ATTACHMENT __

Response to Public Comments

INTRODUCTION

Six persons filled out appearance slips at the August 17, 2004 public hearing, and two persons made comments. Five persons filled out appearance slips at the August 18, 2004 public hearing, and 4 persons made comments. Verbal comments and notations on the hearing appearance slips were either general statements of support or opposition or were also covered in written comments submitted by the presenters. The Department received 17 sets of written comments during the public comment period for the draft rule revisions, and formatting comments from the Legislative Council Rules Clearinghouse.

The written comments were sorted into major topics as indicated below. Some comments have been edited for the sake of brevity or clarity. In no case have we attempted to alter the substance of a comment.

A. GENERAL COMMENTS - Issues not specific to code details
B. SPECIFIC CODE CITATIONS - Technical issues associated with collection line cleanout length changes
C. SPECIFIC CODE CITATIONS - Leachate recirculation
D. SPECIFIC CODE CITATIONS - Landfill stabilization
E. SPECIFIC CODE CITATIONS - Implementing requirements for RCRA Sub. D RD&D permit
F. APPLICABILITY
G. LEGISLATIVE COUNCIL RULES CLEARINGHOUSE COMMENTS
H. LIST OF COMMENTORS AND ABBREVIATIONS

A. GENERAL COMMENTS - Issues not specific to code details

WEPA Process

1. Comment summary - The Wisconsin Environmental Policy Act, Wis. Sta. 1.11 (WEPA), requires major state actions significantly affecting the quality of the human environmental to be evaluated in an environmental impact statement (EIS). However, the Greensheet in this docket indicates that the only environmental analysis and review done on this rule was a determination that such consideration under WEPA was "N/A", (presumably non-applicable).

The proposed rule is a Type I action, requiring preparation of a full EIS under WEPA. In the alternative, at the very least, a hard look is required as a Type II action under Wis. Admin. Code NR 150.03(b)3.

The commentors position is that an EIS must be prepared before the Natural Resources Board can proceed to consider this rule. At a minimum, an environmental assessment must be prepared by the Department. The commentors also commented that the rule changes would lead to larger landfills, increase leachate line failures due to greater overburden weight and result in landfill waste slides that would put future neighbors at risk. (SCJMC, G&S)

Response -

General Support for Rule / Portions of Rule

2. Comment: We support this proposal and support the extension of this policy to high-volume industrial waste landfills. The general policy change is based on experience with modern landfill designs and should be protective of the environment. This change offers flexibility and potential cost savings for landfill operators. (WPC)

3. Comment: This rulemaking is among the most important in decades, and the department is to be commended for advancing rather than awaiting change. We offer these comments with every confidence that the final rule will safeguard Wisconsin's environment while creating economic and operating efficiencies in waste disposal practices. (WMI)

4. Comment: Concepts such as extended leachate collection lines, leachate recirculation, waste stabilization and research promise significant environmental and economic benefit. We strongly feel that the overall goals of this rulemaking effort are well aligned with the environmental goals that govern our Company. (WMI)

5. Comment: The proposed changes regarding longer leachate collection lines and leachate re-circulation for faster stabilization of landfills are needed and seem to be appropriate for those landfills that choose to implement them. (Marathon Co.)

6. Comment: Looking to the future by examining new and emerging technologies that may more effectively and expeditiously stabilize landfill waste is admirable and critically important to Wisconsin's environment. (Portage Co.)

General Opposition to Rule / Portions of Rule

7. Comment: We have had a very good NR 500 to 520 Solid Waste Code for several years, and we should work to be sure the new version is even better. When the State is ready to modify the set of rules, the new ones must be written clearly, have sound technical basis, and be applied appropriately and fairly. Unfortunately, the proposed changes (August 2004 version) are not in that condition. Please do not adopt what is being considered; the proposed 23-page version significantly complicates the existing rules and increases costs without benefiting the landfills I am familiar with. These proposed rules benefit only the very large MSW sites, and result in more cost and more challenges for the county-owned and industrial landfills. (BH)

Response:

8. Comment: Allowing longer leachate lines and larger landfills will only benefit the landfills financially, as well as the village governments who will also reap financial benefits. All the rest of us are left with the frightening thought of what is brewing beneath the surface of these hills of garbage. As a hairdresser, I have contact with many people who upon my questioning, have admitted that they routinely dispose of items that should never be put in the landfill, and most people are not educated about zero waste. By allowing larger landfills, we are only encouraging the continuation of these behaviors. We strongly oppose the changes, and hope that the DNR will consider our comments when deciding on this issue. (Witt)

Response:

9. Comment: Living in the vicinity of two major landfills, (Emerald Park and Metro) I have serious concerns about these changes, especially NR 504. I've always believed that the DNR , and all of our citizens are charged with the responsibility to leave a better world for future generations. I certainly don't think these revisions provide for that. Will the DNR guarantee that fewer landfills will happen, that lines won't clog more readily and that ground water won't be affected by these measures? (Campbell)

Response:

10. Comment: We ask the DNR not to alter or modify the 1200-foot rule. (WEAL)

Response:

11. Comment: What is the justification for these changes – environmental benefit or profitability for mega landfills? (Marathon Co.)

Response:

Process Used to Develop Proposed Rule

12. Comment: The makeup of the Technical Advisory Committee used for development of the rule doesn't appear to have been balanced - only one representative for publicly owned landfills. Appearances are such that large, corporate waste disposal companies and large, corporate engineering firms forwarded the recommendations used for the proposed rule changes. (Portage Co.)

Response:

13. Comment: Staff initially rejected the request to modify the code and agreed to do so when political pressure was applied. Before completion of technical process to develop conditions that offset additional risks from longer lines, someone from outside the process apparently met with administration, terminating technical process and allowing longer collection lines without the conditions. (G&S)

Response:

14. Comment: The proposed rules do not fulfill the DNR's own long-term vision of Moving Toward Zero Waste and do not minimize the potential for environmental impacts of landfills, one of DNR's EMS goals. (AROW, SCJMC)

Response:

15. Comment: The proposed rules do not do not represent a consensus of the Technical Advisory Committee established in late 2002 to re-evaluate the 1,200 ft limit on leachate collection lines. (SCJMC)

Response:

Risk Associated With Larger Landfills

16. Comment: Longer collection lines are likely to experience more failures, which, due to greater landfill size and overburden, are more costly and difficult to repair. Also, inasmuch as longer leachate lines enable landfills to be built substantially higher, accessing those lines to repair inevitable blockages will be more difficult and costly, and experience shows that higher repair costs can influence whether the necessary repairs get done at all. (G&S - attachment)

Response:

17. Comment: The very fact of permitting a new generation of mega-fills near urban areas on top of existing sites raises a whole separate set of major concerns. That is the clear possibility of catastrophic landslides, sometimes called garbalanches, with tens of millions of tons of trash crashing down on surrounding homes, stores and offices without warning." (G&S - attachment)

Response:

