

# WASTE & MATERIALS MANAGEMENT STUDY GROUP – Notes: May 5, 2022

Location: Zoom

Member Attendance:  Curry,  Doverspike,  Johnson,  Karwoski,  Mathewson,  Morgan,  Pellitteri,  Sexton,  Welch

Guests: 15 additional attendees listened using Zoom

DNR WA Attendance:  Bekta,  Joosten,  Kroll,  Murray,  Semrau,  Sholly,  Strom Hiorns,  Wolbert

Time/ Presenter	Topic	
9:00	<b>Welcome/Agenda Review/Minutes</b>	Study Group members and guests introduced themselves. No agenda repair. Tim Curry motions to approve the minutes as presented. Seconded by Chad Doverspike. Motion carried. Bart Sexton thanked former Co-chairs, Chad Doverspike and Meleesa Johnson for their years of service as Co-chairs.
9:40 Wolbert/Strom Hiorns	<b>DNR Updates</b>	<p>Staffing</p> <ul style="list-style-type: none"> <li>• Waste and Materials Management (WA) Program is seeing more staff turnover.</li> <li>• New engineer hired for Eau Claire office, starting early June.</li> <li>• Environmental program assistant in Fitchburg, making an offer.</li> <li>• Recruitments in process for business support and information technology (IT) section chief, another environmental program associate and a hazardous waste policy position in Madison.</li> <li>• Additional vacancies are hazardous waste specialist and solid waste complaints coordinator, whose duties are currently filled via staff rotation.</li> </ul> <p>Budget</p> <ul style="list-style-type: none"> <li>• Fiscal year '22 ends June 30. Anticipate ending in the black, which is accomplished by managing vacancies.</li> <li>• Significant discretionary funding spent this year on digitizing paper files. Due to volume of paper files and expense, a region-by-region approach is being taken. Once complete, this will be a big improvement and enable staff and externals to access files more efficiently and allow the department to be more responsive to open records requests. Digitization will be a several year project.</li> <li>• Another budget item is IT development- automating reporting and licensing and addressing legacy platforms. Platform which houses GEMS is being discontinued soon. Also seeking to improve inspection tools/forms to allow real time, on-site processing. This is also a multi-year task.</li> <li>• Bart: Appreciates file digitization.</li> </ul> <p>Rules</p> <ul style="list-style-type: none"> <li>• NR 544, Wisconsin administrative code (recycling Responsible Units [RUs]) on the Natural Resources Board (NRB) agenda for May for approval to hold public hearing on scope statement. If approved, public hearing will take place on June 6 at 1:30 p.m. via Zoom.</li> <li>• The coal combustion residual rule (CCR) is at the final legislative review (already approved by NRB,</li> </ul>

