

Report From Agency

REPORT TO LEGISLATURE

NR 514, Wis. Adm. Code

Board Order No. WA-06-18
Clearinghouse Rule No. 18-058

Basis and Purpose of the Proposed Rule

The rule increases the maximum term for research, development and demonstration (RDD) projects at municipal solid waste landfills to 21 years to be consistent with federal rule revisions. The current RDD project limit is 12 years. This change will allow landfill owners or operators who voluntarily chose to conduct RDD projects to continue their current approved projects at landfills for an extended period. RDD projects are intended to allow for research and development at licensed landfills on activities such as addition of liquids for accelerated decomposition of the waste mass, allowing run-on water to flow into the landfill waste mass, and allowing testing of the construction and infiltration performance of alternative final cover systems. The research, development and demonstration plans may be proposed for other measures to be taken to enhance stabilization of the waste mass.

The rule specifically extends the maximum number of renewals from 3 to 6 for 3-year RDD plans, which would extend the length of time for research, development and demonstration projects to up to 21 years. The rule will improve flexibility for annual and final RDD reporting, allowing the reports to be submitted within 3 months of the anniversary date of the written approval to facilitate timely renewals. Other rule modifications include correcting references in s. NR 514.04(3) from "feasibility" to "plan of operation" and in s. NR 514.02 from "small" to "small size and intermediate size." These minor changes provide clarity to landfill owners and operators.

Summary of Public Comments

Included below are the comments received and the Department's responses. Oral comments received during the hearing testimony have been paraphrased for this summary.

Wisconsin Legislative Council Rules Clearinghouse comments (18-058):

All Clearinghouse comments were related to form, style, or placement in administrative code and were incorporated into the rule language as suggested.

Public Comments:

During the public hearing, Lynn Morgan representing Waste Management of Wisconsin, Inc., provided oral comments in support of the proposed rule revisions. The comments reflected on the benefits to landfill operation of research, development and demonstration (RDD) projects, such as liquids addition and the ability to continue these projects under the proposed rule. Ms. Morgan referenced the benefits of RDD contributions to organic stability and the ability to manage liquids through RDD that are otherwise difficult to manage by municipalities. The comments reflected an appreciation that the Department has undertaken the rule revision process to extend the maximum term for RDD projects.

DNR Response to Comments: The Department is appreciative of the positive comments. No changes were made to the rule in response to the comments.

Modifications Made

No modifications were made to the proposed rule as a result of public comments and testimony.

Appearances at the Public Hearing

Lynn Morgan representing Waste Management of Wisconsin, Inc.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the analysis or fiscal estimate as a result of public comments and testimony.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on form, style and placement in administrative code. Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse.

Final Regulatory Flexibility Analysis

The department solicited public input on the economic impact analysis and received no comments. Owners/operators operating under existing RDD approvals are not expected to incur any new costs as a result of the proposed rule. The annual costs for ongoing recordkeeping and annual reporting requirements are estimated at \$2,410 per facility based on the information reported by EPA in the Federal Register for the federal rule revisions (Vol. 81, No. 90, May 10, 2016). Application for an RDD approval remains voluntary.

Impacts to small businesses are not anticipated. None of the 4 entities that own the 15 landfills affected are considered small businesses under the definition in s. 227.114 (1), Stats.

This change will allow landfill owners or operators who voluntarily chose to conduct RDD projects to continue their current approved projects at landfills for an extended period.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.