Solid Waste Interested Parties (SWIP) Fall 2019 Meeting

November 7, 2019
9:00-12:00
Fitchburg
Program Updates

Joe Van Rossum
Program Updates

• Program Strategic Planning Effort
• LAB – Evaluation of Recycling Program
• Waste Characterization Study
• E-cycle and RU Workshops
• Hazardous Waste Webinars
• Evaluating Mobile Inspection tool
  – Developed by EPA
  – Haz Waste Inspection only
Guidelines:

- Plan Review timeliness - 93% on-time
- Inspection targets
  - Number of inspections
  - Response times
- Complaint Response (>400/yr)
- Owner Financial Responsibility
- Tracking IT projects
Rule Making

- NR 600
- NR 538
- Electronics Recycling
- State Permit Program for CCR
Staffing Updates

• Turn-over continues
  – Active employment market
  – Quality candidates

• On-boarding new staff
  – Training
  – Field visits
  – Mentoring
  – Consistency

• Up-coming recruitments
Guidance Documents/Website

• Act 369 Impacts
  – Focus on recertifying existing
  – Slowly working in new
  – Evaluating beyond traditional guidance

• Department wide website redesign
  – Expected to launch 2\textsuperscript{nd} quarter 2020
Upcoming Events & Meetings

- PFAS Waste subgroup – This afternoon
- WMM Study Group  12/6
- Full PFAS TAG – 12/13 10:00am
Solid Waste Program Revenue

Annual update per NR 520.04(1)(d)(5)

David Albino
## Program Revenue Account Status

<table>
<thead>
<tr>
<th>Revenue Sources</th>
<th>FY 17 Actual</th>
<th>FY 18 Actual</th>
<th>FY 19 Actual</th>
<th>FY 20 Estimated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opening Balance</td>
<td>$211,891</td>
<td>$246,704</td>
<td>$366,116</td>
<td>$1,126,904</td>
</tr>
<tr>
<td><strong>Revenue Sources</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SW landfill license surcharge</td>
<td>$1,016,582</td>
<td>$1,043,227</td>
<td>$1,059,706</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>SW landfill licenses</td>
<td>$475,865</td>
<td>$370,974</td>
<td>$572,550</td>
<td>$540,000</td>
</tr>
<tr>
<td>SW C &amp; T licenses</td>
<td>$239,084</td>
<td>$422,184</td>
<td>$364,490</td>
<td>$390,000</td>
</tr>
<tr>
<td>SW disposal other licenses (i.e. Non-Landfill Facilities)</td>
<td>$120,010</td>
<td>$139,961</td>
<td>$122,210</td>
<td>$115,000</td>
</tr>
<tr>
<td>SW plan review fees</td>
<td>$365,240</td>
<td>$346,370</td>
<td>$420,555</td>
<td>$350,000</td>
</tr>
<tr>
<td>HW facilities licenses</td>
<td>$89,600</td>
<td>$90,000</td>
<td>$83,632</td>
<td>$80,000</td>
</tr>
<tr>
<td>HW transporter licenses</td>
<td>$85,250</td>
<td>$81,721</td>
<td>$73,200</td>
<td>$83,000</td>
</tr>
<tr>
<td>HW plan review fees</td>
<td>$1,600</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 8,000</td>
</tr>
<tr>
<td>HW manifest fee</td>
<td>$144,978</td>
<td>$138,966</td>
<td>$65,880</td>
<td>$10,000</td>
</tr>
<tr>
<td>SW Facility Oper/Mgr Cert Fees</td>
<td>$28,795</td>
<td>$28,550</td>
<td>$37,300</td>
<td>$25,000</td>
</tr>
<tr>
<td><strong>Misc</strong> (i.e. infect &amp; medical waste / copying sales / printing)</td>
<td>$6,319</td>
<td>$115,959</td>
<td>$47,696</td>
<td>$35,200</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$2,573,323</td>
<td>$2,777,912</td>
<td>$2,847,219</td>
<td>$2,636,200</td>
</tr>
<tr>
<td><strong>Total Available:</strong> (All Revenue Sources + Opening Balance)</td>
<td>$2,785,214</td>
<td>$3,024,616</td>
<td>$3,213,335</td>
<td>$3,763,104</td>
</tr>
<tr>
<td><strong>Total Expenditures</strong></td>
<td>$(2,258,606)</td>
<td>$(2,740,129)</td>
<td>$(2,323,503)</td>
<td>$(3,000,000)</td>
</tr>
<tr>
<td><strong>Total Expenditures &amp; Budget Lapses</strong></td>
<td>$(2,258,606)</td>
<td>$(2,740,129)</td>
<td>$(2,323,503)</td>
<td>$(3,000,000)</td>
</tr>
<tr>
<td>DOA adjustments to A/R Accounts</td>
<td>$(279,904)</td>
<td>$81,629</td>
<td>$237,071</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Closing Balance</strong></td>
<td>$246,704</td>
<td>$366,116</td>
<td>$1,126,904</td>
<td>$763,104</td>
</tr>
<tr>
<td></td>
<td><strong>FY 17</strong></td>
<td><strong>FY 18</strong></td>
<td><strong>FY 19</strong></td>
<td><strong>FY 20</strong></td>
</tr>
</tbody>
</table>
If, for 3 consecutive fiscal years the PR Account Balance is >20% of the Expenditure Level, the DNR must propose rule revisions to lower the landfill license fee surcharge. NR 520.04(1)(d)5
Landfill Tonnage

