

Report From Agency

REPORT TO LEGISLATURE

NR 520.04(1)(d)5., Wis. Adm. Code
Balances in the waste management program revenue account

Board Order No. WA-18-06
Clearinghouse Rule No. 06-025

Basis and Purpose of the Proposed Rule

Section NR 520.04(1)(d)5., is being modified in order to make the requirements more manageable from a budget perspective. A rule revision was approved in 2003 which revised ch. NR 520 to increase solid waste facility plan review and license fees, including the landfill license fee surcharge assessed on tons of landfilled waste. As part of that rule revision, language was added which required that, beginning in FY05, if the Waste management Program Revenue Account balance at the end of the previous fiscal year is greater than 8% of the expenditure level authorized in s. 20.370(2)(dg), Stats., the DNR must submit to the Natural Resources Board proposed rule revisions to modify the surcharge fee to more closely align revenues with expenditures. This language was added as a result of stakeholder concerns regarding balances that had previously accumulated in the account as a result of higher than expected landfilled tonnages and conservative Waste Management program expenditures. We believe that the concept of a certain program revenue account balance triggering adjustments in the landfill license surcharge fee is a sound business practice. However, annual variations in landfilled tonnages and other program revenue sources have proven this 8% level too low to avoid a yo-yo effect of frequent fee increases and decreases.

Eight percent of the expenditure level in the account is approximately \$250,000. In FY04 through FY06, the account balance averaged \$420,000 or approximately 13% of the expenditure level. However, projections for the account show the balance at or below the \$250,000 level in less than 4 years. Trying to maintain a balance of around \$250,000 in the program revenue account is difficult. A year with higher than average tonnage rates would result in exceeding the 8% cap, which would require the Waste Management program to submit a rule package reducing the landfill license fee surcharge. However, if the tonnage rates dropped after reducing the fee, it could quickly result in a deficit in the account.

The proposed rule requires the Department to modify the surcharge fee to more closely align revenues with expenditures if the account balance exceeds 20% of the expenditure level of the program revenue account for three consecutive fiscal years. The Department believes the proposed language allows for better fiscal management of the account, without having a negative impact on any stakeholders. The reason for putting the original "8% cap" language in the rules was to ensure that the landfill license fee surcharge was not any higher than it needed to be, and to prevent a large balance from building up in the account. Based on FY06 numbers, 20% of the authorized expenditure level in the account would be around \$641,000. Long-term projections in the account show the balance staying well below this amount.

Summary of Public Comments

There were no public comments.

Modifications Made

No modifications were made as a result of public hearing.

Appearances at the Public Hearing

No one appeared at the public hearings.

Changes to Rule Analysis and Fiscal Estimate

No changes were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendation was accepted.

Final Regulatory Flexibility Analysis

The proposed rule does not regulate small businesses. Therefore, a final regulatory flexibility analysis is not required.