

Potential MRF Rule Changes for Discussion

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Overview

- Scope includes NR 500, 502, 520, 542, 544- **Focus today on MRF Revisions**
- Rulewriting through June 2023
- Soliciting feedback throughout
 - WMM Study Group
 - Council on Recycling
 - Associated Recyclers of WI, National Waste & Recycling Association
 - WI Integrated Resource Management Conference
- Following are draft concepts subject to further internal, external and legal review/modification and not reflective of totality of potential code revisions

**DNR ADMINISTRATIVE RULE PROMULGATION PROCEDURE FOR PERMANENT RULES
2020**

<p align="center">PHASE I – Scope Statement Approval</p>	<p>7. Department may be directed to hold preliminary a public hearing on scope statement. Notify NRB Liaison by email if preliminary hearing is requested. <u>If JCRAR does not request preliminary public hearing, move onto step 12.</u></p>	<p align="center">PHASE II – Rule Preparation</p>	<p>21. Notice of public hearing published in the Register and posted on DNR external website and hearings calendar.</p>	<p>28. Final rule submitted to and approved by the Governor.</p>
<p>1. Scope statement completed and approved by the Secretary.</p>	<p>8. Green Sheet package submitted to request NRB authorization to hold preliminary public hearing.</p>	<p align="center">PHASE II – Economic Impact Analysis</p>	<p>22. Public hearing on proposed rule held at least 10 days after publication in the Register. Public comment period closes.</p>	<p align="center">PHASE V – Legislative Review</p>
<p>2. Scope statement submitted to DOA.</p>	<p>9. NRB meeting to authorize preliminary public hearing.</p>	<p>15. Fiscal estimate and economic impact analysis (FE/EIA) prepared.</p>	<p>23. Rule language revised based on external review.</p>	<p>29. Report to Legislature and Notices prepared and submitted to Assembly and Senate Chief Clerks. Rule must be submitted for legislative review before the scope statement 30-month expiration date.</p>
<p>3. Scope statement submitted to and approved by the Governor.</p>	<p>10. Notice of preliminary public hearing published by LRB in the Register and posted on DNR external website and hearings calendar.</p>	<p>16. Solicitation Notice prepared for comments on EIA. Solicitation Memo to NRB prepared.</p>	<p>24. Request for incorporation by reference submitted to AG if rule requires incorporation by reference.</p>	<p>30. Rule referred to and reviewed by Standing Committees.</p>
<p>4. Approved scope statement submitted to LRB, JCRAR, and NRB.</p>	<p>11. Preliminary public hearing held. Comment period closes.</p>	<p>17. Solicitation Memo submitted to NRB for information.</p>	<p align="center">PHASE IV – Rule Approval</p>	<p>31. Rule referred to and reviewed by JCRAR.</p>
<p>5. LRB publishes the scope statement in the Register. Scope statement 30-month expiration starts on day of publication.</p>	<p>12. Green Sheet package submitted to request NRB’s approval of scope statement and notices.</p>	<p>18. Solicitation Notice posted on DNR website and published in the Register. Notice submitted to affected parties. Comment period closes.</p>	<p>25. Yellow Sheet submitted to hold a place on NRB’s agenda for adoption of proposed rule.</p>	<p align="center">PHASE VI – Promulgation</p>
<p>6. Yellow Sheet submitted to reserve time on the NRB agenda for approval of scope statement, conditional approval of the notice of public hearing and the notice of submittal of the proposed rule to the Legislative Council (notices), and approval of preliminary public hearing.</p>	<p>13. NRB meeting to approve scope statement and notices.</p>	<p align="center">PHASE III – External Reviews</p>	<p>26. Green Sheet package submitted to request NRB adoption of proposed rule.</p>	<p>32. Final Rule signed by the Secretary.</p>
		<p>19. Public hearing documents prepared and submitted to NRB for 15-day passive review.</p>	<p>27. NRB meeting for adoption of final rule.</p>	<p>33. Final Rule filed with LRB.</p>
		<p>20. Rule documents submitted to and reviewed by the Legislative Council.</p>		<p>34. Rule proof received by LRB and reviewed by program.</p>
				<p>35. Final rule published in the Register. Rule becomes effective the first day of the month following publication.</p>

What does recycling code revision NOT cover?