Landfill Tonnage – Yearly Totals
OVERVIEW OF STATE ENVIRONMENTAL FUND

November 7, 2019

Paul Neumann, DNR Bureau of Management & Budget
(608) 266-0818,
paul.neumann@wisconsin.gov
DEPARTMENT OF NATURAL RESOURCES

FY 2020 Budget, By Funding Source
(Total: $574.7 million)

- Conservation Fund: $256,712,000 (44.7%)
- Federal: $86,020,900 (15.0%)
- Environmental Fund: $63,570,900 (11.1%)
- Program Revenue: $31,808,100 (5.5%)
- GPR: $109,868,000 (19.1%)
- Petroleum Inspection Fund: $21,577,100 (3.8%)
- Environmental Improvement Fund: $2,335,400 (0.4%)
- Tribal Gaming: $1,689,000 (0.3%)
- Dry Cleaner Response Fund: $1,101,400 (0.2%)
ENVIRONMENTAL FUND REVENUES
(FY 2018 Total: $85.1 million)

Tipping Fees
$71,388,797
84%

GPR Transfer
$7,991,100
9%

Petroleum Inspection Fund Transfer
$1,704,800
2%

Pesticide & Fertilizer Fees
$1,574,032
2%

Hazardous Waste Fees
$1,112,734
1%

E-Waste Fees
$379,537
1%

Miscellaneous
$900,499
1%
STATE AGENCY DRAWS ON ENVIRONMENTAL FUND

(FY 2018 Total: $78.6 million)

- DNR: $62,006,393 (78.9%)
- DATCP: $14,829,538 (18.9%)
- WEDC: $1,000,000 (1.3%)
- UW System: $440,000 (0.6%)
- DHS: $301,865 (0.4%)
DNR DRAWS ON ENVIRONMENTAL FUND
FY 2018 Total: $62.0 million

- Debt Service: $22,139,418 (35.7%)
- Recycling Grants: $19,999,995 (32.3%)
- Waste Management & Recycling: $2,116,584 (3.4%)
- E Waste: $276,476 (0.4%)
- Internal Support: $2,880,209 (4.6%)
- Rent: $903,883 (1.5%)
- Site Specific Remediation: $2,321,963 (3.7%)
- Spills & Abandoned Containers: $1,441,742 (2.3%)
- Other Environmental Programs: $2,716,501 (4.4%)
- Drinking Water & Groundwater: $2,252,640 (3.6%)
- Nonpoint Programs: $2,162,562 (3.5%)
- CAFO & Ag Runoff: $953,710 (1.5%)
- Law Enforcement: $1,840,700 (3.0%)
Recycling Annual Report Data and Current Topics

Jennifer Semrau
Waste Reduction & Diversion Coordinator
### Recyclable Materials Collected by Wisconsin Responsible Units (in tons)

<table>
<thead>
<tr>
<th>Mandatory Reporting - Banned(^1)</th>
<th>2018</th>
<th>% Change from 2017</th>
<th>% Change from 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old corrugated cardboard (OCC)</td>
<td>67,593</td>
<td>↓ -9.3%</td>
<td>↑ 32%</td>
</tr>
<tr>
<td>All other paper(^2)</td>
<td>188,627</td>
<td>↓ -3.2%</td>
<td>↓ -14%</td>
</tr>
<tr>
<td>Aluminum containers</td>
<td>6,208</td>
<td>↓ -4.8%</td>
<td>↑ 42%</td>
</tr>
<tr>
<td>Steel (tin)/bimetal containers</td>
<td>16,718</td>
<td>↓ -0.2%</td>
<td>↑ 33%</td>
</tr>
<tr>
<td>Glass containers</td>
<td>94,835</td>
<td>↑ 3.2%</td>
<td>↑ 5%</td>
</tr>
<tr>
<td>Plastic containers #1-7</td>
<td>47,344</td>
<td>↑ 23.3%</td>
<td>↑ 24%</td>
</tr>
<tr>
<td>Foam polystyrene packaging(^3)</td>
<td>171</td>
<td>↑ 140.2%</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Total Mandatory Reporting</strong></td>
<td><strong>421,495</strong></td>
<td><strong>↑ 0.0%</strong></td>
<td><strong>↑ 2.7%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Optional Reporting - Banned(^1)</th>
<th>2018</th>
<th>% Change from 2017</th>
<th>% Change from 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appliances</td>
<td>4,991</td>
<td>↓ -10.8%</td>
<td>↑ 14.4%</td>
</tr>
<tr>
<td>Tires</td>
<td>5,558</td>
<td>↑ 21.0%</td>
<td>↑ 4.8%</td>
</tr>
<tr>
<td>Batteries (lead acid)</td>
<td>274.51</td>
<td>↑ 12.5%</td>
<td>↓ -75.0%</td>
</tr>
<tr>
<td>Used oil</td>
<td>2,037</td>
<td>↑ 14.2%</td>
<td>↓ -29.8%</td>
</tr>
<tr>
<td>Electronics(^4)</td>
<td>4,600</td>
<td>↓ -12.9%</td>
<td>N/A</td>
</tr>
<tr>
<td>Yard waste</td>
<td>274,725</td>
<td>↑ 13.5%</td>
<td>↑ 1.4%</td>
</tr>
<tr>
<td><strong>Total optional reporting</strong></td>
<td><strong>292,185</strong></td>
<td><strong>↑ 12.7%</strong></td>
<td><strong>↑ 2.9%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Reporting</th>
<th>2018</th>
<th>% Change from 2017</th>
<th>% Change from 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Mandatory Tons Reported by RUs</td>
<td>421,495</td>
<td>↑ 0.0%</td>
<td>↑ 2.7%</td>
</tr>
<tr>
<td>Total Tons Reported by RUs</td>
<td>713,680</td>
<td>↑ 5.0%</td>
<td>↑ 0.5%</td>
</tr>
<tr>
<td>WI Population</td>
<td>5,837,059</td>
<td>↑ 0.6%</td>
<td>↑ 2.6%</td>
</tr>
<tr>
<td>Per capita mandatory reporting (lbs)</td>
<td>144</td>
<td>↓ -0.9%</td>
<td>↓ -0.2%</td>
</tr>
<tr>
<td>Per capita total reporting (lbs)</td>
<td>245</td>
<td>↑ 4.6%</td>
<td>↓ -1.9%</td>
</tr>
</tbody>
</table>

