

# 07hr\_SC-ENR\_CRule\_06-025\_pt01



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Environment and Natural Resources (SC-ENR)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (June/2014)

**Senate**

**Record of Committee Proceedings**

**Committee on Environment and Natural Resources**

**Clearinghouse Rule 06-025**

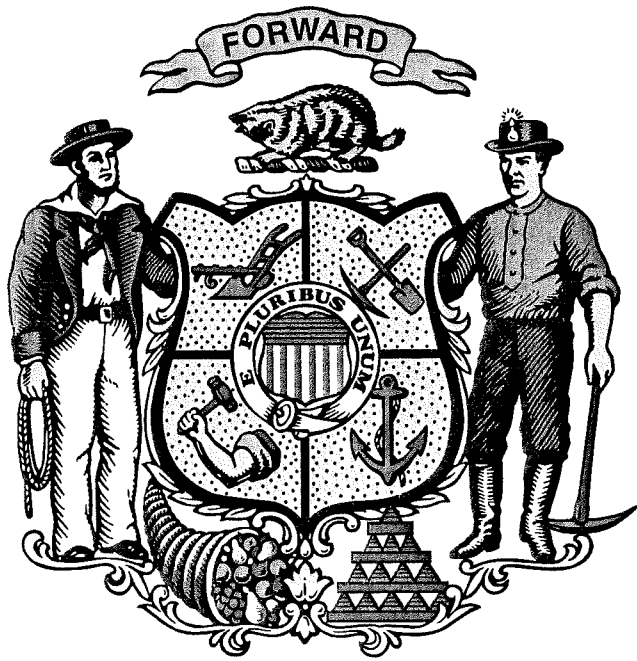
Relating to balances in the waste management program revenue account.  
Submitted by Department of Natural Resources.

January 08, 2007      Referred to Committee on Environment and Natural Resources.

February 8, 2007      No action taken.



Elizabeth Bier  
Committee Clerk



**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. WA-18-06

Legislative Council Rules Clearinghouse Number 06-025

Subject of Rules Balances in the waste management program revenue account

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

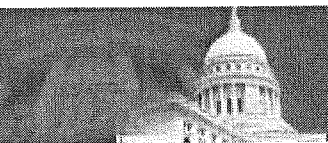
Date of Transmittal to Presiding Officers January 4, 2007

Send a copy of any correspondence or notices pertaining to this rule to:

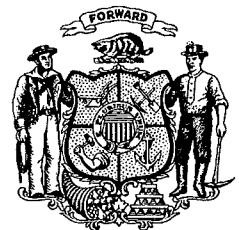
**Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LS/5, 101 South Webster**

**Telephone: 266-1959  
e-mail: [turnec@dnr.state.wi.us](mailto:turnec@dnr.state.wi.us)**

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner



WISCONSIN STATE LEGISLATURE



**Fiscal Estimate — 2005 Session**

- Original       Updated  
 Corrected       Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number Chapter NR 520

Subject  
 Balance in Waste Management Program Revenue account.

**Fiscal Effect**

- State:  No State Fiscal Effect  
 Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

- Increase Costs — May be possible to absorb within agency's budget.  
 Yes       No  
 Decrease Costs

- Local:  No Local Government Costs  
 Indeterminate

1.  Increase Costs  
 Permissive       Mandatory  
 2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
 4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others       Tribes  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR       FED       PRO       PRS       SEG       SEG-S

Affected Chapter 20 Appropriations

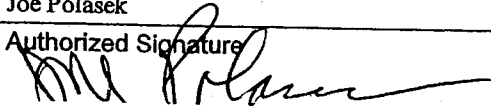
**Assumptions Used in Arriving at Fiscal Estimate**