How Responsible Units (RUs) are defined
(each local government, unless alternative RU established)

Which materials are banned from landfill disposal and which materials RUs are required to provide collection for

How the recycling grant is distributed

Above items are defined in statute, Ch. 287, Wis. Stats.

Owner Financial Responsibility

- Proposal – MRFs would need to maintain OFR for the cost of closure of their sites.
- Goal – Make sure abandoned sites are cleaned up properly.
- Specifics ...

What is Owner Financial Responsibility (OFR)?

- A way of providing the state with funds in the case a solid waste facility walks away without removing the waste from their site.
- Is this normal?
 - Require it for all SW processors (optional for all licensed NLF)
 - MRF materials originally thought to be of enough value that there would be a cost benefit to removing wastes
 - Primary goal of electronics recycling rule
- Is it needed?
 - A self certified MRF went bankrupt and left a large mess for the municipality in 2015
 - OFR has been used for one NLF SW site in 2015

Practically, what is OFR?

- Cost of closing a facility based on the maximum amount of inconsistent or cost negative wastes they may have on site at one time
- A facility then establishes a financial mechanism which would be used for cleanup *if* the facility doesn't clean up the site themselves.
- Two main categories of OFR:
 - Interest bearing mechanisms - the cost of closure is held aside inaccessible to the company but gaining interest all of which will be released back to the company after proper closure effectively costing the company nothing
 - Non interest bearing mechanisms – third party guarantees to the state that they will provide the cost of closure per agreement if closure requirements are not met. To make this guarantee the facility pays roughly .05-5% of the cost of closure annually.

How could OFR be calculated for a MRF?

- Only for wastes that regularly have a negative value once loading and transport are factored in.
- What is this for MRFs?
 - Likely unsorted recyclables, glass, cartons, #5 and #6 rigid plastics, residuals
 - Thoughts?
- Cost of closure includes the cost of loading, transporting and tipping fees for the max amount of these materials onsite plus 10% contingency.
- Cost of closure is reassessed every 10 years with an annual change for inflation.

Cost of closure will vary by facility

- Max tons onsite
- Materials accepted
- Distance to end markets/landfills
- Cost of renting equipment and labor in your area of the state

A	B	C	D	E	F	G	H	I	J	K
Material type	Max tons on-site	Tons of Material/ Semi Load	# of semi loads (B/C) rounded up to the nearest whole load	Loading, Transportation and Unloading hours per load	Hours of work (D*E)	Cost of loading and transportation per hour (labor and equipment)	cost of equipment and labor (F*G)	Gate tipping fee or Gate price per ton	total fee or price (B*I)	Cost of Closure per waste type (H+J)
unprocessed mixed recyclables		25	0		0	150	0		0	0
glass		20	0		0	150	0		0	0
cartons		20	0		0	150	0	61.68	0	0
residual waste		25	0		0	150	0	61.68	0	0
									subtotal	0
									10% contingency	0
									final cost of closure	0
									possible cost of bond (3.5%)	0.00

Rough Examples

- Approx 70,000 tons/year facility: Cost of Closure \$100,000
 - \$500-5,000/yr for non interest method (.05-5%)
- Approx 3,000 tons/year facility: Cost of Closure \$6,000
 - \$30-300/yr for non interest method (.05-5%)

- MRF processing size

less than 1000 tons	14
1000-8000 tons	11
8000-75000 tons	14
>75000 tons	2

Net Worth Test note

- A net worth test is a special type of proving OFR by looking at a company's assets vs. liabilities rather than having specific closure money set aside
- The facilities eligible for proving OFR through a net worth test are set in Statute and cannot be changed by this or any other rule rewrite.

[289.41\(1\)\(b\)\(b\)](#) "Company" means one of the following:

- 1. Any **business operated for profit** and any public utility which is applying for or holds a license for the operation of a solid or hazardous waste disposal facility under s. [289.31](#) or [291.25](#) directly or through a subsidiary, affiliate, contractor or other entity if the business or public utility guarantees compliance with any closure and long-term care responsibilities of the subsidiary, affiliate, contractor or other entity.
- 2. Any business operated for profit and any public utility that is required to perform corrective action under s. [291.37](#).
- Per Statute private for profit companies are eligible but for publicly owned facilities only public utilities are eligible.

