p> <ul style="list-style-type: none"> • Net worth test cost ratio (clarification) • Investment limits in Escrow/Trust (update to match FDIC insurance) • Inflation factor calculations (re-wording to match HW code / expectation) • Projected inflation shall be equal to previous year (average of previous 5 years? 10 years?) • Projected return shall be equal to projected inflation plus 2% (1%?) <p>Previous projects were not as accurate as hoped – looking to change that.</p> <ul style="list-style-type: none"> • Closure definition • Remaining capacity determined using topo surveys • Department annual account balance • Landfill license surcharge fee
<p>Public participation</p> <p>10 minutes</p>	<p>Open time for comments from any attendees</p> <p>No open comments received.</p>
<p>Plans for 8/17/23 – 10/18/23</p> <p>5 minutes</p>	<p>Next focus areas for DNR drafting and to discuss in October:</p> <ul style="list-style-type: none"> - NR 507 Environmental Monitoring - NR 508 Responses When A Groundwater Standard Is Attained Or Exceeded - NR 512 Feasibility Reports For Landfills (if time allows) <p>Committee topic suggestions for future meetings</p>
Next Meeting Date	October 18, 2023 → In person
12:30 p.m.	Meeting adjourned