



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 1

TO: MEMBERS OF THE SPECIAL COMMITTEE ON SEPTAGE DISPOSAL

FROM: Mark C. Patronsky, Senior Staff Attorney, and Rachel Letzing, Staff Attorney

RE: Suggestions of Issues for Committee Discussion

DATE: October 4, 2004

This Memo contains a summary of the suggestions for dealing with various septage disposal issues that were presented to the Special Committee on Septage Disposal at its September 16, 2004 meeting. Some of these suggestions were offered as issues for the committee to consider during its discussions, while others were presented as specific recommendations for changing current law.

The issues and recommendations are grouped below by subject. The source of each item is indicated by one or more of the following notations:

DNR (Greg Kester, Department of Natural Resources)

Commerce (Roman Kaminski, Department of Commerce)

Wagner (David Wagner, Ehlers and Associates)

Biebel (Robert Biebel, Southeastern Wisconsin Regional Planning Commission)

MEG (Paul Kent, Municipal Environmental Group)

Counties (Matthew Stohr, Wisconsin Counties Association)

Dane Co. (James Clark, Dane County)

AB 774 (1997 Assembly Bill 774 (Assembly Substitute Amendment 1))

UW-SP (Dr. Aga Razi, Audit Report of DNR Septage Management Program, College of Natural Resources, University of Wisconsin-Stevens Point, August 15, 2000)

A. PUBLICLY OWNED TREATMENT WORKS (POTW)

1. Capacity for Disposal

- Consider whether a POTW should be required to provide capacity for septage disposal if such capacity is needed in the area. (DNR)
- Require sewage districts to address the issue of capacity for septage disposal during the process of sewer facility planning. (DNR)
- Divide the state into sewer use areas and require each POTW to provide capacity for septage disposal within its area. Require all septage generated within the sewer use area to be taken to the POTW except that any septage that must be hauled a distance of greater than 40 miles may be land-applied. (DNR)
- Require that property served by large holding tanks be included in the sewer service area, so as to take into account large holding tanks in the sewage treatment plant facility's planning. (Biebel)
- Provide that any long-term planning for wastewater management take into account the needs of both sewer and unsewered areas. (MEG)

2. Cost of Disposal

- Establish reasonable cost guidelines for the disposal of septage in a POTW. (DNR)
- Provide funding for the payment of costs incurred by POTWs to provide septage disposal capacity through impact fees and clean water fund loans. (DNR)
- Provide for a minimum guaranteed level of compensation for a treatment facility that is required to accept septage for disposal. Source of funds could include the state's environmental improvement fund or a user fee for all septic tank or holding tank systems within the service area for which the sewage district must provide septage disposal service. (Wagner)
- Assure that costs of any additional testing done by the sewage treatment plant can be recovered in fees charged for septage disposal. (MEG)
- Allow for flexibility in the imposition of fees for septage disposal in sewage treatment plants, rather than imposing fixed fees for all sewage treatment plants. (MEG)
- Limits on fees charged for disposing of septage in a publicly owned treatment work: expand the authorization to collect fees to include factors related to the strength of the septage and for administrative costs. (AB 774)
- Consider limiting the amount of capital improvement costs that may be included in the fees charged for the disposal of septage in POTWs. (UW-SP)

3. Control Over Disposal

- Assure that the current authorization for a sewage treatment plant to reject septage that may cause violation of an effluent limitation or water quality standard is retained. (MEG)
- Allow treatment plant operators to make case-by-case determinations on whether to accept or reject septage loads as the septage is delivered to the plant. (MEG)
- Balance any requirements imposed on sewage treatment plants to accept septage with responsibilities on septage haulers to meet requirements of the sewage treatment plant. (MEG)

B. SEPTAGE DISPOSAL

1. Regulations

- Modify the statutory requirements for servicing onsite systems (the statutory authority for ch. NR 113): update definitions and DNR powers, change the site license to a site “approval” for septage disposal, eliminate the exemption from the requirement of site approval for disposal on the same parcel from which septage is pumped (but retain the on-farm exemption), and set fees for each instance of inspection, maintenance, or pumping. Require the person performing the service to collect the fee, remit it to DNR, and retain 10%. (AB 774)
- Limitations on local regulation: prohibit a city, village, town, or county from prohibiting the land spreading of septage or publicly owned treatment works sludge if the land spreading complies with statutes and rules. Allow a city, village, town, or county to establish weight limits for roads, and to adopt a model ordinance promulgated by the DNR for septage disposal. (AB 774)
- Consider whether DNR should be required to conduct onsite inspections before granting approval of all land application sites. Current law authorizes farmers and landowners to land apply septage produced on site without prior DNR site approval, and allows haulers to consider a site approved for the land application of septage if DNR does not respond to an application within seven days. (UW-SP)

2. Administration and Enforcement

- Shift responsibility for enforcement of septage disposal regulations from the county to the Department of Justice. (DNR) (UW-SP)
- Provide for increased funding for county programs related to septage. (Dane Co.)
- Provide incentives for counties to take over administration of the septage disposal program. Possible fee sources can include the current groundwater surcharge fee, a new land spreading site approval fee, and increase in septage operator license fees, or a septic system owner maintenance fee. (Dane Co.)

- Provide for startup funds from the state for a county that chooses to implement a reporting program for septic system maintenance. (Dane Co.)
- Increase communication between DNR wardens and DNR septage program staff regarding complaints received, follow-up and site visit reports, and warnings or citations issued. (UW-SP)

C. SEPTIC SYSTEMS

1. Disposal Options

- Provide a means to review the availability of disposal options for septage when an onsite system is approved, in order to assure that adequate means for disposal are available. (DNR)

2. Maintenance and Servicing

- Establish a more sophisticated system of management of septic systems. This would provide that inspection, maintenance, and servicing is done in an efficient and cost-effective manner. (Commerce)
- Find a way to pay for the costs of tracking the reports necessary in a comprehensive private onsite wastewater treatment systems (POWTs) management system. (Commerce)
- Require the state to maintain a tracking system for the maintenance of septic systems in any county that is unable to do so. (Counties)
- Inventory of all onsite systems: require each county to conduct an inventory of onsite systems if it has not already been done in the county and require DNR to conduct the inventory if the county does not. Give the counties approximately four years in which to complete the inventory and pay counties for each pre-1980 onsite system that is added to the inventory. (AB 774)
- Maintenance of onsite systems: require the Department of Commerce to establish a maintenance schedule for all types of onsite systems, and exempt the maintenance schedule from the requirement of promulgation as an administrative rule. Require counties to commence managing the maintenance of onsite systems within six to eight years after passage of the legislation, with larger counties to commence earlier. (AB 774)
- Reports by inspectors, maintainers, and haulers: require each person who inspects, maintains, or pumps an onsite system to report on the function that was performed on the onsite system. (AB 774)

D. STATE AND LOCAL REGULATION

- Provide for additional education and training programs by the Department of Commerce, provided to county officials, septage haulers, property owners, and others affected by septic system operation. (Counties)

- Hold counties harmless for violations of groundwater standards for nitrates that may occur following county approval of large-scale private systems. (Counties)
- Statewide records system: require DNR to develop a system for records of all activities related to servicing of onsite systems. (AB 774)
- Encourage better communication between POTW operators and haulers regarding POTW policies and limitations on accepting certain types of waste which are harmful to the POTW's treatment system. (UW-SP)
- Find a way to pay for additional staff in the DNR septage program in order to increase program oversight. (UW-SP)

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