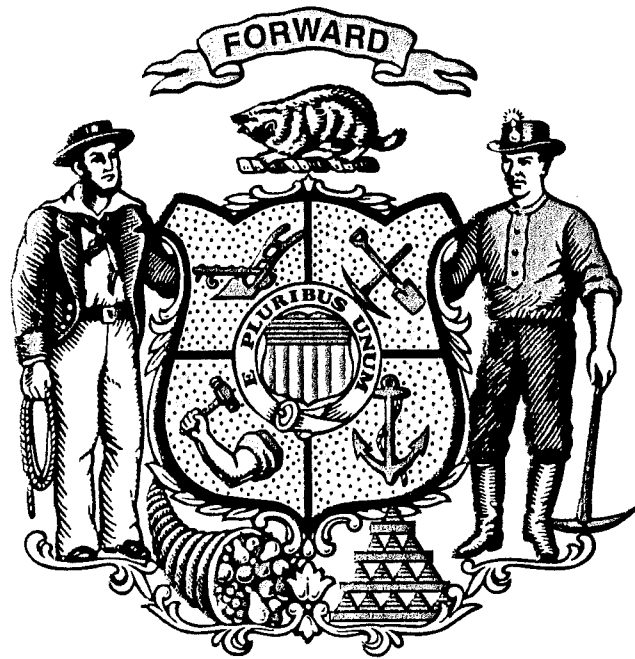
**Summary of Rule:** These rule revisions are being proposed to modify language in Chapter NR 520, Wis. Adm. Code, in order to make the requirements in s. 520.04(1)(d)5. more manageable from a budget perspective. A rule revision package was approved in 2003 which revised Ch. NR 520 to increase SW facility plan review and license fees, including the landfill license fee surcharge assessed on tons of landfilled waste. As part of the rule revision package, language was added to the chapter which required that, beginning in FY05, if the account balance at the end of the previous fiscal year is greater than 8% of the expenditure level of the program revenue account authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the surcharge fee to more closely align revenues with expenditures. This language was added as a result of stakeholder concerns regarding balances that had previously accumulated in the account as a result of higher than expected landfilled tonnages and conservative Waste Management Program expenditures.

Eight percent of the expenditure level in the account is about \$250,000. In FY04 through FY06, the account balance averaged \$420,000 or approximately 13% of the expenditure level. However, projections for the account show the balance at or below the \$250,000 level in less than 4 years. The largest revenue stream going into this account is from the landfill license fee surcharge. Annual landfill tonnage rates in Wisconsin vary considerably and historically have been hard to predict. As a result, trying to maintain a balance of around \$250,000 in the Program Revenue Account is difficult. A year with higher than average tonnage rates would result in exceeding the 8% cap, which would require the Waste Management Program to submit a rule package reducing the landfill license fee surcharge. However, if after reducing the fee the tonnage rates dropped, it could quickly result in a deficit in the account. The Waste Management Program has been fiscally responsible in how they manage this account and hold annual public meetings to report on the status of the account. The Department is recommending rule revisions that will allow better fiscal management of the Program Revenue Account and avoid multiple rule revisions related to increasing and decreasing fees.

**Long-Range Fiscal Implications**

None.

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 08-10-06





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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE **06-025**

AN ORDER to amend NR 520.04 (1) (d) 5, relating to balances in the waste management program revenue account.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

03-14-2006 RECEIVED BY LEGISLATIVE COUNCIL.

04-04-2006 REPORT SENT TO AGENCY.

RS:WF



**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached            YES             NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached            YES             NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached            YES             NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached            YES             NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached            YES             NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached            YES             NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached            YES             NO



## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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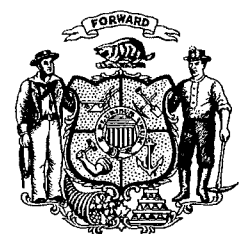
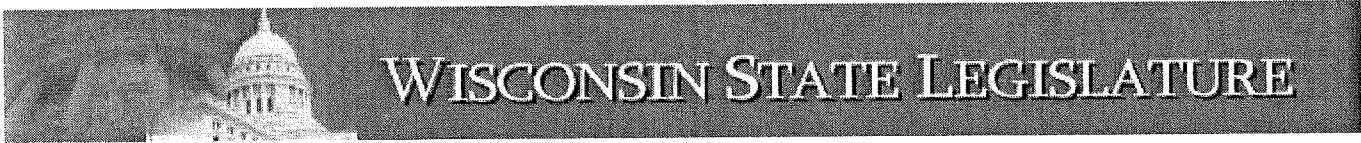
### CLEARINGHOUSE RULE 06-025

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

Section NR 520.04 (1) (d) 5. is not clear concerning whether the requirement to suggest modifications to the surcharge is triggered if the waste management program revenue account is greater than 20% of the expenditure level in each of the three previous years or at the end of the three-year period cumulatively. It is suggested that this ambiguity be clarified.



