

**NR 538 Technical Advisory Committee Meeting, DNR Waukesha Service Center**

**Wednesday October 25, 2017**

**Comments/Questions by:**

Paul Koziar –Beneficial Reuse Management	Bryant Esch –Waupaca Foundry & Wisconsin Cast Metals Association
Tom Jansen –We Energies & Wisconsin Utility Association (WUA)	Barry Paye – Wisconsin DOT
Paul Mathewson –Clean Wisconsin	Kathryn Berger –WEDC
Lucas Vebber – WMC	Tony Biddle – Kohler Company

**Topic 1: Review of a Proposed No Category Alternative – DNR & All**

Phil Fauble presented another option, the “No Category Alternative”, which would be based on applying standards devised using a model developed by USGS. Assumptions and inputs would be based on input from DNR and NR 538 TAC.

	<b>Comments</b>	<b>NR 538.</b>	<b>Discussion/Point</b>	<b>Outcome</b>	<b>Follow-Up Actions</b>
1	Phil Fauble	.04(4) .06 .08 Appendix I  Slide 16	Is the “no category” approach with modeling to develop leachate standards worth pursuing further?	Tom Jansen and Paul Koziar voiced concerns that the model could be too conservative and therefore, become more restrictive. Concern that assumptions used to develop the model may not be accurate and therefore standards would not reflect risk. Tom would like to know before agreeing to this proposal what the “critical criteria”.  Group agreed to work with WI Geologic Survey on a model and pursue this option further.	Phil – meet with Survey and formalize our model requirements and agree on the necessary assumptions.  Setup meeting with a TAC sub-committee & Survey to review and discuss assumptions.  Members interested in sub-committee = Jansen, Koziar, Mathewson. Biddle also indicated interest as non-TAC member.

**Topic 2: Discussion of Proposed Changes to NR 538.12 – DNR & All**

	<b>Comments</b>	<b>NR 538.</b>	<b>Discussion/Point</b>	<b>Outcome</b>	<b>Follow-Up</b>
1	Phil Fauble	.12(2)(b)  Slide 18	Increase groundwater table separation to 5 feet for fill projects 5000 cy or more, placement level.	Group agreed	Phil – Provided Koziar with the reference to 5 feet separation is in EPAs CCR rule (40 CFR Part 257.60) on 10/26/17. 5-foot separation is also in s. NR 151.015(18) Wis. Adm. Code for gw protection.
2	Phil Fauble	.12(2)(b)  Slide 19	Groundwater table separation will apply to all fill (not just Category 3-4)	Group agreed if based on volume, fills <=5000 cy	
3	Phil Fauble	.12(2)(a)  Slide 19	Locational criteria – add prohibition on use in floodplain areas (NR 504.03))	Group agreed for only fill projects in a floodplain as defined by s. NR 500.03(87) Wis. Adm. Code.	
4	Phil Fauble	.12(2)(br)  Slide 19	200 foot separation from water supply wells for all fill projects with greater than 5000 cy. No option for owner consent.	Group discussed and would like to use 200 feet in proposed Survey model to see what type of impact this may have.	TBD
5	Phil Fauble	.04(1) & .04(3)  Slide 20	Establish setbacks from wetlands and surface waters	Group discussed and asked if other DNR programs have construction setback distances established? If yes – then use. If not – then do not.	Phil – There are setbacks in s. NR 151.12(5)(d) Wis. Adm. Code (Protective Areas), but they are distances to impervious surfaces and vary by circumstances. Not directly applicable. Alternative is to incorporate NR 103 by reference for wetland protection.
6	Phil Fauble	Slide 20	Establish setbacks from karst	Unlike other States, karst is very difficult to define in WI due to glacial activity.	
7	Phil Fauble	Slide 20	Establish setbacks from bedrock with mine reclamation	Rock types vary significantly – hard to pinpoint one standard.	Phil – will research issue further.
8	Phil Fauble	.14(4)  Slide 20	Fill projects greater than 100,000 cy would require DNR concurrence	Group agreed.	
9		Slide 21	To address DHS concerns, establish timeframe for cover placement	Ruth – in addition to human exposure it is important to put final cover on for groundwater protection especially with	

				Cat. 4 fill. Group would like to re-visit next meeting.	
10	Phil Fauble	Slide 21	Exclude CCR material from use in non-metallic mine reclamation.	Group – incorporate EPA reg by reference so NR 538 remains flexible to potential EPA reg. change	

Other Topics by NR 538 TAC Members:

20	<b>Tom Jansen</b>	Appendix I	Proposed to apply a multiplier to NR 140 ES standards that reflects the byproduct use as well as the use location. (I.e. urban setting with municipal water supply vs. rural setting with private ground water supply) Stated that ES multiplier could be based on risk. I.e. higher multiplier for (higher threshold) for urban setting)	What about other water standards that could be impacted in urban areas (i.e. surface water)? Definition of urban vs. rural? NR 140 water quality standards apply even if the groundwater is not in direct use.	Needs further discussion.
21	<b>Tom Jansen</b>	Appendix I, Table 4	Suggests that “controlled low strength material (flowable) fill for structural improvements listed in NR 538.10(5)(a), (d),(e) and (f) should be moved to a “contained-in” use and regulated similar to NR 538.10(1) to (4).	Group agreed. Positive feedback on grouping the uses by similarities (geotechnical fill, encapsulated, etc.).	Phil – update draft revised rule; may need to look at other uses as well if a revised category system is used.

Notes Prepared By: Ruth O’Donnell, WDNR, Waste Management Specialist

Attachment – Attendance Sheet

NR 538 Technical Advisory Committee Meeting

October 25, 2017, 1:00 p.m. to 4:00 p.m.

Please sign in:

Name	Affiliation
Ruth O'Donnell	WDNR
Philip Fauble	WDNR
Lucas Vebber	WML
SCOTT HUGUET	BEM
Barry Paxe	Wis DOT
PAUL KOZIAR	REPRESENTING BEM/GYPSOIL
Paul Grittner	WDNR
THOMAS JANSEN	WVA / WEC ENERGY GROUP
Paul Turpin	TRC
+ Paul Mathewson	Clean Wisconsin
Kathryn Berger	WEDE
Tony Biddle	Kohler Co.