18. Comment: At the public hearing on this rule, the Sierra Club entered into the record the DNR report, "Survey Summary - Blocked Leachate Collection Lines - Based on Staff Survey & Line Cleaning Reports" This DNR report demonstrates that clogged leachate lines are currently an un-resolved problem at existing landfills with 1200 ft leachate lines. The collection lines at the Kestrel Hawk landfill are particularly egregious but the report reveals that all the landfills listed suffered from leachate line blockages and most were not repaired. The DNR Greensheet fails to alert the Natural Resources Board and the affected public to these real world problems at existing landfills. But they cannot be ignored. Longer lines are harder to clean out. Longer lines have more joints that can separate, kink or subside. Greater depths increase pressure on the lines. Greater depths makes repairs infeasible and unaffordable. Higher repair costs can mean they do not get done. Blockages are more likely to occur in the future and thereby multiple the costs of repairs. We direct your attention to the more extensive discussed in the consultant's report and the DNR staff power point presentation "Factors Affecting Ability to Clean Out Leachate Lines" (March 2004). Until the public, especially neighboring communities and residents, can be assured that existing problems can and will be repaired, it is not prudent to significantly increase the length of leachate collection lines to 2,000 ft. In fact, DNR's own reports should call in to question even continuing the current case by case approval of 1,200 foot leachate collection lines. Until questions regarding costs to landfill owners versus costs to the state taxpayers are resolved, it is not prudent to significantly increase the length of leachate collection lines to 2,000 ft and it may not be prudent to continue the existing approval of 1,200 ft systems. (SCJMC)

Response:

<u>Effect of Proposed Rule on Recycling/ Out-of-State Waste</u>

19. Comment: With respect to item 10. of the Department's Analysis titled "<u>Anticipated Cost Incurred by Private Sector</u>", the cost incurred at individual landfills cannot be specified with the certainty expressed. Many of the costs savings identified may be offset with additional costs, some identified and many not identified in the proposed rule (additional construction and operating costs, costs associated with resistivity testing, additional monitoring, etc.) Also, while the word "Potentially" was used to describe negative impacts on recycling interests, Republic is not aware of any information that supports the position that longer leachate line length impacts recycling efforts or interests. The success of recycling will be defined on its own merits, not by the design or operation of the closest landfill. (Republic)

Response:

20. Comment: Extending leachate collection lines will only increase the size of landfills. This may sound like a good alternative to starting more landfills, but it will just encourage more out-of-state garbage. (Campbell)

21. Comment: Extending the 1200-foot rule encourages larger expansions. The economics of scale create larger landfills that are less expensive to construct. Cheaper landfills equate to reduced tipping fees. Lower tipping fees will continue dependence on landfilling and will most likely attract greater quantities of out-of-state waste. Additionally, a vision of Zero Waste is not consistent with large cheap landfills. (WEAL)

22. Comment: Since expansions have not lasted as long as projected in Feasibility Reports, and waste companies are responsible for projecting the expected tonnage, it is very likely larger expansions will also fill more rapidly creating the "need" for new sites. Because Wisconsin does not have tonnage caps, the volume of waste disposed is entirely dependent on a company's ability to secure contracts. The DNR has a responsibility to set the record straight and inform the public that longer leachate lines at existing facilities does not automatically equate to a DNR denial of new landfills in the state. (WEAL, Campbell)

Response:

Financial Impact of Proposed Rule

23. Comment: According to WDNR Analysis Item 10. Anticipated Cost Incurred by the Private Sector, "The overall costs to counties and private companies that own, operate and develop landfills will be reduced." This is not true. As the proposed rules have been written, there are several additional costs that will be incurred at all sites, regardless of size or whether they request to have extended pipelines. The only entities that will benefit from any cost savings will be the very large MSW sites who can justify widening their base footprint and significantly increase the waste height and volume over the liner, thereby recognizing economic savings as calculated on a cost per acre basis. (BH)

Response:

24. Comment: The proposed changes to the NR 500 series may have a substantial impact to small municipal landfills throughout the state; a consideration that I believe was missed in the WA-47-04 and Fiscal Estimate analyses. By allowing landfills to grow larger, the proposed rule permitting 2000-ft leachate lines could have a monumental negative impact on small municipal landfills. Small municipal landfills may not be able to afford to or may have other restrictions that preclude them from this expansive, gargantuan type of landfill built beneath the 2000 feet of leachate lines. Their ability to compete against large, corporate waste disposal companies will diminish, negatively impacting the small municipal landfill, its customers and its affiliated municipalities. (Portage Co.)

Response:

25. Comment: The Department has determined that, according to Wisconsin Statute s. 227.114 definition of a small business (independently owned business, with less than 25 employees, and income of less than $2.5 million), the proposed rule changes will have no effect on small businesses. The Portage County Landfill is a business that employs less than 25 people, has less then $2.5 million in income and is run, independent of county tax dollars, as an enterprise fund. Its only source of income is from the sale of air space, or tipping fees. The same is true of the County's Material Recovery Facility. (Portage Co.)

Response:

26. Comment: Proposed changes that would apply to all landfills regardless of whether their leachate lines exceeded 1200 feet in length will increase costs for smaller landfills that cannot benefit from the economies of scale afforded by 2000 foot leachate collection lines. One example is the proposed change

in NR 504.07(6)(a) that would require a ten-fold increase in the permeability of final cover drainage layers. This would add hundreds of thousands of dollars to the cost of closing a landfill and would also increase the required proof of financial responsibility for closure. (Portage Co.)

Response:

27. Comment: In more than one instance, the green sheet indicates that there may be negative impacts to recycling. Since the Portage County MRF is an enterprise fund, if recycling is negatively affected, there is a cost to local government. (Portage Co.)

28. Comment: Based on the impact that the proposed rules may have on municipally owned landfills and MRFs, the fiscal estimate is in error where it states that the proposed rule would have no cost to local governments. (Portage Co.)

Response:

29. Comment: My comments mirror the four page written comments made by Evelyn Fisher of which I attached as part of my comments. I only want to emphasize the unfairness the proposed rules seem to have on smaller landfills. If the State feels its safe to allow a big landfill to get even bigger with longer leachate lines (which I really question) that's one thing. But why require the smaller sites do all the extra monitoring, etc that goes with that which is only cost effective for the larger sites? Also is the State prepared to maintain the longer leachate lines in the future if a large landfill goes bankrupt? (Lincoln Co.)

Response:

30. Comment: The financial impact of this rule will vary widely at individual landfills and cannot be projected. Landfill operators who choose to implement leachate recirculation, research and other activities allowed under this rule may incur additional expenses for construction materials, training, monitoring and labor which may or may not be off-set by reductions in long-term care costs and other spending. Costs to landfill operators and their customers would be increased by implementation of the landfill stability plan, resistivity testing and other requirements imposed under this rule. Costs may be reduced at landfills constructed with longer leachate lines as allowed under this rule. (WMI)

Response:

31. Comment: The potential financial benefits of this rule are unspecified and uncertain, and would be offset by the expense of leachate basin-specific monitoring, collection line videotaping, resistivity testing and many other unnecessary and costly requirements that would be imposed under the rule as currently drafted. A recent proposal to conduct resistivity testing at one site, for instance, estimated a cost of $9,200 per acre. Other provisions, such as the requirement to adopt stabilization plans, are simply too vague to allow an estimate of the cost of complying. Regarding recycling, there is no evidence that leachate line length affects recycling interests. To the contrary, there is ample evidence that the two are unrelated. Recycling did not increase when the state imposed the 1,200-foot-limit on leachate lines in 1996, has not decreased where DNR has granted variances, and is as successful near less costly landfills as near the most expensive. Moreover, the companies and governments operating landfills are not distinct from "recycling interests;" in most Wisconsin communities, they are one and the same. (WMI)

Response:

32. Comment: The proposed rules magnify the cost to state taxpayers by failing to require perpetual care and financial liability of landfill operators. If maintenance of closed landfills ends before stabilization, and the landfill owners' liability is removed, the cumulative consequences when the sites fail could bankrupt the states who bear the ultimate responsibility for orphaned landfills. (SCJMC)

Response:

Applicability of Proposed Rule

33. Comment: The proposed Rule Changes to the NR 500 should not be implemented as written. Those changes that would apply to all landfills regardless of whether their leachate lines exceeded 1200 feet in length should be considered separately. (Marathon Co.)

