

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB494)

Received: 12/6/2013 Received By: btradewe
Wanted: As time permits Same as LRB:
For: Amy Loudenbeck (608) 266-9967 By/Representing: Herself
May Contact: Drafter: btradewe
Subject: Environment - solid haz. waste Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email: Rep.Loudenbeck@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Revocation of waste facility operation for violation of plan of operation

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	btradewe 12/6/2013	scalvin 12/6/2013	rschluet 12/6/2013	_____	lparisi 12/6/2013	lparisi 12/6/2013	

FE Sent For:

<END>

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/1 btradewe

/1 SAC
12/06/2013

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12/06/2013



FE Sent For:

<END>

12/5/13 Rep. Haudenbedt asked if this could be prepared as a simple amendment.

RT

Tradewell, Becky

From: Bruhn, Michael L - DNR <Michael.Bruhn@wisconsin.gov>
Sent: Thursday, December 05, 2013 8:50 PM
To: Tradewell, Becky
Subject: FW: Amendment to AB 494

Hi Becky,

Below is what our program staff and attorney are suggesting for a possible modification. Please let me know if you need anything additional.

Thanks!

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-5375
(✉) e-mail: michael.bruhn@wisconsin.gov
Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR

From: Wolbert, Brad - DNR
Sent: Thursday, December 05, 2013 4:08 PM
To: Bruhn, Michael L - DNR
Cc: Coakley, Ann M - DNR; Heilman, Cheryl W - DNR
Subject: RE: Amendment to AB 494

Hi Mike –

The fix I had in mind was to strike “disposal” from s. 289.31—as Becky notes below, that is where the inclusion of the word “disposal” is odd and perhaps unintended. I don’t think s. 289.30 needs to be amended at all.

After consultation with our program attorney, I would suggest amending the third sentence in s. 289.31 as follows:

The department may deny, suspend or revoke the operating license of a solid waste ~~disposal~~ facility for failure to pay fees required under this chapter or for grievous and continuous failure to comply with ~~the~~ an approved plan of operation under this chapter s. 289.30 or, if no plan of operation exists with regard to the facility, for grievous and continuous failure to comply with the standards adopted under s. 289.05 (1) and (2).

Brad Wolbert, P.G., Chief
Recycling and Solid Waste Section
Bureau of Waste and Materials Management
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, WI 53707
608-264-6286

We are committed to service excellence. Click [here](#) to evaluate how I did.

From: Bruhn, Michael L - DNR
Sent: Thursday, December 05, 2013 3:01 PM
To: Wolbert, Brad - DNR
Cc: Coakley, Ann M - DNR
Subject: FW: Amendment to AB 494

Hey Brad,

Any assistance you can provide me on this would be appreciated.

Thanks!!

Michael Bruhn
Legislative Liaison
Wisconsin Department of Natural Resources
(☎) phone: (608) 266-5375
(✉) e-mail: michael.bruhn@wisconsin.gov
Website: dnr.wi.gov
Find us on Facebook: www.facebook.com/WIDNR

From: Tradewell, Becky [<mailto:Becky.Tradewell@legis.wisconsin.gov>]
Sent: Thursday, December 05, 2013 10:44 AM
To: Bruhn, Michael L - DNR
Subject: FW: Amendment to AB 494

Mike,

There is a problem with the proposed amendment of s. 289.30 (9) because only solid waste **disposal** facilities and hazardous waste facilities are subject to the requirement to have a plan of operation under s. 289.30 (1). Note that s. 289.30 (2) prohibits a person from submitting a plan of operation before submitting a feasibility report and s. 289.30 (6) prohibits the department from acting on a plan of operation until a favorable determination of feasibility has been issued. The requirement to submit a feasibility report under s. 289.23 (1) applies only to solid waste disposal facilities and hazardous waste facilities. Section 289.30 (4) only refers to the manner of solid waste disposal (not treatment or storage), while it refers to hazardous waste treatment, storage, or disposal. Section 289.30 (9) is consistent with the rest of s. 289.30 in being applicable only to solid waste disposal facilities and hazardous waste facilities. It would not be consistent to expand only that subsection to cover other kinds of solid waste facilities.

