

**BEFORE THE
DEPARTMENT OF NATURAL RESOURCES
DETERMINATION ON
PRIOR COMPLIANCE AND
WISCONSIN ENVIRONMENTAL POLICY ACT (WEPA) COMPLIANCE**

**For
Plan Modification for the Proposed Expansion of Badger Material Recycling, LLC, Solid
Waste Processing Facility
September, 2016**

INTRODUCTION

The Wisconsin Environmental Policy Act (WEPA), s. 1.11, Wis. Stats., requires state agencies to fully consider and disclose the environmental impacts of agency actions. Chapter NR 150, Wis. Admin. Code, outlines policy and procedures for implementing WEPA for the Department of Natural Resources (DNR). Section NR 150.35, Wis. Admin. Code, requires a final written determination regarding prior compliance and WEPA compliance.

The Badger Material Recycling, LLC., facility is located at W239 S1755 Jones Rd in Waukesha, WI, Waukesha County, WI. The facility is a shingle processing facility approved under s. NR 502.08(2)(i), Wis. Adm. Code. The proposed action is a plan modification approval for the facility to begin accepting mixed construction and demolition waste in a new hoop building in amounts greater than 100 tons per day and hand sorting the material.

FINDINGS OF FACT

On April 23, 2016, the Department received a plan modification request for approval in Waukesha County.

Section NR 150.20, Wis. Admin. Code, establishes procedures to fulfill the requirements of s. 1.11 (2) (c), Wis. Stats., setting minimum procedural requirements for WEPA compliance. This solid waste processing plan modification approval with a footprint change to expand beyond 100 tons per day of material is a not listed as a prior compliance action in s. NR 150.20(3)(b), Wis. Admin. Code.

Pursuant to s. NR 150.20 (3) (b), Wis. Admin. Code, the Department may determine that an action not defined as a prior compliance action under s. NR 150.20 (3) (a) nonetheless meets the definition of prior compliance in s. NR 150.03 (21), Wis. Admin. Code.

Prior environmental analyses have been conducted for, a Construction Materials Recycling facility located at W4186 Potter Road, Elkhorn on December 19, 2011. This project is similar to the proposed project in kind, scale, and environmental setting

CONCLUSIONS OF LAW

1. The Department of Natural Resources, pursuant to s. 1.11 Wis. Stats., and ch. NR 150, Wis. Admin. Code, has the responsibility to comply with WEPA and the authority to determine its compliance with that Act. The proposed action meets the definition of prior compliance under s. NR 150.03 (21), Wis. Admin. Code. The procedure and analysis identified in the Findings of Fact complies with the requirements of s.1.11, Wis. Stats., and ch. NR 150, Wis. Admin. Code.

Dated at Madison, Wisconsin, this 9th day of September, 2016.

STATE OF WISCONSIN

Department of Natural Resources

For the Secretary

By:  _____

Matt Matrise

Waste and Materials Management Program Supervisor

Southeast Region