



**Minutes**  
**Wisconsin Small Business Environmental Council**

January 17, 2013  
DNR Central Office  
101 S. Webster St, Madison, WI  
Room 613  
9:00 am -11:00 am

**Members Present:** Jeanne Whitish, Amy Litscher, Richard Klinke, Al Shea  
**Absent:** Vince Ruffolo, Shane Lauterbach, Steve Aldridge  
**DNR Staff:** Lisa Ashenbrenner Hunt  
**Guests:** Tom Coogan

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The meeting was called to order at 9:00 am.

**Small Business Roundtable**

On Wednesday, January 16<sup>th</sup>, Jeanne attended a Small Business Roundtable with Secretary Cathy Stepp and other top DNR staff. The purpose of the meeting was to exchange ideas and talk about issues that are important to the small business community. Jeanne added an agenda item to update the Council on what was discussed.

There was a concern among participants about turnaround time on permits at DNR. There was also concern that DNR is going to get hit with a lot of permit requests when land development starts picking up in the state.

There were also a lot of improvements discussed. Jeanne was happy to hear that DNR had implemented Lean Six Sigma projects. She said most of her issues are with other agencies who should be implementing these projects as well. There has been a lot of focus lately on customer service within the agency, which is new. As a contrast, Jeanne had in the past met with members of DNR from different divisions and noted that they often had very different opinions on things. This seems to have improved. Secretary Stepp wants to continue moving the agency in this direction.

Amy asked if Green Tier was discussed at the roundtable. Mark McDermid was in attendance and did discuss the program. As an example of how the program has helped businesses, he described a 3M facility in Menomonie which would have had to obtain 11 Title V air permits, but, because of their participation in Green Tier, only one was required. Al noted that there was an idea to revise Green Tier to make it more accessible to small businesses. There may be more information on this the second week of February when information on the budget comes out.

**Action: Al will keep the Council informed when the budget information comes out.**

**How to Maximize the Effectiveness of the Small Business Council**

Jeanne had expressed concern regarding the effectiveness of the Council and questioned whether it was of value to the Department. She met with Al prior to the meeting and discussed ways to change the Council's role.

Al explained his idea for improving the Council. He feels that planning the meetings one at a time is not effective and does not lead to long term results. Al proposed that, prior to each meeting, the Department would provide the Council with all proposed environmental rules that have gone to the Natural Resources Board (NRB) for public hearing or that have been developed into a scope statement. Any other specific issues that the Council would like to address would still be on the table, however.

Al provided some background information on rulemaking procedures and explained how the Council could participate in the process. For each rule, a green sheet is created which is required to address small business impacts, to varying degrees. Al would like give the Council audit capacity and set up criteria for analyzing small business impacts. Summaries of the green sheets would be sent to the Council. If the Council wished, they could request to have a DNR staff member present on the proposed rules at the next meeting. The Council would then create a report card on how well small business issues had been addressed. The Council would develop the required elements for creating the report card. In order to maximize the Council's influence on policy, input would be given early in the process.

Jeanne asked the rest of the Council how they felt about the idea. Amy responded that it made sense and that it was a relief, because sometimes she feels that they don't have an impact. Richard liked the idea of having something more consistent.

Al passed around a sample green sheet for the Council to see. Jeanne asked if there was a purpose statement for the proposed rule on the green sheet. Al said it would be in the background section.

Al then explained the steps for getting a rule passed. The NRB sets policy for DNR. First, the Department develops a scope statement and submits a green sheet to the NRB. This is required for all agencies. As a result of Act 10, not only the NRB has to sign off on the scope statement, but also the governor. The proposal is then made public and there is opportunity for input. Then, the NRB sends it to the legislature. Other agencies go straight from the Board to the legislature, without public input. If the scope statement is approved, an advisory group is assembled and a draft of the rule is written. Every comment that is received during the public comment period has to be documented and the Department must respond. It then goes back to the NRB for approval for adoption and is sent to the legislature, which may hold additional public comment hearings. Finally, the legislature either stops the rule or promulgates it. This is at least a three to four year process. Extra steps have been added, which have slowed down the rulemaking process, in part because businesses were having a hard time keeping up with all the rulemaking.

Another change resulting from Act 10 was to require all agencies to do a detailed economic analysis on proposed rules. William Walker presented to the Council on this topic back in June of last year. Al felt the economic analysis does not do well addressing small business issues, however. The Council could set some requirements for the analysis, which would make it easier to audit, laying out the criteria that needs to be considered.

Amy asked how many green sheets would be going out before each meeting. Al responded that the Council would only see the green sheets on environmental issues. The majority are related to natural resource management, so they would not apply to the Council. There would probably only be one or two green sheets to review per meeting. Al advises that the Council regularly comments on the green sheets to show that they are looking at the rules. This will make the Council more visible.