Response:

34. Comment: Why was NR 504.06(6) for allowing longer pipes written to give the benefit to only MSW sites and exclude industrial sites? That would not be fair to the industries if they are willing to meet the new design criteria. (BH)

Response:

35. Comment: Section 29 of the proposed rule should be more specifically define applicability. Any Feasibility Report submitted after the effective date of the rule would be subject to the new rules. (Republic)

Response:

36. Comment: Section 29, INITIAL APPLICABILITY, Should read: This rule applies to the regulation of landfills for which feasibility studies are first received after its effective date. No provision of this rule shall be applicable to any landfill unless and until the rule takes effect. (WMI)

Response:

37. Comment: We ask the department to ensure that the provisions of the final rule do not apply to landfills that have already been designed and permitted. It may not be possible to retrofit previously approved designs to comply with many of the rule provisions affecting leachate lines, for instance. (WMI)

Response:

38. Comment: These potential benefits should be extended to industrial landfills as well. (WPC)

Response:

39. Comment: The integrity of all leachate collection lines should be maintained regardless if they are 900, 1600, or 2000 feet long. There is no technical basis for setting different standards for different lengths. The long term performance of this design feature is critical and uniform regardless of the length. The environmental risk is just as great if this system fails and thus the standard should be applied uniformly. This standard should be applied to existing facilities as well for the same reasons. From a technical perspective the older sites pose a greater risk and thus should have a greater level of QA than the newer better designed, constructed and operated facilities. (Onyx)

Response:

Financial Assurance / Stability / Leachate Recirculation / Technical Requirements

40. Comment: I am concerned that the rule for the technical standards for landfills is moving ahead, although the financial requirements appear to have hit a roadblock and are not moving forward. I am also hearing from some landfill owners that they are working to oppose the requirements for the proposed diversion of organic material from landfills and/or the stabilization of organic materials in landfills. I believe that the continued use of "dry tomb" landfills is creating a growing potential financial liability for the future environmental management of landfilled material. Given this future liability and the lack of perpetual financial assurance by the owners of landfills, this is a potential cost to future generations, rather than putting the cost of proper management on those who generate the waste. I believe that the financial requirements need to be finalized before the technical standards be allowed to move forward and that the standards should not change until the requirements for stability are incorporated into state regulations. I recommend that the entire proposal be put into abeyance until these two conditions are met. I also believe that these concerns of financial responsibility and stabilization are applicable to landfills of all sizes, and thus further recommend that the state issue a moratorium on the licensing of both new landfills and landfill expansions until these conditions are met. (Reindl)

Response:

41. Comment: This rule change does indeed address the technical aspects of landfill construction, but falls short in addressing any impacts to closure and long-term care costs. AROW urges the DNR to continue to work with the TAC to complete the work begun on the financial issues associated with the rule change. If a full accounting of all costs associated with landfill disposal of waste is not included in landfill tip-fees, an unfair economic climate will exist that influences solid waste management decisions. (AROW)

Response:

42. Comment: Issues to Consider Regarding Leachate Lines and Leachate Recirculation: stability of disposal cell side slopes; existing and future problems with clogging of leachate lines; potential liner failure; mega-landfills vs. vision of zero waste; and long-term financial assurance**.** (WEAL)

Response:

43. Comment: A portion of landfill tip-fees paid by users include estimations of the cost of long-term care 30 plus years in the future. Recycling, composting and other management options include the full cost of the management of the waste materials. NR 514.07 (9) "This proposed section of the rule will ask landfill operators to include a plan for significantly reducing the amount of degradable organic material remaining after site closure." AROW firmly believes in composting as a preferred method for handling most organic wastes. Removing degradable organics from the MSW stream prior to landfilling and aerobically composting these materials will lessen the potential environmental impact of landfills. (AROW)

Response:

Structure of Solid Waste Fees

44. Comment: The unfairness with some of these rules is really demonstrated with the fees charged for licensing a landfill. With a small site receiving less than 50,000 tons per year paying the same as a large site receiving 1,000,000 tons per year for example is like DOT charging the same per year to register a pickup verses a semi. There's no reason why DNR shouldn't adopt a graduated rate system for licensing and review fees. (Lincoln Co.)

Response:

45. Comment: Other concerns include the inequity of the fee schedule. To address costs in a fair way, we think the WDNR should adopt a graduated rate system for licensing and review fees. One example would be having the sites pay DNR review fees which are proportional to the site's design capacity. This would make the sites which have the greatest potential to cause environmental impact pay the greatest fees. The current system of solid waste fees is a proportionally larger burden on the smaller "Large" sites. Now landfill sites that receive 12,000 to 24,000 tons per year pay the same fees as giant sites that receive 500,000 to 900,000 tons per year. That is not equitable! (BH)

Response:

46. Comment: Plan review fees should be revised to reflect the true cost to the department. All fees should be graduated based upon the approved volume of a landfill or the amount of waste disposed of annually. The current fee structure is unfair to smaller landfills. (Marathon Co.) (Portage Co.)

Response:

47. Comment: If review fees are applied for stabilization or research plans, to ensure timely review and approval, a 120 day review period is proposed. If the review and approval is not completed in 120 days, the plan is approved as submitted. (Republic)

Response:

48. Comment: If the proposed rules will streamline department review of stabilization, recirculation and research projects as promised, the demand on department resources should decrease. Therefore, fees should not be included for these submittals. To ensure accountability and responsibility for timely review of project proposals, the rule should require that reviews be completed within a maximum of 120 days. (Republic)

Response:

<u>Administrative Burden of Proposed Rule</u>

49. Comment: We urge the department to carefully reconsider several rule provisions that threaten to stifle innovation under costly and unnecessary burdens. Examples include requiring monitoring for every collection basin if recirculating leachate, mandatory removal of sediment regardless of collection system performance, and requiring unproven technologies such as resistivity testing despite no demonstrated problem or need. Other requirements and provisions are not sufficiently defined and would cloud the regulatory waters by providing no clear standard for compliance. For instance, NR 514.07(9) offers no enlightenment beyond a two-sentence requirement that every landfill in Wisconsin prepare "a plan for significantly reducing the amount of degradable organic material remaining after site closure." (WMI)

Response:

50. Comment: Onyx is in agreement with the principles associated with the rule change. We do however feel that some of the new requirements of the regulations establish burdensome thresholds or administrative processes that provide no benefit to the environment. Some of the proposed regulations which were developed conflict with the departments streamlining initiatives and conflict with the technical advisory committees recommendations, and as such are highlighted in our redlined attachment. We request that you consider our recommended changes and revise the proposed rules so as not to include items that are not technically justified or supported by science. (Onyx)