		<p>Governor). Once approved, staff will write up document for U.S. EPA.</p> <ul style="list-style-type: none"> <li>Operator certification rule- now final. Allows online exams for certification (not just for landfill operators/managers).</li> </ul> <p>Open Board Seat</p> <ul style="list-style-type: none"> <li>AROW representative seat open with resignation of Karin Sieg from the Study Group. New appointee is Brandon Knudtson, GM of Hilltopper Refuse and Recycling. Hilltopper is a MRF, hauler and E-cycle collector. Brandon is on the board of Recycling Connections and an AROW member. Appointment approved by the Secretary's Office and Brandon will participate in the next Study Group meeting.</li> </ul> <p>Reporting Season</p> <ul style="list-style-type: none"> <li>Jan.-May is reporting season with hazardous waste, infectious waste, MRF and RU reports solicited from over 3,000 entities. RU reporting just ended May 2, with only ~13 unsubmitted RU reports of over 1,070.</li> </ul>
<p>9:25 Strom Hiorns</p>	<p><b>Changes Related to 2021 WI Act 93 Effective 7/1/22</b></p>	<ul style="list-style-type: none"> <li>Dredge legislation (WI Act 93) will exempt statutory tipping fee for soil and dredge and requires a hearing in the of disposal county instead of the disposal city when placing dredge with any concentration of heavy metals or PCBs.</li> <li>Requirements include if done by municipality/county, economic public benefit, up to 35,000 cubic yards or 10 years.</li> <li>Act 93 required emergency and permanent rule development; NRB approved the scope statement in April.</li> <li>Kate displayed waste category spreadsheet delineating which fees would be exempted.</li> <li>Chad: Per ton or per cubic yard? Only on landfills? Kate: Per ton and yes, only for landfill disposal.</li> <li>Bart: Is this Bipartisan Infrastructure Legislation related? Kate: No.</li> <li>Lynn: Removal of the fee on soil and dredged sediment to level the playing field with unregulated sights. Why 'punish' the use of regulated landfills (encourages use of other sites)</li> <li>Brad: Also streamlines the dredging process for municipalities.</li> <li>Kate displayed s. 289.54, Wis. Stats. PCBs and heavy metals require a public meeting in the county.</li> <li>John: No threshold for heavy metals? Kate: Correct, so all will require public meeting.</li> <li>John: Only Great Lakes dredge? Kate: Any dredged sediment (defined by ch.292 statutes); does not include sediment from stormwater structures.</li> </ul>
<p>9:45 Murray</p>	<p><b>E-Cycle Wisconsin Updates New E-Cycle Grant Program</b></p>	<p>Sarah discussed implementing WI Act 79, including new grant program (see slides).</p> <ul style="list-style-type: none"> <li>Noted we did receive applications for new grant program from all five targeted counties (which did not have a permanent E-cycle site or collection event last year).</li> <li>Funding source for grant is manufacturer shortfall fees.</li> </ul> <p>Joint Committee on Review of Administrative Rules did not approve E-cycle rule package; department has voluntarily recalled the rule to make changes. Delays solid waste processing license requirement.</p> <ul style="list-style-type: none"> <li>Bart: This was an administrative rule? Sarah: Yes.</li> </ul>

<p>10:20 Strom Hiorns</p>	<p><b>Food Waste Prevention and Reduction Update</b></p>	<p>Food Waste (Strom Hiorns)</p> <ul style="list-style-type: none"> <li>• Department issued a press release on Stop Food Waste Day (April 27) highlighting results of waste characterization study, the department’s goal to reduce food waste going to landfills by 50% by 2030 and announcing the department’s new residential food waste reduction webpage.</li> <li>• Next steps include: development of a non-residential webpage for schools, institutions, and commercial generators; populating WI Recycling Markets Directory with more food waste reduction outlets; more guidance documents and publications.</li> <li>• Brad: Also benchmarking with other states on food waste reduction; national interest is growing. Reviewing other states’ legislative initiatives even though WI is not in a position to advocate for legislation. However, not really conceivable to reach 50% without legislation.</li> <li>• Lynn: Good to hear this is a focus area, on local sustainability committee in her community, looking at local initiatives to amplify the department’s work.</li> <li>• Brad: Department is open to ideas too.</li> <li>• Bart: Very interested in this work, also heard pick-up on press release on a couple of news outlets. Need guidance/exemption for on-site operations. If processing facility siting is needed for on-site composting, that’s too big of an obstacle.</li> <li>• Brad: Open to more details on this.</li> <li>• Bart: Put on Study Group agenda for robust discussion. Schools can serve as good models but need to codify in rule. Schools can’t hire consultants.</li> </ul>
<p>Semrau</p>	<p><b>Battery Disposal/Recycling Update</b></p>	<p>Batteries (Semrau)</p> <ul style="list-style-type: none"> <li>• As discussed at a previous study group meeting, proper battery disposal and safety are significant concerns. As a result, a Rechargeable Battery Task Force has been formed.</li> <li>• Inaugural meeting held March 1, where co-chairs Chris Blan (Brown County) and Samantha Longshore (City of Milwaukee) were selected.</li> </ul>
<p>Kroll</p>	<p><b>Avian influenza – Bird and Egg Disposal Update</b></p>	<ul style="list-style-type: none"> <li>• Second meeting held April 5, where three subgroups were identified: landscape, education and legislative. Landscape includes the dissemination of a survey to assess prevalence of fires as WI solid waste and recycling operations. Study group members and guests who haven’t taken the survey are encouraged to do so to get better WI data. The landscape group is also assessing availability of existing infrastructure.</li> <li>• Each subgroup should report to the full Task Force at the next meeting on May 31.</li> <li>• EPA is working on a battery webinar series (5-6 webinars) each focusing on a different topic (general info, drop-off site safety, EV batteries, battery safety and firefighting, electronics, DOE research and grants). Sarah Murray is working with EPA on this project.</li> <li>• DNR recently had translated its popular Household Battery Recycling Guide into Spanish. <a href="https://dnr.wi.gov/files/PDF/pubs/wa/WA1621.pdf">https://dnr.wi.gov/files/PDF/pubs/wa/WA1621.pdf</a> <a href="https://dnr.wi.gov/files/PDF/pubs/wa/WA2007.pdf">https://dnr.wi.gov/files/PDF/pubs/wa/WA2007.pdf</a></li> <li>• Bipartisan Infrastructure Law (BIL) has various grants and programs for battery recycling under EPA and DOE.</li> </ul> <p>Avian Influenza (Kroll) – See slides for presentation.</p> <ul style="list-style-type: none"> <li>• HPAI map- 36.9 million birds depopulated.</li> </ul>