Jeanne asked how many meetings the NRB has. Al answered that they usually have 10 a year. They do not meet in July or November. They may also have one or two emergency meetings to address very specific emergency topics.

Jeanne also wanted to discuss the relationship between the Council and the Small Business Regulatory Review Board (SBRRB). Lisa has been attending SBRRB meetings. Al showed the Council the 2013 Wisconsin Regulatory Review Report that had just come out on Executive Order 61. Jeanne noted that she had been verbal about Phase I of the report, which was a cleanup of obsolete rules which didn't change a thing for small businesses. Al explained that this would be an ongoing activity. Secretary Stepp is reforming how the Department does business, and DNR will continue to do these types of reports. Al feels this is the most substantial thing the Department has done on this issue and that it is beginning to take the task seriously. In the future, the changes may be more substantial. Amy asked if DNR would have to go through a green sheet to make the recommended changes. Al said yes, it will have to go through the NRB, but they will probably do one omnibus rule. In fact, the legislature may lump recommendations from all agencies into one omnibus rule package. Al explained that the SBRRB looks at regulations across all state government. Since the Council will be looking closely at DNR rules, it may be best for the SBRRB to focus on other state agencies.

Richard asked how long green sheets have been used. Al said they have been used at least 30 years, and they have always been as rigid as they are now, although there have been some changes.

Richard questioned whether legislation could just be attached to the budget. Al explained that rule changes have to have green sheets, but changes to state statute do not go through the same process. Statutory changes would go through the budget bill if they have an impact on the budget. Otherwise, they would go through the legislature as a separate bill. DNR could ask the legislature for statutory changes, but they would have to get permission from the NRB first.

Jeanne then addressed the implementation of EPA rules. When the EPA passes something, how does the state respond? Al said the problem with the EPA is that they are disconnected to the economy. DNR, on the other hand, tries to balance public health and the environment with economic issues. Everyone has to comply with federal laws. The EPA can implement their regulations or delegate authority to the states to implement them. Wisconsin has delegation of EPA regulations. Jeanne explained her experience with the EPA. She attended a meeting where they were talking about requiring a permit for generators and other small engines. She asked how such regulations could be monitored; and the EPA responded that it would be up to the states. Richard asked how the head of the EPA is appointed. Al said the president appoints the head, but they don't go through the appointment process as the heads of other agencies do. Amy asked how often a rule comes from the EPA. Al said there were a lot more rules coming out under the Bush administration than the Obama administration. Because of the recession, there has been a lot of pressure to slow down rulemaking. Right now there is not much going on.

Amy asked about DNR's role in mining legislation. Al responded that if the legislature introduces a bill that is connected with an agency, the agency will do a fiscal analysis addressing impacts on local and state governments as well as the private sector. The agency may also testify on the legislation. Amy asked if they would then have to submit a green sheet. Al said no, the green sheet process is only if the agency is trying to get something to the legislature. If the legislature is very specific on what the agency needs to do, there may be no need to make additional rules.

Jeanne asked again if the Council supported the idea of making the changes to the Council that had been discussed. Richard said the changes were in a good direction. Amy felt they would give the Council more purpose.

### **Filling Vacancies**

Lisa explained how Council vacancies are filled. The Council used to have nine members and two agency representatives when it was housed at the Department of Commerce. However, the requirement has changed to seven members and one agency representative. Jeanne asked if Mike Simpson was coming back, and Lisa responded that he was not. Therefore, there is currently one vacancy within the Council. The Governor's office and the majority leaders of the State Senate and Assembly appoint the members of the Council, but the Council may make recommendations.

**Action: Al and Jeanne are soliciting recommendations from the Council to fill the current vacancy. Please let them know by February 15<sup>th</sup> if you would like to nominate someone.**

Al said the Governor is quick to respond to appointments, so it shouldn't take too long to get the position filled.

Jeanne asked if the Council could have a requirement for attendance. Al said this could be added to the bylaws. Jeanne noted that it is difficult to get things done when people don't attend meetings.

Al thought it would help encourage members to come if the Council had a more permanent agenda. He asked permission to lay out a proposal for making the Council more effective. The Council agreed. An added requirement for attendance, attending three out of every four meetings, will be included.

**Action: Al and Lisa will write up a proposal for the changes discussed (sent January 25<sup>th</sup>).**

**Action: Council will provide recommendations to Al and Jeanne on criteria they believe is important for DNR to analyze when proposing a regulation that impacts small businesses by February 15<sup>th</sup>.**

**Action: Al and Lisa will explore the possibility of having live meetings.**

### **Wisconsin Plant Recovery Initiative (WPRI)**

Tom Coogan, Brownfields Policy Coordinator, gave a presentation on the Wisconsin Plant Recovery Initiative from the Remediation and Redevelopment Program. He passed out a handout of his PowerPoint presentation.