Response:

B. SPECIFIC CODE CITATIONS - Technical issues associated with collection line cleanout length changes

NR 504.06(5): More stringent requirements for large MSW landfills

51. Comment: There were several Rule changes proposed that should have been directed at only the largest MSW sites that want to extend pipelines to 2000 feet, but I strongly do not believe are technically warranted to change for all sites. The now-proposed additional requirements should only be directed at the facilities who want to increase beyond 1,200 feet, not to everyone. The existing NR 504.06(5) does not need to become more stringent for most sites, but possibly the higher hydraulic conductivity in NR 504.06(5)(tm) could be added to 504.06(6) for the sites with 2,000-foot pipelines. (BH)

Response:

NR504.06(5)(j)4: Sideslope riser pipe diameter and passage of pumps

52. Comment: Typically pump is placed on sideslope and does not have to pass the junction of the sump and sidewall. Recommend deleting this requirement. (MWH)

Response:

NR 504.06(5)(j)5: Protection of base of sump

53. Comment: There are other materials that can be just as protective and provide a greater amount of flexibility, Allow the designer some flexibility as some technical experts do not like the rigid plate design. (Onyx)

Response:

NR 506.06(6): Applicability to industrial solid waste landfills

54. Comment summary: The rule revisions allow longer collection pipe cleanout lengths only for municipal solid waste landfills. Suggestions were made to allow longer collection pipe cleanout lengths for industrial solid waste landfills or high volume industrial waste landfills, as long as they were subject to the same requirements. (BH, Lincoln Co., WPC, RMT)

Response:

NR 504.06(6)(d): Overburden loads and pipe wall thickness

55. Comment: there is no need to indicate 6-inch pipe diameter (pipe diameter may be larger like in sump). Also specified density may not be applicable to all cases (e.g., sites accepting industrial wastes). (RMT)

Response:

NR 504.06(6)(e)1: Collection pipe strength

56. Comment: Collection piping constructed of Schedule 80 or 120 PVC or HDPE or other pipe material with a structural design which is capable of supporting the design overburden ~~and documented by pipe strength calculations.~~ Comment: It is recommended that the last part of the above sentence be eliminated, and the designer given the opportunity to select a pipe based on a pre-defined table of allowable maximum loads. If the designer wishes, or has conditions that differ from those for the table values, the designer should still be given the opportunity to perform pipe strength calculations. An example of a table listing acceptable pipes is included below:

Table 1

PIPE MATERIAL	MAXIMUM LOADING	MAXIMUM DEFLECTION
SDR 21 HDPE	76 psi	13.9%
SDR 17 HDPE	94 psi	11.2%
SDR 13.5 HDPE	118 psi	8.9%
SDR 11 HDPE	146 psi	7.3%
SDR 9 HDPE	178 psi	5.9%
SDR 7.3 HDPE	219 psi	4.8%
Maximum loadings assumed controlled by ring compression for properly bedded pipes. HDPE pipe working compressive strength assumed to be 800 psi. Maximum pipe deflection for HDPE pipe based on limiting ring bending strain to 4.2%. *Table should be verified by pipe manufacturers*		

It is important to allow designers select pipe materials that fall outside of the above guidelines, provided they demonstrate the adequacy of the design utilizing pipe strength calculations. (RMT)

Response:

NR 504.06(6)(e)5: Sediment and debris traps

57. Comment summary: Two commentors noted that solids accumulate in collection pipes, sometimes in surprising amounts, and can be hard to remove. They suggest that that is would be shortsighted to approve longer collection pipes before this design and maintenance challenge is resolved. Three commentors noted that it would be difficult to extract solids from sediment traps which were deeper than the effective height of vacuum lift devices. They advocate use of sediment sumps instead of sediment traps. No detail was offered as to the distinction between the two designs, although supplemental verbal comments indicate that sumps might be allowed to accumulate solids but would not offer a means of extracting them. One commentor stated that the proposed requirement does not set clear

standards for designing, evaluating, and maintaining debris removal mechanisms, or criteria for confirming whether or not debris is actually impairing leachate removal. (BH, Lincoln Co., Republic, WMI, RMT)

Response:

NR 504.07(6)(a): Final cover drain layer

58. Comment summary: Four commentors stated that using a final cover sand drain with a higher hydraulic conductivity than that currently required by code would be a significant cost increase to small landfills. One commentor objected to the change based on the lack of failures to date. Others objected to defining influx into the drain by use of a vertical gradient of one, which assumes that cover soil is completely saturated. One commentor stated that an efficient drain layer was counter to the concept of allowing water to percolate through the final cover system into the waste mass, thus promoting degradation and stabilization of the waste mass. (BH, Lincoln Co., Onyx, Marathon Co., Portage Co., WMI, RMT)

Response:

NR 506.07(8): Additional requirements - extended collection lines

59. Comment: The integrity of all leachate collection lines should be maintained regardless if they are 900, 1600, or 2000 feet long. There is no technical basis for setting different standards for different lengths. The long term performance of this design feature is critical and uniform regardless of the length. The environmental risk is just as great if this system fails and thus the standard should be applied uniformly. This standard should be applied to existing facilities as well for the same reasons. From a technical perspective the older sites pose a greater risk and thus should have a greater level of QA than the newer better designed, constructed and operated facilities. (Onyx)

60. Comment: Please clarify that this section does not pertain to existing approved designs using leachate lines greater than 1,200 feet. It would not be possible to retrofit many existing facilities to meet the proposed rule changes. (WMI)

Response:

NR 506.07(8)(a): Annual vs. 5-year pipe cleaning requirements

61. Comment summary: Two commentors stated that the rule implied that annual pipe cleaning was still required, or that allowing less than annual cleaning was, in effect, reducing costs for larger landfills. One commentor suggested that the five year cleaning event should replace the annual pipe cleaning requirement. (BH, Marathon Co., WMI)

Response:

NR 506.07(8)(b): Pipe cleaning to toe of opposite slope

62. Comment summary: One commentor suggested specifying that pipe cleaning be done from the down flow side of the pipe as nozzle heads are designed to propel the line forward through the pipe and to flush solids behind them as they are pulled back out. One commentor stated that complete insertion of a cleaning hose throughout the pipe length was excessive and that it was sufficient to assure that hose insertion from each end overlap in the middle of a collection line. One commentor suggested a more general approach that would allow landfill operators to select the method and the contractor best qualified and equipped to address the circumstances of a particular landfill, and that, furthermore, Wisconsin was the only State to mandate pipe cleaning by insertion of hose to the toe of the opposite slope. (Marathon Co., Republic, WMI)

Response:

NR506.07(8)(c): Video camera inspection after 5 year cleaning

63. Comment summary: Four commentors stated that video camera equipment is limited in its ability to penetrate a collection pipe and may be difficult to meet in all parts of the State or at a reasonable cost. One noted that visuals from a video camera can be of poor quality due to lens fogging or blinding from contact with leachate sediments. One noted that camera technology has improved but that only a select few an provide quality service. One commentor stated that the requirement was unnecessary as a routine measure and that it should be performed only in the case of a documented pipe blockage. The commentor also noted the potential for hangup of the camera within the pipe. (MWH, Marathon Co., Republic, WMI)