## REPORT TO LEGISLATURE

NR 520.04(1)(d)5., Wis. Adm. Code  
Balances in the waste management program revenue account

Board Order No. WA-18-06  
Clearinghouse Rule No. 06-025

### Basis and Purpose of the Proposed Rule

Section NR 520.04(1)(d)5., is being modified in order to make the requirements more manageable from a budget perspective. A rule revision was approved in 2003 which revised ch. NR 520 to increase solid waste facility plan review and license fees, including the landfill license fee surcharge assessed on tons of landfilled waste. As part of that rule revision, language was added which required that, beginning in FY05, if the Waste management Program Revenue Account balance at the end of the previous fiscal year is greater than 8% of the expenditure level authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the surcharge fee to more closely align revenues with expenditures. This language was added as a result of stakeholder concerns regarding balances that had previously accumulated in the account as a result of higher than expected landfilled tonnages and conservative Waste Management program expenditures. We believe that the concept of a certain program revenue account balance triggering adjustments in the landfill license surcharge fee is a sound business practice. However, annual variations in landfilled tonnages and other program revenue sources have proven this 8% level too low to avoid a yo-yo effect of frequent fee increases and decreases.

Eight percent of the expenditure level in the account is approximately \$250,000. In FY04 through FY06, the account balance averaged \$420,000 or approximately 13% of the expenditure level. However, projections for the account show the balance at or below the \$250,000 level in less than 4 years. Trying to maintain a balance of around \$250,000 in the program revenue account is difficult. A year with higher than average tonnage rates would result in exceeding the 8% cap, which would require the Waste Management program to submit a rule package reducing the landfill license fee surcharge. However, if the tonnage rates dropped after reducing the fee, it could quickly result in a deficit in the account.

The proposed rule requires the Department to modify the surcharge fee to more closely align revenues with expenditures if the account balance exceeds 20% of the expenditure level of the program revenue account for three consecutive fiscal years. The Department believes the proposed language allows for better fiscal management of the account, without having a negative impact on any stakeholders. The reason for putting the original "8% cap" language in the rules was to ensure that the landfill license fee surcharge was not any higher than it needed to be, and to prevent a large balance from building up in the account. Based on FY06 numbers, 20% of the authorized expenditure level in the account would be around \$641,000. Long-term projections in the account show the balance staying well below this amount.

### Summary of Public Comments

There were no public comments.

### Modifications Made

No modifications were made as a result of public hearing.

### Appearances at the Public Hearing

No one appeared at the public hearings.

Changes to Rule Analysis and Fiscal Estimate

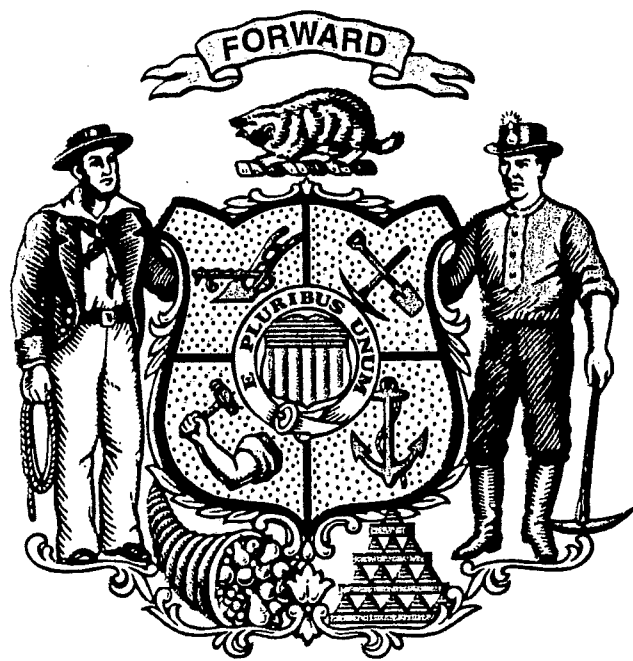
No changes were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendation was accepted.

