

Report to
Legislative Council Rules Clearinghouse
NR 514, Wis. Adm. Code
Natural Resources Board Order No. WA-06-18

Wisconsin Statutory Authority

Sections 289.05(1), 289.06(1), 289.30(4), and 227.11(2)(a), Wis. Stats.

Section 289.05(1), Wis. Stats., requires the department to promulgate rules establishing minimum standards for solid waste facilities. Section 289.30(4), Wis. Stats., requires the department to establish the contents for plans of operation for solid waste facilities. Sections 289.06(1) and 227.11(2)(a), Wis. Stats. also confer rule making authority to the department to promulgate rules implementing ch. 289, Wis. Stats.

Federal Authority

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 research, development and demonstration permits for municipal solid waste landfills. See 81 Fed. Reg. 28,720 (May 10, 2016). The proposed amendments to ch. 514, Wis. Adm. Code, will allow for the same maximum term for research, development and demonstration projects that is allowed by the federal rule revision.

Comparison of Adjacent States

Michigan, Minnesota and Illinois have research, development and demonstration rules that have been updated and are consistent with the federal rule revisions. Iowa has a research, development and demonstration rule, which currently limits projects to 12 years.

Court Decisions Directly Relevant

Not applicable.

Analysis of the Rule - Rule Effect - Reason for the Rule

The proposed amendments would increase 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 proposed rule amendments specifically extend the maximum number of renewals from 3 to 6 for RDD plans, which would extend the length of time for research, development and demonstration projects to up to 21 years. The proposed rule would 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 proposed 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.

Agency Procedures for Promulgation

The department will hold a hearing on September 14, 2018 at 10 a.m. in room G27A at the WI Department of Natural Resources, 101 S. Webster St., Madison, WI 53707. The hearing will be followed by Natural Resources Board adoption during winter 2018-19 followed by a request for the governor’s signature and legislative review.

Description of any Forms (attach copies if available)

None.

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