Response:

NR506.07(8)(d): Correcting blockages in collection pipes

64. Comment summary: Four commentors suggested modifying the proposed language to require repair only as possible or to remove blockages as necessary to maintain flow of leachate. One commentor suggested flushing the collection pipe and collection trench as a means of demonstrating whether flow of leachate was still adequate. Another commentor stated that, with highly permeable gravel around the pipe, most leachate flow is in the gravel under the invert of the pipe rather than in the pipe itself, reducing dependence on the pipe to remove leachate. The commentor further stated that blockage within a pipe should not constitute a failure of the collection system and should not trigger corrective action as long as leachate head on the liner was maintained at less than 12 inches. (MWH, Onyx, Marathon Co., Republic, WMI)

Response:

NR506.07(8)(e): Summary report after 5 year pipe cleaning

65. Comment summary: Four commentor suggested minor wording changes to support previous comments about pipe blockages and use of video camera inspection. (MWH, Onyx, Republic, WMI)

Response:

NR 506.07(8)(f): Summary report after removal of dams or barriers

66. Comment Add to end of text: This report could be part of the cell construction documentation report. (Onyx)

Response:

NR 512.09(6): Additional requirements - extended collection lines

67. Comment: Same issue as previously stated., if there is a legitimate environmental concern it should apply to all. (Onyx)

68. Comment: As stated previously, please clarify that this section does not apply to existing approved designs. (WMI)

Response:

NR 512.09(6)(a): Boring in cell subbase for stability/settlement assessments

69. Comment summary: One commentor stated that the applicant should be allowed to present a technical position on stability/settlement without having prescriptive requirements. The commentor suggested a potential pathway for groundwater contamination by the existence of the boring, requested technical flexibility in the requirement and that it should apply to all landfills. Another commentor suggested wording changes, requested specifications for technical parameters, and allowing the certifying engineer to select number of samples per soil layer. A third commentor suggested that bedrock samples were not needed, that granular soils are adequately characterized by blow count data, and that further testing be limited to soil layers with fine-grained soils, which are known to have longer-term settlement. (Onyx, WMI, RMT)

Response:

NR 514.07(6)(c) and NR 516.07(2)(d): Leak location survey as CQA measure

70. Comment summary: Six commentors responded. One commentor stated leak location surveys would increase costs but would not provide benefits, did not feel that the technology was scientifically based, that is needed more scrutiny, and did not recommend that it be part of NR 516 CQA requirements. Other commentors also stated that the leak location survey would increase costs without benefit or that more investigation into the technology was needed. One commentor stated that is was unclear if the requirement applied to all landfills or only to those that recirculated leachate. Two commentors stated that testing produced uncertain results and that false positives were a potential problem. (BH, Lincoln Co., Onyx, Marathon Co., Republic, WMI)

Response:

NR 514.07(6)(d): Removal of debris from collection lines

71. Comment summary: Two commentors reiterated previously stated suggestions that sediment from pipe cleaning should be stored in sediment sumps rather than removed from sediment traps. (Republic, WMI)

Response:

NR 514.07(8): Additional requirements - extended collection lines

72. Comment: Please clarify that this section applies only to areas that are new or expanded. (WMI)

Response:

NR 516.08: Additional requirements - extended collection lines

73. Comment: this section is redundant, again. (Onyx)

Comment: "Newly constructed landfills ~~Landfills~~ shall meet the following additional requirements where they will accept..." (WMI)

Response:

NR 516.08(2): Testing requirements

74. Comment: If some changes are made to allow longer pipes, some of the 516.08(2) requirements would only be needed if the facility is designed at the minimum pipe grades and base slopes. If the subbase is dense and adequately sloped, the extra testing is not necessarily warranted. (BH, Lincoln Co.)

Response:

NR516.08(2)(b): Testing hydraulic conductivity of high-capacity drainage material

75. Comment summary: Three commentors stated that hydraulic conductivity testing of gravel should be deferred to use of grain size analysis and interpretation by use of the Hazen's equation. Two also stated that standard hydraulic conductivity testing is not directly applicable to testing of gravel, due to rapidity of water flow through the gravel. (MWH, Republic, WMI)

Response:

C. SPECIFIC CODE CITATIONS - Leachate Recirculation

General

76. Comment: Are the provisions for leachate recirculation and liquids addition consistent with Federal Subtitle D regulations? (WEAL)

77. Comment: Leachate recirculation should be addressed at the Feasibility Study stage of the siting process so that public review and input can be sought, rather than allowing it to be approved at a later stage as a plan modification. (WEAL)

78. Comment: DNR should carefully consider the long-range ramifications of leachate recirculation projects and not grant broad approvals. (WEAL)

Response:

NR 500.03 (124e)

79. Comment: Modify the definition so that leachate recirculation is not limited to the landfill that generated the leachate. (Onyx)(WMI)

80. Comment: Wording changes are proposed to clarify the definition. (WMI)

Response:

NR 504.095(1)(a)

81. Comment: Under specific circumstances, the department may find it appropriate to allow recirculation at an older or closed landfill that was not constructed with a composite liner. The rule should allow alternative liners approved by the Dept. (WMI)

82. Under certain situations, the Department may find it appropriate to recirculate leachate for certain industrial waste sites where the waste has significant moisture holding capacity (e.g., coal fly ash). (RMT)

Response:

NR 504.095(1)(b)

83. Comment: Recommend changing "hydraulic permeability" to "hydraulic conductivity" for consistency in wording with other sections. (MWH)

84. Comment: Why limit the science by imposing restrictions if there is positive environmental impact without an increase in environmental risk? Suggest leaving this more broad to allow the designer greater flexibility. (Onyx)

85. Comment: There are situations where, on a temporary basis, leachate heads may exceed 12 inches (new cell filling, sideslope riser pump malfunction). As a result, the maximum leachate head on the liner should be maintained an average of less than 12 inches. (Republic) (RMT)

Response:

NR 504.095(1)(c)

86. Comment: This provision needs to consider and address potential conflicts with state air regulations, which may directly conflict with the proposed requirement to collect gas in areas prior to initiating leachate recirculation. Recommend that active gas extraction commence in those areas no later than within 180 days of initiation of leachate recirculation unless otherwise precluded under the conditions of a WDNR air permit. (WMI)(Republic)(Onyx)(RMT)

87. Comment: Difficult to meet this requirement if using surficial application of leachate within active area during waste placement. Only extraction at that point would be through leachate collection system. Consider a delay between recirculation and start of active gas extraction for each area to allow installation of gas extraction components. (MWH)

Response:

NR 504.095(1)(d)

88. Comment: Surface application and/or other moisture conditioning techniques should be allowed to treat the waste located in areas within 100 feet of the perimeter.(Onyx)

89. Comment: Add a provision which provides the flexibility to promote stabilization by allowing treatment of the entire waste mass, provided that slope containment systems are implemented.(WMI)(RMT)

90. Comment: Site-specific variations should be allowed, such as reducing the setback distance for smaller landfills. (BH)

Response:

NR 504.095(1)(e)

91. Comment: Site-specific variations should be allowed, such as reducing the setback distance for smaller landfills. (BH)