		<ul style="list-style-type: none"> <li>• Displayed WI outbreak map.</li> <li>• Jefferson County- 2.7 million birds depopulated versus 1.9 million total in 2015.</li> <li>• Over 7,000 loads taken to compost site.</li> <li>• Next piles will be released in a week and a half.</li> <li>• Equipment from Germany allowed for faster pile turning (hour versus half a day)</li> <li>• Brad: Thanks to Dan Kroll for extensive time on-site (including weekends). Noted DATCP is lead agency.</li> <li>• Chad: Lessons learned? Dan: Need for preparations, such as readily available, large sources of carbon.</li> <li>• Bart: Easier to depopulate turkeys, more bedding. Dan: Yes, and northern farms have more logging (carbon sources) and ability to compost turkeys in barns (larger). No room to compost in chicken barns.</li> <li>• Meleesa: Marathon County landfill took eggs, but not licensed for free liquids. Indicated material would need to be solidified and that was done. Staff were great to work with- USDA, DATCP, DNR.</li> <li>• Tim: GFL had wastewater treatment concerns, only took low level HPAI waste.</li> <li>• Meleesa: Yes, a 'hold harmless' indemnification for reduced risk should be considered. Likely to be a post-event report.</li> <li>• Bart: Carbon sources are the biggest challenge, can stockpile, but the very nature of organic material is that it breaks down.</li> </ul>
<p>11:00 Pellitteri/ Jongetjes</p>	<p><b>Material Recovery Facility Tipping Fee Discussion</b></p>	<p>David Pellitteri, representing NWRA, along with Dan Jongetjes, representing John's Disposal, requested a discussion on the history and how one might change the maximum MRF tip fee percentage.</p> <ul style="list-style-type: none"> <li>• Dan: Over time MRFs have seen changes in incoming material and contamination they must process out- exceeding 10%. This is somewhat regional, with certain areas delivering 'dirtier' material. This is something they would like DNR to be aware of, that residuals have increased. At this point, it is for discussion purposes only.</li> <li>• David: Reached out to Jennifer for residual data.</li> <li>• Lynn: Caps on residual were based on historical data from the DNR from MRF self-certifications. The idea was to strike a balance between offering a financial (tip fee) break, removing outliers, but not creating an incentive for a MRF to create more residual.</li> <li>• Meleesa: Percentage was also used for WTE residual exemption too.</li> <li>• Dan: John's is seeing more incoming contamination (residual).</li> <li>• Meleesa: AROW has been focusing on 'Recycle Right' messaging, educating on what to recycle and what NOT to recycle, including not 'wish-cycling.' Recycling is complicated.</li> <li>• Jennifer displayed MRF residual data which was shared with David (data from SWIP meeting) showing 2020 MRF residual rates as a dot plot diagram and a graph showing 2016-2020 MRF residual rates trending upwards.</li> <li>• David: As additional data was not available prior to this meeting, only seeking a discussion at this time.</li> <li>• Bart: Is the increase in residual from residential or commercial or both? Dan: John's receives</li> </ul>

		<p>primarily residential material and are seeing increases in contamination in curbside carts.</p> <ul style="list-style-type: none"> <li>• David: Also sees increases in commercial. But perhaps more importantly, it's important to realize global changes since the tip fee exemption law passed. For instance, National Sword required MRFs to clean up bales to higher specifications and Strategic Material Inc. (SMI) is seeking cleaner glass (having MRFs utilize glass clean-up systems). This increases the residual at the MRF (and in the case of SMI, is a transfer of residual from their numbers to all the MRFs which service them. SMI's residual has been 30%.)</li> <li>• Bart: MRFs have to do a better job cleaning up material in order to market it.</li> </ul>
<p>11:20 Strom Hiorns/ Wolbert/ Joosten</p>	<p><b>NR 500-599 Administrative Code Pre-Scoping Discussion, incl. Summary of March 2 Listening Session and Draft Scope Elements, Exclusions</b></p>	<p>Kate shared that the department held a listening session on March 2 to learn issues and reoccurring questions. The program is considering feedback from the study group and the listening session. Since, there have been a number of internal meetings. Valerie stated staff have been working on the draft scope statement since March. There will still need to be internal reviews and a number of approvals, prior to going before NRB, so this is in the early stage. See slides for presentation.</p> <p>Valerie: The program had several considerations when evaluating the focus and extent of the scope content for this initial rulemaking. Including:</p> <ul style="list-style-type: none"> <li>• What is manageable or reasonable to accomplish with existing staff and the timeline limitations of the rule making process.</li> <li>• Who are the stakeholders that would be affected or interested in the proposed rule and making sure it's a reasonable scope to be able to engage with stakeholders.</li> <li>• We need to consider our statutory authority or any limitations regarding what could be included in the rule.</li> <li>• We need to consider federal requirements and that we will ultimately need to seek EPA approval of certain rule revisions.</li> <li>• We needed to consider whether the rule revisions align with our program goals and priorities.</li> </ul> <p>Valerie: Based on the above considerations, we have compiled a DRAFT scope, which still needs to go through internal WA program reviews, Division management reviews, Secretary's approval, Governor approval before going to the NRB. So this is still conceptual. However, we are considering a scope that would focus on landfills, solid waste fees, reporting and OFR (owner financial responsibility). This may include numerous corrections or clarifications throughout the affected chapters 500, 504 through 516, 520 and 524. It may include revisions related to landfill design and construction standards. Some specific examples:</p> <ul style="list-style-type: none"> <li>• Alternative liner material, alternative final cover design, final cover slope transitions, differences in groundwater separation, other alternatives where appropriate.</li> <li>• Updates to locational and performance criteria.</li> <li>• Updates to landfill design and construction criteria, including landfill gas, leachate collection and storm water management systems.</li> <li>• Updates to construction documentation requirements.</li> </ul> <p>It may include revisions related to landfill operations, monitoring, reporting and operator certification such</p>

as:

- Requirements for annual reporting, recordkeeping, minimum standards for long term care, gas collection – monitoring and maintenance, greenhouse gas emissions and continuing education.
- Updates to requirements for alternative daily cover, leachate line jetting, free liquids and sludge, leachate recirculation, petroleum contaminated soils section, waste characterization and environmental monitoring.
- Side slope reclamation and interim waste grades.

It may include revisions to landfill siting and plans of operation. Such as:

- Special waste acceptance plans, litter and odor control plans, final cover sequencing.
- Updates to feasibility report, organic stability, plan of operation modification requirements.
- Clarification of feasibility modifications, initial site inspection, locational exemptions, and procedures for initial construction approval.
- Solid waste fees, landfill tonnage and capacity reporting and owner financial responsibility.
- Updates to license fee surcharge and solid waste plan review and inspection fees, license renewal application requirements, OFR procedures, interest rate and earning estimate requirements.
- Requirements for annual topo survey and updates to solid waste conversion factors.

At this time, not proposing NR 502, 503, 518, 526, 528 and other general 500 changes, which covers non-landfill solid waste facilities, C&D landfills, medical waste management or accumulated sediment. 538 was recently updated so that would not be included and there already is a scope statement for 544.

- Brad: This represents concepts for scoping, as we cannot begin rule writing without NRB approval.
- Lynn: What is the timeframe for a draft scope? Kate: Few months.
- Lynn: Topics to be addressed in the scope should come forward at this time.
- Tim: Is scoping document what you're proposing to change (specifics)? Or sections to evaluate?  
Brad: The latter; there won't be specific details in the scoping statement.
- Tim: When will there be a time for public comment? Brad: We will seek comment on the draft scope statement.
- Tim: Is that when the solid waste industry comments? Duncan Moss (WA program attorney): This committee itself is a great forum to give feedback at any time. A public hearing will be likely. By law, the department is not allowed to start rule writing until NRB approves the scope statement. Now, the program is identifying what should be in the scope.
- Tim: This will be a long process and he is glad DNR is taking it on because the regulations are outdated and there have been inconsistent exemptions and decisions. Is it the DNR's intent to evaluate exemptions throughout the process or will the department be waiting for new rules?  
Brad: Business as usual, following existing rules until there are new rules to replace them.
- Duncan: Actual writing of the rules doesn't take that long. It's the hearings, input opportunities, meetings, etc. that take the most time. If there's general agreement on first draft of rule from stakeholders (consensus), it can move faster.

- Tim: The challenge for the industry when interpretation of existing rules changes without rules updating.
- Bart: Was unaware of extensive rule writing process; it has changed over the years.
- Mark Torresani: What is the timeframe from draft scope to details written out? When does the detailed work get done? Duncan: As soon as the scope is approved, staff can start writing rules. It is likely staff will ask experts for help, could be a guidance committee.
- Mark: But what is the timeframe/deadline? Duncan: 30 months after scope is approved. After rules are drafted, there is a financial impact assessment.
- Valerie: The CCR rule did not have a TAG (technical advisory group) but engaged stakeholders throughout the process. While it's a 30-month process, rule drafting is towards the beginning.
- Mark: That helps. If not done in 30 months, start over? Valerie: Yes. Duncan: NRB can opt to require approval at certain points.
- Mark: Drafting alternative liner design language took two years alone. Duncan: While you can draft language now, department staff cannot.
- John: Seeking to build off of what Tim said, heard of new interpretation of existing rule in recent months, specifically NR 500.08 exemptions on landfills regarding how they are reviewed and granted. Exemptions to be only granted if special case, essentially at a single landfill, the first to seek exemption.
- Tim: Will DNR continue to grant exemptions? Is there a new narrowing of NR 500.08 exemptions? Brad: The program has a renewed recognition that exemptions should be just that. If we continue to grant an exemption, we could be making a new rule without the rule writing process (prohibited). Some have questioned DNR's use of our authority. Parties sue the DNR, and the Legislature may say we're exceeding our authority. DNR may exempt in special cases.
- Duncan: For example, CAFO (confined animal feeding operations) rules have been under attack for 'incorrect' interpretation of rules. DNR hasn't changed, but society has forced the DNR to scrutinize its authority.
- Lynn: No one envies DNR's position, but there is a difference between writing rules via exemptions versus if not you're not first to ask, it's 'no.'
- Duncan: Searched NR 500 series and "exemption" is listed 246 times, crazy for administrative code. While there are no legal standards, he has tried to advise the WM program on interpretation. →It is not simply first to seek exemption gets one.

At 11:40 Strom Hiorns and Wolbert were required to vacate the GEF II building due to an emergency and were not present for remainder of the meeting.

- Tim: Has heard term "unique" used to describe "special case," as in you are the only facility in the entire state. "Unique" is not a part of code. Duncan: Agreed, the code doesn't use the word "unique."
- Valerie: Unique is an example, not completely how special case is defined. While we want to alleviate concerns, we have to be sure it doesn't snowball. We need to be sure there is a "special

		<p>case” and document the “special case.” This doesn’t mean there are no exemptions.</p> <ul style="list-style-type: none"> <li>• Lynn: While not a lawyer, it seems a special case is where code has not kept pace with technology and/or modern practices. Rethinking of exemptions during code revision is not very helpful; it creates difficulties during lengthy rule development process.</li> <li>• Lynn: Study group members should consider specific topics Valerie didn’t mention. The time to let DNR know is now.</li> <li>• Lee Daigle: What is the timeframe of seeing the draft scope statement? Valerie: Late 2022, early 2023.</li> <li>• Lee: So industry involvement in 2023? Valerie: Or sooner. There will be various times for input. The goal is to have an approved scope statement by then.</li> </ul>
11:50 Morgan	<b>Material Recovery Facility Tipping Fee Discussion Continued (Recycling and Diversion Subcommittee Update)</b>	<p>Lynn indicated this wasn’t discussed as a part of the MRF residual tipping fee discussion as planned.</p> <ul style="list-style-type: none"> <li>• Lynn: There is no chair for the Recycling and Diversion Subcommittee. It is her impression there are still important topics for this subcommittee to discuss. Should we still have this subcommittee?</li> <li>• If yes, then Lynn will facilitate a meeting of previous members of the group and seek new leadership. Any objection from the study group?</li> <li>• No objection. Study group members concurred with Lynn’s plan to reconvene Recycling and Diversion Subcommittee and solicit new leadership.</li> </ul>
11:55 Morgan	<b>Suggestions for Next Meeting Topics/Presentations Location of Next Meeting</b>	<ul style="list-style-type: none"> <li>• Bart suggested the next meeting should be in-person in the Steven’s Point area (central WI), with a virtual option.</li> <li>• Lynn asked for topic suggestions.</li> <li>• Meleesa: The study group should discuss issuing a position paper on PFAS, classifying some compounds under CERLA. Wastewater industry is working on an exemption for PFAS in wastewater; need to look at a similar exemption for waste industry.</li> <li>• Lynn: To clarify, as a body, seek a narrow liability exemption for SW facilities. Lynn referenced wastewater letter sample (distributed to study group).</li> <li>• Meleesa: There is a national PFAS ‘receivers’ group, looking at doing a similar request. Recently met with federal Office of Management and Budget (OMB) to lay groundwork. Study group should still discuss.</li> <li>• Lynn: In advance of meeting, small group should meet on this.</li> <li>• Bart: Should devote significant time to this (PFAS) discussion- ~45 minutes.</li> <li>• Chad: Scoping discussion will also need significant time. ~1-1.5 hours</li> </ul>
11:50	<b>Adjourn</b>	<ul style="list-style-type: none"> <li>• Chad Doverspike motions to adjourn at 11:58 a.m. Seconded by Tim Curry. Motion carried.</li> <li>• Next meeting: August 4, 9:00-12:00</li> </ul>