Final Regulatory Flexibility Analysis

The proposed rule does not regulate small businesses. Therefore, a final regulatory flexibility analysis is not required.



ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
AMENDING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 520.04(5)(1)(d)5. relating to balances in the Waste Management Program Revenue Account.

WA-18-06

Analysis Prepared by the Department of Natural Resources

Statutes Interpreted: ss. 289.61, Stats.

Statutory Authority: ss. 289.61 and 227.11(2)(a), Stats.

Explanation of Agency Authority to Promulgate the Proposed Rules Under the Statutory Authority:

This order amends solid waste management rules in ch. NR 520. The proposed revisions revise the Waste Management Program Revenue account balance that would require rule revisions to adjust the landfill license fee surcharge.

Related Statute or Rule: None.

Plain Language Analysis of the Proposed Rule:

These rule revisions are being proposed to modify language in Chapter NR 520, Wis. Adm. Code, in order to make the requirements in s. 520.04(1)(d)5. more manageable from a budget perspective. A rule revision package was approved in 2003 which revised Ch. NR 520 to increase SW facility plan review and license fees, including the landfill license fee surcharge assessed on tons of landfilled waste. As part of the rule revision package, language was added to the chapter which required that, beginning in FY05, if the account balance at the end of the previous fiscal year is greater than 8% of the expenditure level of the program revenue account authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the surcharge fee to more closely align revenues with expenditures. This language was added as a result of stakeholder concerns regarding balances that had previously accumulated in the account as a result of higher than expected landfilled tonnages and conservative Waste Management Program expenditures.

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Summary of and Preliminary Comparison to Existing or Proposed Federal Regulations Intended to Address the Activity to be Regulated by the Proposed Rule:

Federal regulations do not address solid waste management funding.

Comparison of Similar Rules in Adjacent States (MN, Iowa, IL, and MD):

No relevant comparisons exist.

Summary of the Factual Data and Analysis Methodologies that the Agency Used in Support of the Proposed Rules and How any Related Findings Support the Regulatory Approach Chosen for the Proposed Rules:

The Department reviewed past balances for the Waste Management Program Revenue Account and made projections based on anticipated revenue and expenditures. A key determining factor in our past balances and a critical variable in our projections is the annual landfill tonnage rate.

Any Analysis and Supporting Documentation That the Agency Used in Support of the Agency's Determination of the Proposed Rule's Effect on Small Business Under s. 227.114, Stats., or That Was used When the Agency Prepared an Economic Impact Report:

Because the proposed rule will have no fiscal effect and the changes made relate only to balances in the Waste Program Revenue Account, it will have no effect on small businesses.

Anticipated Cost Incurred by the Private Sector: None.

Effect on Small Businesses: None.

Agency Contact Person:

Dennis Mack, Section Chief  
608/267-9386  
[Dennis.Mack@dnr.state.wi.us](mailto:Dennis.Mack@dnr.state.wi.us)

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SECTION 1. NR 520.04(1)(d)5. is amended to read:

NR 520.04(1)(d)5. ~~Beginning in calendar year 2004, the~~ The department shall hold a public meeting annually in September to review the status of and projections for the waste management program revenue account. ~~In addition, beginning in fiscal year 2005, if~~ If, for 3 consecutive fiscal years, the end of year account balance ~~at the end of the previous fiscal year~~ is greater than 8% 20% of the expenditure level of the program revenue account authorized in s. 20.370(2)(dg), Stats., the department shall submit to the natural resources board proposed rule revisions with appropriate justification for the modification of the surcharge payable under this paragraph to more closely align revenues with expenditures in accordance with s. 289.61(3) Stats. The proposed rule revisions shall be submitted within 180 days after the date of the public meeting.

SECTION 2. EFFECTIVE DATE: The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.) Stats.



SECTION 3. BOARD ADOPTION: This rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 27, 2006.

Dated in Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Scott Hassett, Secretary

(SEAL)