Questions/Discussion on OFR?

- Poll



MRF Education

- Proposal – Printed and primary web outreach materials (but not social media) would specify that this educational material applies specifically to their own facility and that acceptable materials may differ elsewhere.
- Goal – Reduce the common misconception that there is a single answer for what is recyclable. Reduce the frustration residents feel when they see conflicting information. Reduce the contamination rates at MRFs.
- Specifics – Already created and printed outreach materials would be grandfathered in.

MRF Education (cont.)

- Proposal – A MRF would review for accuracy the acceptable materials on outreach materials for a contracted RU within 60 days of a request.
- Goal – Minimize risk of incorrect recycling outreach being distributed due to out of date understanding or terms by non industry professionals. Reduce residual rates.
- Specifics – Would not be responsible for reviewing any info not specific to the MRF.
- Poll / Discussion

Self-Certification Application

- Proposal – Rather than confirming the standards a facility operated under for the previous year a facility would state the general information for how they plan to operate in the future with a shorter annual self certification for the numbers. IE rather than telling us you stored material outdoors last year you would tell us you plan to store materials outdoors originally.
- Goal – We would know about changes in advance and can discuss requirements and BMPs as well as properly answer questions from RUs. Annual self certification would be shortened.
- Specifics – A facility would update the self certification application prior to making a change to a process called out there (would not include things such as operating hours).
- Poll / Discussion

Outside Storage of Unbaled Material

- Proposal – A bunker or fencing would be required for outdoor storage of unbaled material.
- Goal – Control wind and water carried litter that is generated.
- Specifics – Any other adequate controls sites have implemented?
- Poll / Discussion

Contingency Plans

- Proposal – MRFs would be required to have a contingency plan that could be implemented immediately for up to 48 hours and within 48 hours for long term operation shutdowns.
- Goal – Prevent emergency stockpiling that is creating litter concerns. Help all MRFs be better prepared for an emergency.
- Specifics – Standards would be open to what works for each facility.
- Poll / Discussion

Residual Rate Caps

- Proposal – A MRF would need to maintain an overall residual rate of 20% or less *or* able to demonstrate that they have a reasonable outreach program and that the residuals leaving their facility are primarily non landfill banned materials.
- Goal – MRFs continue to meet an the intent of the landfill ban Statute. An equal playing field for MRFs.
- Specifics – Would be looked at annually. Current MRF average residual rate is 12%.

Residual Rate Caps (cont.)

- Proposal – A MRF would need to maintain a residual rate for each of the landfill banned materials of 30% or less.
- Goal – MRFs continue to meet an the intent of the landfill ban Statute. An equal playing field for MRFs.
- Specifics – Would not need to calculate or report. Instead the Department would look at the average glass being produced relative to incoming tonnage and could look for major outliers.
- Poll / Discussion

Residual Rate Fee Exemption

- Proposal – Current processes for qualified MRF fee exemptions (set in Statute since last rule update) would be codified.
- Goal – Provide more detail than in Statute.
- Details – See all specifics in [WA-1755](#).

Container Glass Beneficial Reuse in a Landfill

- Proposal – Current processes for when container glass would be approved for beneficial use in the landfill would be codified.
- Goal – Provide more detail than currently in landfill code and work more directly with MRFs.
- Detail – see all specifics in [WA-1835](#).

Collection & Transportation Services (NR 502.06)

- Modify requirements for providing RU tonnage data
 - Data to be provided to all RUs (with or without contract)
 - Total tonnage from single family and 2-4 unit properties
 - Data from 'point of collection' (not after MRF processing)
 - Include MRF(s) material was delivered to
 - By Feb. 1 each year (same as MRF requirement)
 - If scale weights unavailable (mixed loads), estimated weights acceptable
 - Provide to DNR (if requested) within two weeks
- Notify RU of change in MRF within one week

General Questions/ Discussion?

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