\(^1\) Wisconsin Recycling Law bans these materials from landfills  
\(^2\) Includes some non-banned paper, primarily residential mixed paper  
\(^3\) Variance - released from bans  
\(^4\) Electronics were banned from landfills starting in 2010
Responsible Unit Data Trends: Mandatory Reporting- Banned Materials

All Mandatory Banned Recyclable Materials Collected from Responsible Units 2009-2018

- Old Corrugated Cardboard (OCC)
- All Other Paper
- Aluminum Containers
- Steel (Tin)/Bimetal Containers
- Glass Containers
- Plastic Containers #1-7
- Foam Polystyrene Packaging
### Recyclable Materials Collected by Wisconsin Self-Certified MRFs (in tons)

<table>
<thead>
<tr>
<th>Mandatory Reporting - Banned(^1)</th>
<th>2018</th>
<th>% Change from 2017</th>
<th>% Change from 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old corrugated cardboard (OCC)</td>
<td>251,984</td>
<td>↑ 14.1%</td>
<td>↑ 6.2%</td>
</tr>
<tr>
<td>All other paper(^2)</td>
<td>303,713</td>
<td>↑ 0.2%</td>
<td>↓ -8.1%</td>
</tr>
<tr>
<td>Aluminum containers</td>
<td>8,702</td>
<td>↑ 13.2%</td>
<td>↑ 22.8%</td>
</tr>
<tr>
<td>Steel (tin)/bimetal containers</td>
<td>18,840</td>
<td>↑ 11.2%</td>
<td>↑ 17.5%</td>
</tr>
<tr>
<td>Glass containers</td>
<td>123,958</td>
<td>↓ -3.2%</td>
<td>↑ 31.9%</td>
</tr>
<tr>
<td>Plastic containers #1-7</td>
<td>52,787</td>
<td>↑ 18.6%</td>
<td>↑ 39.8%</td>
</tr>
<tr>
<td>Foam polystyrene packaging(^3)</td>
<td>4</td>
<td>↓ -15.2%</td>
<td>↓ 194.6%</td>
</tr>
<tr>
<td><strong>Total Mandatory Reporting</strong></td>
<td><strong>759,988</strong></td>
<td>↑ 5.7%</td>
<td>↑ 6.2%</td>
</tr>
</tbody>
</table>

\(^1\) Wisconsin Recycling Law bans these materials from landfills
\(^2\) Includes some non-banned paper, primarily residential mixed paper
\(^3\) Variance - released from bans
Self-Certified MRF Data Trends: Mandatory Reporting - Banned Materials

All Mandatory Banned Recyclable Materials from RUs Processed by Self-Certified MRFs 2009-2018

- All Other Paper
- Old Corrugated Cardboard (OCC)
- Glass Containers
- Plastic Containers #1-7
- Steel (Tin)/Bimetal Containers
- Aluminum Containers
- Foam Polystyrene Packaging
Self-Certified MRF Residual Rate Comparison

Residual Rates Based on % Received for All (41) Self-Certified MRFs

- Do Not Accept Single-Stream
- Accept Single-Stream

The graph visualizes the residual rates based on the percentage received for all self-certified MRFs. The data points are color-coded to differentiate between those that do not accept single-stream and those that do.
Changing Recycling Marketplace

Impacts of ‘National Sword’ continue to be felt: Recycled plastic imports to China fell by 99% in 2018 compared with 2017; paper imports fell by 1/3
Domestic Pricing/Value of a Ton