Tom started by providing some background on the WPRI program. They started tracking industrial closings in June of 2009, because they were seeing an increase in the number of plants shutting down. WPRI was officially launched in March of 2010. The goals of the program include turning closed sites around quickly, coordinating DNR contacts to address all

environmental issues, preventing brownfields and creating jobs. Before, a plant that was closing would have several people calling from different DNR programs. Now, they have a single point of contact within the agency. There are staff members in every region that are following up on plant closings in their area. The earlier DNR gets involved, the better, since staff members can often talk to employees who have been in the business for many years and have a lot of knowledge of the operations. WPRI coordinates its efforts with other agencies, including the Wisconsin Economic Development Corporation and the Department of Workforce Development.

Tom then described the process WPRI goes through once they learn of a facility that is closing. They often are notified of the closing by the Department of Workforce Development (DWD), since facilities with 50 or more employees are required to notify the DWD of a closure. Richard asked how they find out about smaller closings with less than 50 employees. Tom said they don't have a good avenue to learn about these closings. They usually find out about small business closings through local community staff, such as fire departments. Next, DNR staff does research on the site to see if there are any known environmental issues and creates a checklist of any environmental conditions/permits the facility has. WPRI generates a letter with this information which is sent to the business and the community in which it resides. The letter informs the facility of its environmental responsibilities and potential resources the DNR has available. Follow up calls are made and DNR offers to have a meeting between the business and DNR's green team. The Green Team can be made of different program staff (e.g., air, waste, water, and remediation and redevelopment programs). At this meeting, the team discusses permit requirements and the advantages and disadvantages of keeping permits active. Often times, keeping a permit active can assist the closing plant in marketing the site, since permits can potentially be passed on to a potential buyer.

Jeanne asked if most of the facilities are in bankruptcy. Tom said no, but they are seeing more and more that are. Tom monitors bankruptcy filings to find potential facilities for the program.

Amy asked if potential buyers can see the site's environmental information. Tom responded that they can find information on the history of the site on Remediation and Redevelopment's tracking system webpage. This system is called the Bureau of Remediation and Redevelopment Tracking System or BRRTS (<http://dnr.wi.gov/topic/brownfields/botw.html>).

A two year report released in June of 2012 found that about 25% of all WPRI plants were able to be repurposed or redeveloped. This is probably because they still had active air permits or the buyer has the assurance that the site had a clean bill of health. Jeanne thought it would be good to add some revised employment numbers to the report. The report shows how many jobs were impacted by the closings, but not how many were created by site redevelopment. Tom said there are a lot of sources with employment numbers, so it is difficult to determine which are correct. The WPRI utilizes DWD's employment numbers.

WPRI has some additional services available to businesses totaling about \$500K. They have consultants on retainer that can do the Phase I background check of the facility and Phase II environmental sampling. These services are available to the closing business, potential buyers and the local community/government. This is not a grant; it is money available to pay the consultants. The Remediation and Redevelopment Program manages the administrative processing of these funds, so the awarded community/business has minimal requirements, such as providing access to the closing plant property. The program is meant for closing businesses and prospective buyers that don't have the funds to conduct this type of work themselves.

There are other tools available to businesses through DNR. The Business Sector Support Specialists within the Office of Business Support and Sustainability can assist businesses. The businesses could also participate in the Compliance Audit Program in which they can do an audit to make sure they are not out of compliance. If they come across any violations, they just have to correct them.

Tom gave an example of the type of situation the WPRI program was created to avoid. There was a facility in Slinger that was abandoned, leaving drums full of hazardous waste behind. The facility was in a residential area, with three schools nearby. DNR never knew about the closure or the potential hazard until it was alerted by the fire department.

Tom then turned the discussion over to the Council. He asked for ideas on other ways DNR could reach out to closing businesses and how to find out about small businesses that are closing. Jeanne recommended talking with the legal community. Tom said they had been in contact with the Bar Association. She also recommended talking to city planners, since they would be most aware of what is going on in their communities. Richard recommended talking with hazardous waste people, since they likely would have some reporting requirements. If a business stops reporting, WPRI staff could follow up. Amy thought the same could be done with air permit reporting as well. Richard recommended working with trade associations such as the Wisconsin Fabricare Institute and the Department of Revenue, since some businesses pay licensing fees. Amy also suggested talking to lenders, since they will address environmental issues when deciding whether to loan. Tom said the RR Program has staff that specializes in acquisition issues and that staff speak with lenders often.

#### **Next meeting:**

The meeting ended with a discussion of future meeting dates. The next meeting had been scheduled for March 14<sup>th</sup>. Al had a conflict that day, so it will be rescheduled. Council members thought there was a way to set up meetings using Google, which they have used in the past.

**Action: Lisa will look into a tool for setting up meetings and set up dates for the rest of the year.**

**Action: Al and Lisa will draft a communication on the proposed Council changes and send to Jeanne for review before sending to the rest of the Council (sent to Council January 25<sup>th</sup>).**

#### **Adjourn:**

The Council adjourned at 11:00 a.m.