Response:

NR 504.095(1)(f)

92. Comment: Waste mass saturation is not an appropriate criteria because it cannot be reliably measured. Also make editorial changes in wording. (WMI)(Onyx)(RMT)

Response:

NR 504.095(2)(a)

93. Comment: Surface application may result in temporary ponding of leachate. The distribution system should be designed so that leachate is not introduced into the waste in a manner that causes persistent ponding. A 2 hour limit is suggested. (WMI)(Republic)

Response:

NR 504.095(2)(b)

94. Comment: Volatilization of compounds in leachate should be allowed. Spray irrigation systems should not be prohibited. (WMI)(RMT)

Response:

NR 504.095(3)(b)

95. Comment: Please define "pumping characteristics." Is this a property of the collection system? (WMI)

Response:

NR 504.095(3)(c), (d), and (f)

96. Comment: Editorial changes are suggested. (WMI)

Response:

NR 504.095(4)(b)

97. Comment: Leachate will migrate from the pipes regardless of whether there is bedding material. The use of permeable bedding material should be discretionary. (WMI)

Response:

NR 504.095(4)(c)

98. Comment: Distribution pipes are typically HDPE and capable of accommodating some movement. Bedding will not prevent differential settlement and serves very little structural purpose. (WMI)

Response:

NR 504.095(4)(d)

99. Comment: Leachate recirculation should not entail active gas extraction under all circumstances. Horizontal distribution can be dedicated to leachate distribution. (WMI)(Republic)(RMT)

Response:

NR 504.095(4)(e)

100. Comment: Due to the heterogeneity of the waste mass and all the other variables some flexibility needs to be allowed. Editorial changes have been suggested. (WMI)(Onyx)

Response:

NR 506.135(1)(a)

101. Comment: Surface application and/or other moisture conditioning techniques should be allowed to treat the waste located in areas within 100 feet of the perimeter.(Onyx)

102. Comment: Add a provision which provides the flexibility to promote stabilization by allowing treatment of the entire waste mass, provided that slope containment systems are implemented.(WMI)

Response:

NR 506.135(1)(c)

103. Comment: This provision needs to consider and address potential conflicts with state air regulations, which may directly conflict with the proposed requirement to collect gas in areas prior to initiating leachate recirculation. Recommend that active gas extraction commence in those areas no later than within 180 days of initiation of leachate recirculation unless otherwise precluded under the conditions of a WDNR air permit. (WMI)(Republic)(Onyx)

104. Comment: Difficult to meet this requirement if using surficial application of leachate within active area during waste placement. Only extraction at that point would be through leachate collection system. Consider a delay between recirculation and start of active gas extraction for each area to allow installation of gas extraction components. (MWH)

Response:

NR 506.135(1)(d) and (e)

105. Comment: Inconsistencies exist between section (d) and (e) in describing failures and warning symptoms. (Republic)

106. Comment: Suspension of leachate recirculation due to triggering warning symptoms or failure thresholds should be limited to the area where the problems are occurring. (Onyx)

107. Comment: As noted previously, elevated head levels are permissible for short periods during the active life of the landfill. The rule does not specify a means of measuring waste mass saturation or defining “saturated conditions” and saturation should not be relied upon as an indicator. Regarding notification, we are suggesting DNR reserve the flexibility to develop project-specific notification criteria. (WMI)

Response:

NR 506.135(1)(g)

108. Comment: By drainage basin, do you mean each portion of a site that drains to a side-slope riser pump? (Marathon Co.)

109. Comment: Recommend looking at site as a whole versus each drainage basin. Difficult and costly to complete monitoring to obtain required data for liquid balance of each drainage basin. (MWH)(Republic)(BH)

Response:

NR 506.135(2)(a)

110. Comment: Surface application may result in temporary ponding of leachate. The distribution system should be designed so that leachate is not introduced into the waste in a manner that causes persistent ponding. A 2 hour limit is suggested. (WMI)(Republic)

Response:

NR 506.135(2)(d)

111. Comment: Limiting leachate recirculation in this manner only to the active area is too restrictive. Closed landfills or active landfills with final or intermediate cover should not be excluded if all other design and operating criteria can be met.. (WMI)(Republic)

Response:

NR 506.135(2)(e) and (f)

112. Comment summary: Editorial changes are suggested. (WMI)

Response:

NR 506.135(5)(a) to (c)

113. Comment: Recommend looking at site as whole versus each leachate drainage basin. For leachate recirculation only, studies have shown that there is insufficient liquid volume to reach field capacity. As a result, not even critical to collect and report this much data. These data requirements are typical for a research project versus full-time application. (MWH)(WMI)(Republic)(BH)

Response:

NR 506.135(5)(d)

114. Comment: This is a large data gathering exercise with limited benefit. Why is this being required and too what end? Data is nice but resources could be better utilized in other areas. This should not be a requirement. (Onyx)

Response:

NR 506.135(5)(e)

115. Comment: Perched leachate heads and saturated conditions cannot be reliably measured or defined, and have been appropriately addressed by the proposed operating requirements, such as the requirement to avoid seeps. (WMI)

Response:

NR 506.135(6)

116. Comment: While these are generally appropriate performance parameters, they should be incorporated as specific and measurable standards considered warning symptoms or failure thresholds under NR506.135(1)(d) and (e). (WMI)

Response:

NR 507.215

117. Comment: Recommend evaluation by site versus each leachate drainage basin. Typically, leachate characteristics will be collected as a composite sample, not each drainage basin. Landfill gas system extraction very difficult to match to drainage basin area. (MWH)(Republic)(WMI)(BH)

Response:

NR 507.215(1)

118. Comment: Change the frequency of precipitation records from daily to monthly. (WMI)

Response:

NR 507.215(3)

119. Comment: Data gathering with little to no value. Suggest document large trends and limit the scope. (Onyx)

120. Comment: Limit sampling to the leachate sump, rather than allowing other points to be used. (Onyx)

121. Comment: Significant health, safety and logistic problems would arise in sampling individual sideslope risers (SSR) in order to provide basin-specific measurements. SSRs are permit-required

confined spaces and may be entered only by specialized contractors who have undertaken extensive training, and then only with venting, atmospheric monitoring, an escape tripod and harness and a standby and response companion. This adds significantly to the cost of obtaining samples if entry to SSRs is required. (WMI)

Response:

NR 507.215(3)(f)

122. Comment: Volatile fatty acids (VFA) are not required for routine monitoring. Data from WM Bioreactor projects show that VFA's increase at the same time BOD and COD increase and pH decreases as a cell enters phase III, the acid phase of decomposition. Since the other parameters so reliably mirror the trends for VFA, monitoring for VFA only adds expense without commensurate benefit. There are only a few labs that perform the tests and the tests are expensive. Please remove this requirement. (WMI)(Onyx)(BH)

Response:

NR 507.215(3)(g)

123. Comment: Annual VOC scans of leachate that are already conducted are sufficient. (WMI)

Response:

NR 507.215(4)(a)

124. Comment: Monitoring should be on a full site basis rather than by leachate drainage basin. (WMI)(BH)

125. Comment: All existing WDNR solid waste and air permits require monthly gas well monitoring. Weekly monitoring would add at least $3,000/month to a site's operating costs and is not necessary for operating the system. Suggest that gas monitoring remain consistent with current permits. (WMI)(Republic)