• Fiber grades are facing historic low prices

• During 2019:
  - OCC decreased from $70 to $30/ton
  - Mixed paper decreased from $5 to $0/ton (may go negative)
  - UBC/Aluminum $1,100-$1,300/ton
  - Steel/tin $35-$40/ton
  - PET decreased from $330 to $245/ton
  - HDPE natural from $840 to $430 to $520/ton
  - HDPE color decreased from $400 to $220/ton

• Composite value of a ton of recycling has fallen from $70-90 in 2017 to $30-50 in 2019

• Present mixed commodity value $25-$35/ton

• 2x-3x value in processing costs
Paper Pricing Trends

Paper Pricing (Chicago)

$100
$90
$80
$70
$60
$50
$40
$30
$20
$10
$0

Dec, 2017
Dec, 2018
Sept, 2019

OCC
Mixed Paper

Source: PPI Pulp & Paper
Impact on WI’s Recycling Programs

Material Recovery Facilities (MRFs)
- Need to produce clean, high quality bales with very little contamination
- Receiving less per ton for those products
- Passing increased costs to customers: haulers and local governments

Local governments
- Should anticipate higher costs when seeking new pricing or going out for bid
- Focus on education: what you can and cannot recycle
Enough Discouraging News...

While export markets are decreasing, there IS significant domestic infrastructure development... Especially in fiber
Domestic Infrastructure Development

- ND Paper, Biron, WI; OCC/mixed; 2020; 760K
- Green Bay Packaging, GB, WI; OCC/mixed; 2021; 685K
- Pratt Industries, Wapakoneta, OH; OCC/mixed; 2019; 396K
- Verso Corp, Duluth, MN; OCC; 2020; 48K
- Phoenix Paper, KY; OCC/mixed; 2020; 700K
- ND Paper, WV; SOP/news; 2020; 240K
- Cascades, VA; OCC/mixed; 2021; 440K
- CorrVentures, NY; OCC; 2021; 300K
- ND Paper, ME; OCC/mixed; 2020; 480K
- Crossroads Paper, UT; OCC/mixed; 2022; 350K
- & two plastic facilities in GA & SC

Source: Resource Recycling
What is DNR doing?

Communicating with RUs, haulers, MRFs
• Reminding all of recycling requirements/law
• Outreach to via DNR Facebook, Recycling Updates, presentations, etc.

MRFs
• MRF survey, spring 2019
  – What do facilities accept/recycle; don’t accept/detrimental
  – Materials they are struggling to market
  – Biggest contamination concerns
• MRF Stakeholder meeting, Oct. 7
  – Bring MRFs together to discuss concerns
  – Update on market conditions, results of survey, resources

Anti-contamination messaging
• Do not bag recyclables; no plastic bags
• Cords/tanglers, food, Styrofoam, sharps, batteries, etc.
Problematic Contamination

<table>
<thead>
<tr>
<th>Contaminants</th>
<th>% of responding MRFs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plastic bags/film</td>
<td>100%</td>
</tr>
<tr>
<td>Tanglers</td>
<td>60%</td>
</tr>
<tr>
<td>Food contamination</td>
<td>50%</td>
</tr>
<tr>
<td>Foam PS</td>
<td>45%</td>
</tr>
<tr>
<td>Bulky plastics</td>
<td>40%</td>
</tr>
<tr>
<td>Shredded paper</td>
<td>35%</td>
</tr>
<tr>
<td>Needles/Sharps</td>
<td>30%</td>
</tr>
<tr>
<td>Propane cylinders</td>
<td>25%</td>
</tr>
<tr>
<td>Diapers</td>
<td>20%</td>
</tr>
<tr>
<td>Scrap metal</td>
<td>15%</td>
</tr>
</tbody>
</table>
Breaking News: Recycling Audit

- Joint Audit Committee of the Legislature is requesting audit of State Recycling Program
- Non-partisan Legislative Audit Bureau will conduct audit
- 2001- last audit of the recycling program
- Scope includes recycling grants to RU, amounts recycled/expenses by RUs, state administration of program, current market conditions/challenges, how other states operate recycling programs, identify BMPs & areas of improvement
- Also includes ‘Clean Sweep’
- Completion by spring, 2020

Complete scope statement: https://legis.wisconsin.gov/lab/media/2912/091919_scope_state-recycling-programs.pdf
Questions?