The requirement for a solid waste facility to have an operating license in s. 289.31 (1) is not limited to disposal facilities. But the third sentence of that subsection authorizes DNR to deny, suspend, or revoke the operating license of solid waste disposal facilities only. That seems odd and perhaps was not intended.

I see that in its rules, the department does require other kinds of solid waste facilities to have plans of operation, including some, but not all, processing facilities. I do not know under what statutory authority the department imposes that requirement.

I'm not sure where to go from here. The most straightforward approach might be to modify s. 289.30 to authorize the department to require other kinds of solid waste facilities to have plans of operation, change s. 289.30 (9) as requested, and make other changes needed to reflect this broader coverage.

Let me know if you or anyone else from the department wants to discuss this matter by phone or to have a meeting on it.

Becky Tradewell
266-7290

From: Loudenbeck, Amy
Sent: Wednesday, December 04, 2013 3:11 PM
To: Tradewell, Becky
Cc: Bruhn, Michael L - DNR; Morouney, Lonna; Johnson, Dan; Rep.Loudenbeck
Subject: Amendment to AB 494

Hi Becky – could you draft a substitute amendment to Assembly Bill 494 that would incorporate the following change to 289.30 (9).?

289.30(9) Failure to comply with plan of operation. Failure to operate in accordance with the approved plan subjects the operator to enforcement under s. 289 .97 or 291.95. If the department establishes that any failure to operate in accordance with the approved plan for a solid waste ~~disposal~~ facility is grievous and continuous, the operator is subject to suspension, revocation or denial of the operating license under s. 289 .31.

Based on conversations that I have had with the DNR, the removal of the word disposal from that section of Wisconsin Statutes would have allowed the DNR to close a waste processing facility that is not a waste disposal facility. This would have helped to prevent that problem that we are trying to address under the bill. If this change would not provide DNR with that ability, or if other changes may be needed, please contact Mike Bruhn at the DNR for additional discussion.

Thanks!

Amy Loudenbeck
Representing Wisconsin's 31st Assembly District
(608) 266-9967
rep.loudenbeck@legis.wi.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBa1325/1
RCTY.....
SAC

Monday 12/9

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 494**

Note

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: after “facility” insert “and denial, suspension, or revocation
3 of a solid waste facility operating license”.

4 **2.** Page 1, line 4: before that line insert:

5 “SECTION 1. 289.31^x (1) of the statutes is amended to read:

6 289.31 (1) LICENSE REQUIREMENT. No person may operate a solid waste facility
7 or hazardous waste facility unless the person obtains an operating license from the
8 department. The department shall issue an operating license with a duration of one
9 year or more except that the department may issue an initial license with a duration
10 of less than one year. The department may deny, suspend or revoke the operating
11 license of a solid waste disposal facility for failure to pay fees required under this
12 chapter or for grievous and continuous failure to comply with the approved plan of
13 operation under s. 289.30 this chapter or, if no plan of operation exists with regard

1 to the facility, for grievous and continuous failure to comply with the standards
2 adopted under s. 289.05 (1) and (2). The department may deny, suspend or revoke
3 the operating license of a hazardous waste facility for any reason specified under s.
4 291.87 (1m).”.

History: 1995 a. 227 s. 569, 570; 2011 a. 103, 167.

5 **3.** Page 1, line 4: substitute “**SECTION 1m**” for “**SECTION 1**”.

6 (END)

Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1325/1dn

RCT./:....

See

- date -

Rep. Loudenbeck:

I have prepared a simple amendment to AB 494 after consulting with DNR about the best way to accomplish your intent. Unless I hear from you otherwise, I will also prepare a substitute amendment so that you can choose which to pursue.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1325/1dn
RCT:sac:rs

December 6, 2013

Rep. Loudenbeck:

I have prepared a simple amendment to AB 494 after consulting with DNR about the best way to accomplish your intent. Unless I hear from you otherwise, I will also prepare a substitute amendment so that you can choose which to pursue.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov