

STATEMENT OF SCOPE

Department of Natural Resources

Rule No.: WA-06-18

Relating to: Research, development and demonstration plans at municipal solid waste landfills and amendments to ch. NR 514

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

The rules will be proposed as permanent rules.

2. Detailed description of the objective of the proposed rule:

The purpose of this scope statement is to request authority to amend ch. NR 514 due to changes made to federal rules that allowed states to extend the maximum permit length for research, development, and demonstration (RDD) plan approvals at municipal solid waste landfills. The proposed rule would seek to allow municipal solid waste facilities additional time to conduct RDD projects in Wisconsin and address other minor updates to language in ch. NR 514.

Specifically, the proposed rule would extend the maximum number of renewals under s. NR 514.10(2)(c) from four 3-year terms to six 3-year terms for a total of up to 21 years. The proposed rule would improve flexibility for annual and final RDD reporting, allowing the reports to be submitted prior to the anniversary date of the written approval to facilitate timely renewals. Other proposed rule modifications include, correcting references in s. NR 514.04(3) from “feasibility report” to “plan of operation” and in s. NR 514.02 from “small” to “small size and intermediate size.”

Additional rule changes or clarifications may be pursued which are reasonably related to those discussed here.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Currently RDD plan approvals in Wisconsin are limited to 3-year terms, with the option of 3 renewals, for a total maximum approved plan limit of up to 12 years. The proposed rule would extend the allowed number of renewals to 6, for a maximum approved plan limit of 21 years, which would match Wisconsin Administrative Code to the revised federal rule, 40 CFR 258.4(e)(1). The alternative to this proposed rule would be to maintain the current number of renewals allowed under s. NR 514.10. The majority of RDD projects to date, have been for the addition of liquids to waste in landfills, in support of organic stability goals or accelerated decomposition of the waste mass. Several municipal solid waste landfills will reach the 12-year limit for RDD approvals within the next several years. If additional extensions are not an available option, RDD plan approvals reaching the current 12-year maximum will not be able to be renewed, and the municipal solid waste landfills will need to rely on other mechanisms for achieving organic stability goals and for managing liquid waste. Other activities that RDD plans may approve include allowing run-on water to flow into the landfill waste mass, allowing testing of the construction and infiltration performance of alternative final cover systems, and other measures determined to enhance stabilization of the waste mass.

Other proposed rule changes under this chapter would not change current policies.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 289.05 and 289.06, Wisconsin Statutes (Wis. Stats.) directs the department to promulgate rules establishing minimum standards for the location, design, construction, sanitation, operation, monitoring and maintenance of solid waste facilities.

On May 10, 2016, the U.S. Environmental Protection Agency (EPA) published final revisions to 40 CFR 258.4(e)(1) to revise the maximum permit term for municipal solid waste landfills operating under RDD permits. This proposed rule revision would replace and update current portions of ch. NR 514 to extend the RDD plan approval term to be consistent with the federal rule, and to allow for minor revisions to the language within this chapter.

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The department estimates that approximately 400 hours of staff time will be required to complete the proposed rule.

6. List with description of all entities that may be affected by the proposed rule :

The proposed rule will likely have impact on municipal solid waste landfill operators with current or future approved RDD plans. Currently, there are 15 municipal solid waste landfills in Wisconsin with active RDD plan approvals. The proposed rule will likely impact generators of liquid waste by providing additional disposal options. The public or neighboring properties may have an interest in the proposed rule, since the proposed rule extends the timeframe for the addition of liquids other than leachate recirculation.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

The proposed rule revisions are consistent with federal rule revisions, which increased the total term limit for RDD permits, including renewals, to twenty-one years. Other minor revisions to the language of ch. NR 514 would not conflict with federal rule.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

A minimal positive economic impact, if any, is anticipated. The associated federal rule revisions included an evaluation of the anticipated effects and benefits of this action. Owners/operators with existing RDD plan approvals are not expected to incur any new costs as a result of this proposed rule revision. The proposed rule revision will not impose any new regulatory burdens. Increasing the possible number of extensions of a RDD plan approval renewal or maximum length of time may benefit current owners and operators of municipal solid waste landfills with RDD approvals by providing additional time to recover their costs. It is important to note that applying for a RDD plan approval remains voluntary.

9. Anticipated number, month and locations of public hearings :

The Department anticipates holding one public hearing in late 2018 or early 2019 in Madison.

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