
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 93
[2021 Assembly Bill 99]

**Disposal of Dredged Great
Lakes Sediment**

BACKGROUND

Wisconsin law contains extensive licensing requirements and other regulations governing solid waste disposal. In general, any “solid waste,” broadly defined, must be disposed of in a facility that has obtained a solid waste facility license and an approved plan of operation, among other requirements. However, the statutes provide exemptions from the general licensing and regulatory requirements for disposal of specified categories of waste.

In addition, the Department of Natural Resources (DNR) may exempt the disposal of low-hazard waste by rule. [s. 289.43 (8), Stats.] Although DNR’s administrative rules provide some exemptions for the disposal of dredged material, the current exemptions apply only to non-hazardous waste. With respect to non-hazardous material dredged from the Great Lakes, the exemption under current DNR’s rules also limits the exemption to less than 3,000 cubic yards of dredged material. [s. NR 500.08 (3), Wis. Adm. Code.]

2021 WISCONSIN ACT 93

2021 Wisconsin Act 93 provides a new exemption from certain state solid waste facility licensing requirements for the disposal of waste generated from dredging conducted by municipalities in Lake Michigan or Lake Superior. The act also makes two additional changes to current law relating to solid waste facilities.

New Exemption for Municipal Dredging in the Great Lakes

Under the act, dredged material need not be disposed of in a solid waste facility that has obtained an operator’s license and approved plan of operation, if DNR determines that all of the following requirements are satisfied, based on information submitted in an application:

- The material is dredged by a municipality or county, or a contractor of a municipality or county.
- The material is dredged from Lake Michigan, Lake Superior, or bays or harbors of those lakes.
- The dredging and disposal will have a demonstrable economic public benefit, defined to mean an economic benefit to the community or region that is measurable, such as increased access to natural resources, local spending by the proposed project, employment, or community investment.
- The cumulative adverse environmental impact of the dredging is insignificant and will not injure public rights or interests, cause environmental pollution, or result in material injury to the rights of any riparian owner.
- The facility is in compliance with performance standards established by DNR by rule.

- The facility accepts the dredged material for a period not to exceed 10 years or in an amount not to exceed 35,000 cubic yards, whichever occurs first, unless there is a material adverse change in the contamination of the dredged material that would be disposed of at the facility, or if there is a material change in the intended use of the dredged material.
- The disposal facility is not located within 100 feet of any wetland or critical habitat area or within a floodplain, unless the project is for beach nourishment above the ordinary high water mark on a public beach that has already been noticeably disturbed by human activities, such as the construction of a parking lot, public swimming area, or other improvement, and that has no unique ecological value.
- The disposal facility is not located less than 100 feet from any water supply well.
- The facility confines the disposal area to as limited a geographic area as is practicable.
- The facility and application are in compliance with any other conditions established by DNR by rule.
- The municipality, county, or contractor's application is complete, and DNR does not provide a written objection to the application within 30 days.

The act requires a municipality, county, or contractor to submit an application containing certain information to DNR at least 60 days prior to beginning the disposal authorized by the act and specifies that the application may not be reviewed until DNR determines it is complete. An application may address the disposal of dredged material from a single dredging location at multiple disposal sites.

As reflected in one of the conditions listed above, the act specifies that the exemption under the act is valid for a period not to exceed 10 years or in an amount not to exceed 35,000 cubic yards, whichever occurs first, unless there is a material adverse change in the contamination of the dredged material that would be disposed of at the facility, or if there is a material change in the intended use of the dredged material.

The act directs DNR to promulgate emergency rules within six months to implement the new exemption. The act provides that the emergency rules may remain in effect for up to three years or until permanent rules take effect, whichever occurs first.

Tipping Fee Exemption

The act provides a general exemption from landfill tipping fees for soils and dredged sediments. Tipping fees are typically based on the weight or volume of waste disposed.

Procedural Change Relating to Certain Dredged Materials

Prior law required DNR to hold a hearing in the town, village, or city where a solid waste facility is located before approving a request to accept dredged materials in a concentration of less than 50 parts per million that contain polychlorinated biphenyls (PCBs) or heavy metals.

The act amends that requirement to require that a hearing be held in the relevant county, rather than the relevant city, village, or town. The act also makes the public hearing requirement applicable to disposals of dredged material with any concentration of PCBs or heavy metals, rather than only those with concentrations of 50 parts per million.

Effective date: The act takes effect on July 1, 2022.

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