Response:

NR 507.215(4)(b)

126. Comment: This is not necessary, given that potentially watered out gas wells can typically be readily identified from the monitoring data. Liquid levels should be checked only in wells that have no flow when full vacuum is applied, and then only when no other explanation is apparent. Some wells with no or low flow are decommissioned wells or are not producing gas due to gas quality issues, and have just a minimal vacuum applied. In any case, as written the requirement is not limited to areas in which leachate recirculation is occurring, and the term "assessment" is not defined. (WMI)

127. Comment: Liquid level monitoring in each gas well seems unnecessary. If liquid levels increase, routine monthly gas monitoring will document vacuum and gas volume changes. If operating conditions change, a liquid level measurement would then seem appropriate. (Republic)

Response:

NR 514.07(7)(c)

128. Comment: Calculations need to be simplified for field operations. Recommend using a set volume per acre per day that is allowed. How are you going to monitor change in moisture content of waste and water vapor in landfill gas? (MWH)

129. Comment: The need to calculate loading rates for each leachate drainage basin/cell seems excessive. The cost and difficulty of monitoring individual drainage basins would make leachate recirculation unaffordable at most landfills, contrary to the department's goal of accelerating stabilization. Extensive research shows that a large volume of liquid is required to reach an optimum moisture level of between 35-45%. Leachate recirculation alone does not produce enough liquid to reach optimum moisture levels. Approximately 60 gallons of leachate per cubic yard of waste is required to reach optimum moisture levels. Other than for research there is no need for the additional monitoring, recordkeeping and reporting for recirculation only landfills. The analyses should be conducted over the entire landfill. (Republic)(WMI)(BH)

130. Comment: Collecting data by basin would seem to entail installing a sump for each basin and would make data collection, as opposed to environmental value, a design influence. (WMI)

Response:

NR 514.07(7)(f)

131. Comment: If the department wishes to encourage recirculation, it must provide a degree of confidence that operations will not be suspended indefinitely pending lengthy review of proposed modifications. A 30 day response period for the Dept is suggested, with leachate recirculation allowed to resume if no response is received. (WMI)

Response:

NR 514.07(7)(g)

132. Comment: The need to track the volume of leachate extracted and the volume of precipitation in each leachate drainage basin/cell seems excessive. (Republic)(MWH)(WMI)

133. Comment: This plan should also state the circumstances under which leachate will not be recirculated, but removed for treatment. (Marathon Co)

Response:

D. SPECIFIC CODE CITATIONS - Landfill Stabilization

NR 500.03(120g)

134. Comment summary: Editorial changes to the definition are suggested as well as removal of the clause relating to the potential for organic decomposition to resume when moisture and temperature conditions improve. (Onyx)(WMI)

135. Comment: It is suggested that the definition of "Landfill organic stability" include a reference to health – based standards when defining landfill leachate organic components. Also, "measurable" settlement seems rather restrictive. Maybe some percentage of fill height on an annual basis could be used (less than 1% of the fill height measured on an annual basis). (Republic)(WMI)

136. Comment: Control or regulation of organics should be directed at regulated compounds, and levels should be compared to applicable human health or ecological risk standards. (RMT)

Response:

NR 500.03(120r)

137. Comment: the definition of landfill stability is not consistent with the broader concept of stability described in NR 514.10 and other rule sections. (WMI)

138. Comment: Definitions for "Landfill organic stability" and "Landfill stability" are provided, but these terms do not appear to be used in the proposed rules. It is recommended that provisions be included in the rules to allow a landfill owner to apply to the Department for a reduction or elimination of post-closure care and Proof of Owner financial responsibility for those sites that meet the definition of "landfill stability". If a site has reached "landfill stability" but has not reached "Landfill organic stability", post-closure care and Proof of Owner financial responsibility should be limited to only those activities and costs necessary to maintain current moisture and temperature conditions. (RMT)

Response:

NR 514.07(9)

139. Comment: What is this in reference to? Are you suggesting that all sites incorporate re-circulation of leachate in the Plan of Operation? For more rapid decomposition or are you suggesting that slower decomposing materials such as demolition debris be kept out of landfills. If you are, I would be opposed as it would put an additional burden on smaller sites and further promote larger and fewer mega sites. Further clarification or explanation is need for us who were not involved with this code addition. (Marathon Co)

140. Comment: A plan can be written, but it is the general public who has to abide by the plan. Landfill operators cannot enforce this provision. This appears to be a bottom up regulatory requirement with no input or commitment from the public. The TAC advisory groups never reached agreement on this issue. If the department wants to create a process by which to remove organics from the landfill then the state legislature needs to create this law or regulation. This is equivalent to the recycling laws that have been put into place in the state. It is not the mission of landfill operators to develop and impose these conditions upon the citizens of the state. Landfill operators are providing a much needed waste disposal management outlet for the wastes generated , and are not responsible for establishing rules on how the

public must manage solid wastes. This provision should be removed and all stakeholders need to buy into the program prior to this public policy initiative being dumped on landfill operators. (Onyx)

141. Comment: This proposed section of the rule will ask landfill operators to include a plan for significantly reducing the amount of degradable organic material remaining after site closure. AROW firmly believes in composting as a preferred method for handling most organic wastes. Removing degradable organics from the MSW stream prior to landfilling and aerobically composting these materials will lessen the potential environmental impact of landfills. (AROW)

142. Comment: This provision would apparently require landfills to either accelerate degradation or divert incoming organics and is unacceptable. Existing sites that cannot retrofit to accelerate degradation to an unspecified standard would presumably be forced to attempt to divert incoming organic wastes. (WMI)(Republic)

143. Comment: Landfill operators will readily adopt degradation management practices as DNR communicates the associated environmental benefits, such as reduced gas and leachate production, and the resulting financial benefits of reduced long-term care costs and financial assurance requirements. Landfills, communities and waste generators will pursue those benefits in a manner that best reflects each landfill's design and construction, local waste composition and economics. (WMI)(Republic)

144. Comment: As drafted, the rule provision is vague and unworkable. It offers no definition of "significant," "degradable" or "organic," sets no specific time frame for organics reduction, provides no examples of plan activities and gives no criteria for measuring successful implementation. (WMI)(Republic)

145. Comment: New section NR 514.07(9) requires plans for reducing organics after closure. This seems unnecessary to write. If the owners, operators, and consultants understood what the Department is trying to accomplish, we could work toward that, but the requirement is vague and adds more effort and expense for site operations. Perhaps ongoing recommendations and new technical information from WDNR to site owners and all would be more appropriate, if there are improvements to be made. (BH)

Response:

E. SPECIFIC CODE CITATIONS - Implementing requirements for RCRA Sub. D RD&D permit

<u>NR 500.03(222m): Definition of "Stabilization of landfilled waste"</u>

146. Comment summary: One commentor suggested wording changes. (WMI)

Response:

<u>NR514.10: Proposed RD&D permit authorization language - choice of alternative</u>