Jennifer Semrau
Waste Reduction and Diversion Coordinator
608-267-7550
Jennifer.Semrau@wisconsin.gov
Solid Waste Reminders and Current Topics

Casey Lamensky
Storm Debris Landfill Fee Exemptions

- $12.997 waived
- Must be storm debris from disaster cleanup effort that has been segregated
  ([https://dnr.wi.gov/topic/waste/stormdebris.html](https://dnr.wi.gov/topic/waste/stormdebris.html))
- Disposed of within 60 days (starting day after the last day of the declared event)
- Category 28 waste
Treated Infectious Waste Manifesting

- Assumed IW (requires treatment)
  - Medical sharps
  - Bulk blood and body fluids
  - Human tissue
  - Microbiological lab waste
  - Bulk blood, body fluids, tissue from zoonotic infectious animals
Treated Infectious Waste Manifesting

- USDOT shipping papers or IW manifest
- Generator, (transporter(s)), (storage facility), treatment facility, disposal facility
- Waste composition and quantity
- Signatures
- 3 year retention times
Carcass Disposal

- Hunters - DNR is recommending double bagging and landfill disposal at landfill that accept them
- Businesses - landfill disposal at a landfill that accepts them is required
- If you get questions but don’t accept please direct to https://dnr.wi.gov/topic/hunt/landfillmap.html
- Adopt a dumpster
Carcass Disposal

Peer Review Process for Consistency

Casey Lamensky (Non-Landfill Plan Review)
Valerie Joosten (Landfill Plan Review)
Non-Landfill Peer Review

- Goals
  - Consistency across regions
  - A single topic expert with most recent information and proposals
  - Continued learning
  - Efficiency by topic
  - Use of most effective plan review ideas
  - Training (writing and reviewing)
  - Second opinion
Non-Landfill Peer Review

• Roles
  – Primary Reviewer
  – Topic Expert
  – Reviewer from different region (changes annually)
  – Regional Supervisor
Non-Landfill Peer Review

• New facility type to reviewer
  – Full review with topic expert
  – Approval review by different region and sw coordinator

• Precedent setting proposal
  – Full review with topic expert
  – Approval review by sw coordinator

• Routine plan review
  – Full review by different region 1x/yr
  – Approval review by different region all
## Non-Landfill Plan Review

### Topic Expert Categories

<table>
<thead>
<tr>
<th>Review type</th>
</tr>
</thead>
<tbody>
<tr>
<td>502.08(2)(i)</td>
</tr>
<tr>
<td>Tire processing and storage</td>
</tr>
<tr>
<td>Processing (non tire, C&amp;D, IW)</td>
</tr>
<tr>
<td>Storage (non tire)</td>
</tr>
<tr>
<td>Transfer</td>
</tr>
<tr>
<td>Composting (non processing)</td>
</tr>
<tr>
<td>Landspreading</td>
</tr>
<tr>
<td>Woodburning</td>
</tr>
<tr>
<td>C&amp;D processing</td>
</tr>
<tr>
<td>LHE</td>
</tr>
<tr>
<td>IW processing</td>
</tr>
</tbody>
</table>
Landfill - review types

**Plan review**
- Lead staff
- Joint reviews may include:
  - Mentor
  - Expert(s)
  - Engineer / Hydro team

**Decision review**
- Plan review expert(s) or Peer
- Supervisor
Decision document review

Draft decisions & initial peer review

Lead staff (Engineer / Hydro Team)

Peer review

Peer

Engineer or Hydro. Expert

Final review by signatory

Supervisor

Supervisor

*internal guidelines determine review path
Plan and peer review guidelines - example

<table>
<thead>
<tr>
<th>Submittal Type</th>
<th>Lead Reviewer- Typical - (Lead Decision Drafter)</th>
<th>Joint Reviewer(s) (Receives E-Copy or Hard-Copy Submittal)</th>
<th>Draft Decision Reviewer(s)</th>
<th>Send E-Copy of Decision To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Revised: 2/8/2019</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Initial Site Inspection/ Initial Site Report</td>
<td>-</td>
<td>X</td>
<td>-</td>
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<tr>
<td>Alternative Geotechnical</td>
<td>-</td>
<td>X</td>
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<tr>
<td>Feasibility Report</td>
<td>X</td>
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<tr>
<td>• Incompleteness/ Completeness</td>
<td>-</td>
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<tr>
<td>Plan of Operation</td>
<td>-</td>
<td>-</td>
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<td>X</td>
</tr>
<tr>
<td>• Incompleteness/ Completeness / Significant Request for Info.</td>
<td>-</td>
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<tr>
<td>Construction Documentation</td>
<td>-</td>
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<td>X</td>
</tr>
<tr>
<td>• Liner / Final Cover / Other major</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>• Landfill Gas / Other minor</td>
<td>-</td>
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</tbody>
</table>

O = optional; x = required
Roles

- **Lead staff** - responsible plan reviewer
- **Hydro / engineer teams**
  - support or specialty area, familiarity with facility
- **Peer reviewer**
  - Peer check of standard decision documents (final review)
- **Expert(s)**
  - focus on consistency, technical and regulatory requirements
  - precedent setting issues
- **Supervisor**
  - final check and signatory
Goals

• Consistency
• Enhance skills
• Maintain standards
• Peer support
• Quality control
• Early involvement
Initial site inspections for clay borrow sources

Valerie Joosten
Soil borrow sources for landfills
NR 504.075

• Applicability:
  – Sources for constructing, operating or closing landfills
  – New sources and expansions

• Requirements:
  – Initial site inspection (ISI)
  – Written approval (plan of operation or modification)
Clay borrow source exemptions

NR 504.075(2)(a)

• Production of processed aggregate
• Construction projects off of the landfill property, other than for:
  – compacted clay liner or cap,
  – soil barrier layer,
  – leachate collection layer
  – Final cover drain layer
Clay borrow ISI exemptions

- NR 504.075(b)
  - Sources within proposed or approved limits of filling of landfill
  - Areas where soils are obtained from excavation projects for purposes other than construction, operation or closure of a landfill

- NR 509.04
  - Commercial soil borrow sources
Commercial or noncommercial

• Commercial – operates in a market (i.e., sells soil to any person) and primary motive of doing business for profit.
  - E.g. owned by a separate business entity from the landfill operator or one which serves multiple different landfill operators

• Noncommercial – serves a specific landfill (NR 509.04(1), Wis. Adm. Code)
Contents of a clay borrow ISI request

- See NR 509.04(4) and(5)
  - Cover letter
  - Topo
  - Threatened and endangered species, wetlands, surface waters and historical/archeological

- Checklist – draft pending recertification

- Other helpful links:
  - Link to Wetland Mapping Information and the DNR Surface Water Data Viewer https://dnr.wi.gov/topic/Wetlands/mapping.html
  - Link to the Wisconsin State Historical Society Historic Preservation Database https://www.wisconsinhistory.org/Records/Article/CS4091
Questions?
Landfills - delayed capping, interim waste grades, etc.
Scope

• What options exist to plan for settlement and maximize use of air space?

• What are the regulatory pathways?
  – Delayed capping
  – Interim waste grades
  – Reclaiming intermediate cover slopes
Delayed capping

- NR 514.07(3) – MSW landfills
  - 1 or more years (2 years typical – settlement)
  - Each phase of closure

- Requirements
  - Intermediate cover soil and seed – portions at final waste grade
  - No additional waste placement
  - Gas system installed and operational
Delayed capping

• What to submit for approval
  – Feasibility – conceptual plan
  – Plan of operation –
    • NR 514.05(5), 514.06(9) & (10)
    • Detailed description of phasing, filling, & closure (proposed delays)
    • Table – liner & final cover sequences, acreage and estimated schedule
    • Phasing plan sheets – construction and closure
Interim waste grades

- Interim waste grades that are higher than final waste grades
  - 5% of total waste depth (typical)
  - Design and operational practice
  - Must request in feasibility report (or feasibility modification)
Interim waste grades

- Feasibility report
  - Proposed % higher
  - Justification (e.g. settlement due to leachate recirculation)
  - Schedule of capping delay
  - Plan sheets
    - Maximum waste grade contours
    - Intermediate waste grade contours
Interim waste grades

• Plan of Operation
  – Maximum interim waste grades plan sheet & table
    • Coordinates, 100-ft grid
    • Elevations – top of drainage layer, final waste grades, interim waste elevations
  – Provisions for removal of waste if does not settle
  – Design calculations consider interim waste grades
Reclaiming intermediate cover slopes

- Exemption request NR 514.07(3)(b)
  - Special cases, NR 500.08(4)
    - E.g. enhanced settlement due to liquids addition
  - Once prior to capping
Reclaiming airspace after closure

• Considered an expansion
• Closure prepares landfill for long term care – phased approach
Questions?
State of Wisconsin

January 2011 Special Session
Assembly Bill 8

Date of enactment: May 23, 2011
Date of publication*: June 7, 2011

2011 WISCONSIN ACT 21
Act 21 Explicit Authority

• § 227.10(2m) – requires explicit authority for agencies to implement or enforce permit terms and conditions.
No agency may implement or enforce any standard, requirement, or threshold, including as a term or condition of any license issued by the agency, unless that standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by a rule that has been promulgated in accordance with this subchapter. . . .
Definition of License

... all or any part of an agency permit, certificate, approval, registration, charter or similar form of permission required by law...

Exceptions: a hunting or fishing approval or a similar license where issuance is merely a ministerial act.
1 OAG 2016 (High Cap Wells)

- No explicit authority to review environmental impacts of high capacity wells, except those wells specifically listed in s. 281.34
- No explicit authority to consider cumulative impacts when approving or denying a high capacity well application
AG Opinions (con’t)

4 OAG 2017 (Fire Sprinkler Rule)

▪ Agencies cannot rely on legislative grant of authorities that are arguably implicit, such as “general powers or duties.”

▪ Cannot enforce Pre-Act 21 rule that is more restrictive than statute.

▪ Request to modify this opinion is being considered.
Recent Act 21 Litigation

• *Clean Wisconsin v. DNR*

Issue: DNR authority to consider impacts to navigable waters when considering requests for high capacity well approvals (Pending before Supreme Court)
Act 21 CAFO Litigation

*Clean Wisconsin et al v. DNR and Kinnard Dairy*

Issue: explicit authority to impose an animal unit “cap” and off-site monitoring of landspreading in a WPDES CAFO permit

*Pleasant Lake Management District v. DNR and Richfield Dairy*

Issue: explicit authority to impose an animal unit cap in WPDES CAFO permit
DNR Act 21 Analysis

• DNR Review of Permits and Approvals

Is the condition, standard, requirement, or threshold *explicitly required or explicitly permitted* by statute or by a rule?
Outcomes

- Confirmation of Existing Authority
- Modification of Permit Conditions
- Elimination of Permit Conditions
- Recommendations for Rulemaking
- Recommendations for Statute Change
- Rule and Statute Citations for Permits and Approvals
Best Practices

• Add cites to Statute and Code where applicable – do not rely upon guidance

• When in doubt, consult with your supervisor and/or legal

• Let legal know about “Act 21” challenges
Questions?