147. Comment summary: Four commentors expressed preference for the alternative labeled "Research Plan" over the alternative labeled "Landfilled Waste Stabilization Plan". Two commentors called for a technical committee to review methods, monitoring, etc., for achieving stability before putting it into code language. One commentor who expressed preference for an alternative also claimed that the rule would add bureaucracy with little or no benefit, that it put hurdles in the way rather than promoting science of stabilization, that the Department should promote and embrace the activity, and that the

Department should simplify the rules and allow a large amount of flexibility. (BH, Lincoln Co., Onyx, Marathon Co., Republic, and WMI)

Response:

Comments by WMI on 1st version - NR 514.10(1)

148. Comment summary: Several suggested wording changes by one commentor on the first version, as well as a request to clarify that leachate recirculation alone does not subject a landfill to the proposed requirements. (WMI)

Response:

NR 514.10(1)(b)3 (1st version) and 514.10(1)(b)4 (2nd version): Use of closed landfills

149. Comment: This proposed requirement seems too restrictive. The language eliminates closed landfills as a potential for stabilization. The rule should be written in a manner that any proposed changes would require Department approval. (Republic)

150. Comment: This provision would needlessly restrict the department's own flexibility and runs counter to the overall goal of this effort, which is to promote innovation. For instance, the provision does not allow for compliance with the Federal Air Regulation MACT, bioreactor rule. Also, many systems will require modifications to the leachate and gas systems outside the limits of waste, such as increasing the size of the gas system components or installing temporary sections, adding leachate forcemains or pump stations, modifying SSR pumps, etc. Finally, as drafted the restriction will essentially forbid retrofitting of closed landfills, regardless of the potential environmental benefits. (WMI)

Response:

Comments by WMI on 1st version - NR514.10(1) & (2):

151. Comment summary: Wording changes were suggested on specific requirements for length of testing periods, renewals, Department review, assessment of the process selected, and temperature/fire plans. (WMI)

Response:

Comments by WMI on the 2nd version- NR514.10(1) & (2):

152. Comment summary: Wording changes were suggested on specific requirements for length of testing periods, renewals, Department review, assessment of the process selected, and temperature/fire plans. (WMI)

Response:

NR 520.04(4)(a): Fee schedule for stabilization/research plans

153. Comment summary: Four commentors made general comments about the NR 520 fee structures and suggested tailoring fees to landfill size but made no specific comments on fees for the NR 514.10 research plan. One commentor suggested that the Department set a 120 day review period, with automatic approval if an NR 514.10 research plan was not approved within that time period. One commentor that the rules would streamline Department review and reduce demand on Department resources, and suggested that the proposed fee table be dropped. (BH, Lincoln Co., Marathon Co., Republic, Portage Co., WMI)

Response:

F. APPLICABILITY

Initial applicability

154. Comment: Rule applicability should be more specifically defined. Any Feasibility Report submitted after the effective date of the rule would be subject to the new rules. (Republic)

155. Comment: "SECTION__INITIAL APPLICABILITY. This rule applies to the regulation of landfills for which feasibility studies are first received after its effective date. No provision of this rule shall be applicable to any landfill unless and until the rule takes effect. (WMI)

Response:

G. LEGISLATIVE COUNCIL RULES CLEARINGHOUSE 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 October 2002.]

Form, Style and Placement in Administrative Code

Section NR 504.06 (6) should be rewritten to read:

NR 504.06 (6) (a). Landfills shall meet the requirements of pars. (b) to (f) where they will accept municipal solid waste…these requirements shall take precedence.

The remaining paragraphs should be renumbered accordingly. This structure should be used because the current introduction of sub. (6) does not grammatically lead into the following subunits. The entire rule should be reviewed for this drafting method.

In s. NR 504.06 (6) (e), the phrase "all of" should be inserted before the phrase "the following design features." Introductory phrases always should indicate to the reader whether all of the following requirements need to be met or whether any of the following requirements need to be met, even if the context may indicate which alternative is intended. The entire rule should be reviewed for the appropriate phrasing of introductory materials.

In the second version of s. NR 514.10, the phrase "Research program approval required" in sub. (1) (e) appears to be a title. If so, either this title should be deleted or a title should be added to paragraph (b) for consistent usage.

The virgule in s. NR 514.10 (4) (h) (first alternative) and in s. NR 514.10 (2) (m) (second alternative) should be replaced by "and."

Clarity, Grammar, Punctuation and Use of Plain Language

In the preface to the rule, in the second bullet of item 10, the word "a" should be deleted. Also, in item 11, the phrase "No small businesses" appears to be an incomplete statement.

In s. NR 504.095 (3) (b), the comma after the reference to s. NR 504.08 (1) should be replaced by the word “or.”
Section NR 506.07 (8) (intro.) provides that in the event of a conflict between the new provisions in s. NR 506.07 (8) and any other provision in ch. NR 506, the new requirements in s. NR 506.07 (8) take precedence. If the requirements that differ can be identified, they should be listed in the proposed rule, such as in a note. See also ss. NR 512.09 (6) (intro.) and 516.08 (intro.).
In s. NR 506.07 (8) (e), the word “summarized” in the fourth sentence should be replaced by the word “summarize.”
In s. NR 507.215 (4) (b), the word “An” should be replaced by the word “A.”
In s. NR 514.07 (6) (c), it appears that the word “of” should be inserted after the word “Documentation” in the first sentence.
In the first version of s. NR 514.10, it appears that the phrase “within three months of the anniversary date” in sub. (1) (b) 5. should be replaced by the phrase “within three months after the anniversary date.” [See also the second version in s. NR 514.10 (1) (b) 4.]
In the first version of s. NR 514.10, the second occurrence of the word “two” in sub. (4) (c) should be replaced by the word “on.”
Section NR 514.07 (1) (L) allows testing methods that are “acceptable to the department.” The procedure for requesting that determination should be specified in the rule.
“Control” appears twice in the first version of s. NR 514.10 (4) (h). One of the two words should be deleted.
In the second version of s. NR 514.10, it appears that the word “up” in sub. (1) (a) 2. should be replaced by the word “upon.”
In the third Note to s. NR 520 Table 5, the word “is” should be inserted after the word “also.”

H. LIST OF COMMENTORS AND ABBREVIATIONS

AROW	Joseph Van Rossum, Associated Recyclers of Wisconsin
BH	Evelyn Fisher, Becher-Hoppe
Campbell	Thomas Campbell, resident near Onyx Emerald Park and WMI Metro Landfills
G&S	Glenn Stoddard, Garvey & Stoddard, for Sierra Club John Muir Chapter
Lincoln Co.	Robert Reichelt, Lincoln Co. Solid Waste Manager
MWH	Dale Lane, MWH
Marathon Co.	Jim Pelliteri, Marathon Co. Director of Waste Management
Onyx	Todd Watermolen, Onyx Waste Services
Portage Co.	Meleesa Johnson, Administrator, Portage Co. Solid Waste Dept.
RMT	Bernie Krantz, RMT
Republic	Dan Otzelberger, Republic Waste Services
Reindl	John Reindl, citizen of Dane Co.
SCJMC	Caryl Terrell, Sierra Club John Muir Chapter
WMI	Gerard Hamblin, Waste Management, Inc.
WPC	Edward Wilusz, Wisconsin Paper Council
WEAL	Charlene LeMoine, Waukesha County Environmental Action League
Witt	Barbara Witt and other residents near WMI Orchard Ridge Landfill